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Search the Laws

Go To:

[Next Section](#)

[Previous Section](#)

[Chapter Table of Contents](#)

[MGL Search Page](#)

[General Court Home](#)

[Mass.gov](#)

PART I. ADMINISTRATION OF THE GOVERNMENT

TITLE IV. CIVIL SERVICE, RETIREMENTS AND PENSIONS

CHAPTER 32. RETIREMENT SYSTEMS AND PENSIONS

Chapter 32: Section 7. Accidental disability retirement

Section 7. (1) *Conditions for Allowance.* — Any member in service classified in Group 1, Group 2 or Group 4, or any member in service classified in Group 3 to whom the provisions of subdivision (2) of section twenty-six are not applicable, who is unable to perform the essential duties of his job and that such inability is likely to be permanent before attaining the maximum age for his group by reason of a personal injury sustained or a hazard undergone as a result of, and while in the performance of, his duties at some definite place and at some definite time on or after the date of his becoming a member or prior to such date while any provision of this chapter relating to noncontributory pensions was applicable to him, without serious and willful misconduct on his part, upon his written application on a prescribed form filed with the board and his respective employer or upon such an application by the head of his department after a hearing, if requested, as provided for in subdivision (1) of section sixteen and subject to the conditions set forth in said section and in this section, shall be retired for accidental disability as of a date which shall be specified in such application and which shall be not less than fifteen days nor more than four months after the filing of such application but in no event later than the maximum age for his group. Except as provided for in subdivision (3) of this section, no such retirement shall be allowed unless such injury was sustained or such hazard was undergone within two years prior to the filing of such application or, if occurring earlier, unless written notice thereof was filed with the board by such member or in his behalf within ninety days after its occurrence. No such retirement shall be allowed unless the board, after a review of the evidence it deems appropriate, and after a review by the commission, pursuant to the provisions of section twenty-one, and including in any event on examination by the regional medical panel provided for in subdivision (3) of section six and including a certification of such incapacity by a majority of the physicians on such medical panel, shall find that such member is unable to perform the essential duties of his job and that such inability is likely to be permanent, and that he should be so retired. Any member who was injured while a member of a retirement system established in any governmental unit other than that by which he is presently employed, and who has complied with the provisions of this section as to notice, or whose case falls under paragraph (3), shall file such application with the retirement board of the unit where he is presently employed. Such board shall secure a statement of facts and records, which it shall be the duty of the retirement board of the first governmental unit to furnish, and on which it shall be entitled to

make recommendations.

Prior to the determination of a retirement under this section a member shall submit to the retirement board a written statement authorizing release of information from the federal internal revenue service and the department of revenue relative to the annual gross earned income of the member in pursuant to an agreement between the federal internal revenue service, the department of revenue, and the public employee retirement administration commission in accordance with section ninety-one A.

(2) *Amount of Allowance.* — Upon retirement under the provisions of this section a member shall receive an accidental disability retirement allowance to become effective on the date the injury was sustained or the hazard or account of which he is being retired was undergone, or on the date six months prior to the filing of the written application for such retirement with the board and his respective employer, or on the date for which he last received regular compensation for his employment in the public service, whichever date last occurs. Payments under such allowance shall be made as provided for in sections twelve and thirteen and the continuance of payments shall be governed also by the provisions of section eight.

(a) The normal yearly amount of such allowance for any member classified in Group 1, Group 2, or Group 4, or for any member classified in Group 3 to whom the provisions of subdivision (2) of section twenty-six are not applicable, shall, subject to the provisions of paragraphs (b) and (c) of this subdivision, be equal to the sum of —

(i) A yearly amount of annuity equal to the yearly amount of the regular life annuity specified in clause (i) of Option (a) of subdivision (2) of section twelve;

(ii) A yearly amount of pension equal to seventy-two per cent of the annual rate of his regular compensation on the date such injury was sustained or such hazard was undergone, ~~or equal to seventy-two per cent of the average annual rate of his regular compensation for the twelve-month period for which he last received regular compensation immediately preceding the date his retirement allowance becomes effective, whichever is greater; provided, however,~~ provided, however, that if an individual was in a temporary or acting position on the date such injury was sustained or hazard undergone the amount to be provided under this subdivision shall be based on the average annual rate of the individual's regular compensation during the previous 12 month period for which he last received regular compensation immediately preceding the date such injury was sustained or such hazard was undergone; provided, further, at for any employee who was not a member in service on or before January first, nineteen hundred and eighty-eight or who has not been continuously a member in service since that date, the total yearly amount of the sum of such pension and the annuity as determined in accordance with the provisions of clause (i) shall not exceed seventy-five per cent of the annual rate of regular compensation as determined in this paragraph; and provided further, that no individual who is a member in service on January first, nineteen hundred and eighty-eight, whose allowance is limited by the seventy-five per cent limitation as established in this paragraph shall receive an amount of pension that is less than seventy-two per cent of such individual's regular compensation on said January first, nineteen hundred and eighty-eight; and

(iii) A yearly amount of additional pension determined at the rate of three hundred and twelve dollars yearly for any surviving unmarried child of such member who is under age 18 or, if over that age and under age 22, is a full-time student at an accredited educational institution, or who was over said age and physically or mentally incapacitated from earning on the date of such member's retirement; provided, however, that in the state and teachers' systems and any other system electing to adopt the supplemental dependent allowance, the yearly amount of such additional pension shall be determined by the actuary as hereinafter provided. Such additional pension on account of any child shall be paid only so long as such

child survives, remains unmarried and is under the age of eighteen or, if over said age, remains physically or mentally incapacitated from earning or, if over said age and under age 22, is a full-time student at an accredited educational institution. The words "full-time student" shall mean a child who is in full-time attendance in an accredited educational institution offering full-time courses of study equivalent to or higher than secondary school study. The words "accredited educational institution" shall mean any school, college, or university that is licensed, approved, or accredited, as the case may be, in the state in which it is located. Beginning July first, nineteen hundred and eighty-eight, the additional pension provided by the supplemental dependent allowance shall be fixed at a rate of four hundred and fifty dollars for each eligible child. Beginning July first, nineteen hundred and eighty-nine, the supplemental dependent allowance rate shall be increased by an amount equal to the percentage increase of the cost of living determination made by the general court for such year pursuant to section one hundred and two. Systems may adopt the supplemental dependent allowance by an affirmative vote of the retirement board, ratified by the chief executive officer and legislative body as defined in paragraph (c) of subdivision (8) of section twenty-two. Adoption of the supplemental allowance by any system may not be revoked.

(b) For purposes of determining the normal yearly amount of any pension in accordance with the provision of this section or of section nine on account of the retirement or death of any member classified in Group 4 as a call fireman or reserve policeman, who was performing the duties of a call fireman or reserve policeman at the time the injury was sustained or the hazard was undergone which resulted in the granting of such pension, the annual rate of regular compensation of such member shall be considered to be the same as that of permanent firemen or policemen of lowest rank and grade, as the case may be, in the city or town in which he was employed; provided, that if there are no such permanent firemen or policemen, then the annual rate of his regular compensation shall be considered for such purposes to be seven thousand five hundred dollars.

(c) The total normal yearly amount of the retirement allowance of any member as determined in accordance with the provisions of this section shall not exceed the greater of the annual rate of his regular compensation on the date such injury was sustained or such hazard was undergone, and the average annual rate of his regular compensation for the twelve-month period for which he last received regular compensation immediately preceding the date his retirement allowance becomes effective, anything in this section to the contrary notwithstanding.

(d) Payments to a member retired under the provisions of this section who is incarcerated for having been convicted of a felony committed on or after the effective date of this paragraph shall cease for the period of such member's incarceration. Under no circumstances shall such payments be recoverable by such member after such period of incarceration.

(e) Any member of Group 1 or Group 2 or Group 4, who is a veteran as defined in section 1, shall receive an additional yearly retirement allowance of \$15 for each year of creditable service or fraction thereof, but the total amount of this additional yearly retirement allowance shall not exceed \$300. This paragraph shall only take effect upon its acceptance by the majority vote of the board of a system, subject to the approval of the legislative body. For purposes of this paragraph, legislative body shall mean in the case of a city the city council in accordance with its charter, in the case of a town the town meeting, in the case of a county the county retirement board advisory council, in the case of a district the district members, in the case of an authority the governing body and in the case of a regional retirement system, the regional retirement board advisory council. The teachers' and state employees' retirement systems shall be considered to have accepted this paragraph.

(3) *General Provisions.* — (a) Lapse of time or failure to file notice of an injury sustained or a hazard undergone as provided for in subdivision (1) of this section or subdivision (1) of section nine, as the case

may be, shall not be a bar to proceedings under either of said sections if such member received payments on account of such injury or hazard under the provisions of chapter one hundred and fifty-two or in case he was classified in Group 2, Group 3 or Group 4 and not subject to the provisions of chapter one hundred and fifty-two, if a record of such injury sustained or hazard undergone is on file in the official records of his department.

(b) Except where an official record of an injury sustained by a member classified in Group 2, Group 3 or Group 4 exists as set forth in paragraph (a) of this subdivision, the head of a department shall, within fifteen days of the receipt of knowledge of a personal injury sustained by a member in his department as a result of, and in the performance of, his duties, notify the board in writing of the time, place, cause and nature of such injury, together with such further information relative thereto as he may obtain. In such case said notice shall have the same effect as though given by such member as otherwise provided for in this section or in section nine.

(4) *Members Furnishing Aid to Other Governmental Units.* — (a) Any governmental unit may, by action of the executive or board having jurisdiction in the commonwealth, the county commissioners in a county, the mayor in a city, the board of selectmen in a town, or by the action of any other executive or board having jurisdiction, as the case may be, request and authorize any member in service to go to the aid of a second governmental unit if in the judgment of the head of the department in which such member is regularly employed such action is necessary. While in the performance of his duties pursuant to such request and authorization such member shall be subject to the provisions of sections one to twenty-eight, inclusive, and shall have the same rights and privileges thereunder, as if performing the same duties within the scope of his regular employment.

(b) The governmental unit so requesting such assistance shall reimburse in full, in accordance with the provisions of this paragraph, the first governmental unit for any pension payments lawfully made from the system pertaining thereto on account of any injuries suffered by such member in the course of rendering such aid or on account of his death as the result of such injuries. The treasurer of the first governmental unit shall annually, on or before January fifteenth, upon the certification of the board of the system from which such disbursements have been made, notify the treasurer of the second governmental unit of the amount of reimbursement due therefrom for the previous fiscal year and such latter treasurer shall forthwith take such steps as may be necessary to insure prompt payment of such amount. All such payments due under the provisions of this paragraph from the second governmental unit shall be charged to the pension funds of the system pertaining thereto, or if there is no such system then they shall be paid by such government unit from a special appropriation, and as received they shall be credited to or appropriated for the pension fund of the system pertaining to the first governmental unit. In default of any such payment, the first governmental unit may maintain an action of contract to recover the same. This subdivision shall not be applicable to the Massachusetts Turnpike Authority or its employees' retirement system, the Massachusetts Housing Finance Agency or its employees' retirement system, the Massachusetts Port Authority or its employees' retirement system, the Blue Hills Regional Vocational School retirement system, the Greater Lawrence Sanitary District, or to the Minuteman Regional Vocational Technical School District employees' retirement system.

(5) *Proration of pension.* — In the event of a retirement where the injury was sustained in a governmental unit other than that by which the member is presently employed, the proration of the pension portion of the retirement allowance shall be computed by the actuary.

(6) *Final Determination on Accidental Disability Applications.* — Under this section the board shall make a final determination of such accidental disability application within one hundred and eighty days of the date of filing of such application except in the following instances:—

(1) the board, upon filing a written request outlining the specific circumstances for such a waiver, is granted an extension for a final determination by the commission or his designee; or

(2) the regional medical panel is unable to complete its examination and review and issue a written decision of the medical aspects of the case and is granted an extension by the commission or his designee.