

18A:66-39

LEGISLATIVE HISTORY CHECKLIST

NJSA: 18A:66-39

(TPAF--disability retirement--eligibility)

LAWS OF: 1986

CHAPTER 51

BILL NO: A491

Sponsor(s): Palaia

Date Introduced: Pre-filed

Committee: Assembly: Appropriations; State Government

Senate: State Government

Amended during passage: Yes

Amendments during passage denoted by asterisks.

Date of Passage:

Assembly:

May 12, 1986

Senate:

June 26, 1986

Date of Approval:

July 16, 1986

Following statements are attached if available:

Sponsor statement:

Yes

Committee statement:

Assembly

Yes

2-13-86 & 3-13-86

Senate

Yes

Fiscal Note:

No

Veto Message:

No

Message on Signing:

No

Following were printed:

Reports:

No

Hearings:

No

18A:66-39
CHAPTER 51
2-13-86 & 3-13-86
Amended

[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 491

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION

By Assemblyman PALAIA

AN ACT concerning ***accidental disability retirement under*** the
 "Teachers' Pension and ***[Security]*** **Annuity** Fund Law,"
and the "Public Employees' Retirement System Act"* and
 amending N. J. S. 18A:66-39 ***and P. L. 1954, c. 84***.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
 2 *of New Jersey:*

1 1. N. J. S. 18A:66-39 is amended to read as follows:

2 18A:66-39. a. Before June 9, 1971, a member, who shall have been
 3 a teacher and a member of the retirement system for each of the
 4 10 years next preceding his retirement, shall, upon the application
 5 of his employer or upon his own application or the application of
 6 one acting in his behalf, be retired for ordinary disability by the
 7 board of trustees, on a regular disability allowance if he is under
 8 60 years of age and on a service allowance if he has reached or
 9 passed that age. The physician or physicians designated by the
 10 board shall have first made a medical examination of him at his
 11 residence or at any other place mutually agreed upon and shall
 12 have certified to the board that the member is physically or
 13 mentally incapacitated for the performance of duty and should be
 14 retired.

15 b. On and after June 9, 1971, a member, under 60 years of age,
 16 who has 10 or more years of credit for New Jersey service, shall,
 17 upon the application of his employer or upon his own application
 18 or the application of one acting in his behalf, be retired for ordi-
 19 nary disability by the board of trustees. The physician or physi-
 20 cians designated by the board shall have first made a medical

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
 is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Assembly committee amendments adopted February 13, 1986.

**—Assembly committee amendments adopted March 13, 1986.

21 examination of him at his residence or at any other place mutually
 22 agreed upon and shall have certified to the board that the member
 23 is physically or mentally incapacitated for the performance of
 24 duty and should be retired.

25 ***[e.]*** *c.* A member, under 65 years of age, shall, upon the ap-
 26 plication of his employer or upon his own application or the appli-
 27 cation of one acting in his behalf, be retired by the board of trustees,
 28 if said member is permanently and totally disabled as a direct re-
 29 sult of **[a traumatic event occurring during and as a result of the**
 30 **performance of his regular or assigned duties]** ****[personal in-**
 31 **juries sustained in or from an accident arising out of and in the**
 32 **course of his employment]**** ***a traumatic event occurring during*
 33 *and as a result of the performance of his regular or assigned*
 34 *duties***, on an accidental disability allowance. ***A traumatic*
 35 *event occurring during voluntary performance of regular or*
 36 *assigned duties at a place of employment before or after required*
 37 *hours of employment which is not in violation of any valid work*
 38 *rule of the employer or otherwise prohibited by the employer shall*
 39 *be deemed as occurring during the performance of regular or*
 40 *assigned duties.***

41 The application to accomplish such retirement must be filed
 42 within five years of the original **[traumatic event]** ****[accident]****
 43 ***traumatic event***, but the board of trustees may consider an
 44 application filed after the five-year period if it can be factually
 45 demonstrated to the satisfaction of the board of trustees that the
 46 disability is due to the accident and the filing was not accomplished
 47 within the five-year period due to a delayed manifestation of the
 48 disability or to circumstances beyond the control of the member.

49 Permanent and total disability resulting from a cardiovascular,
 50 plumonary or musculo-skeletal condition which was not a direct
 51 result of **[a traumatic event occurring in the performance of**
 52 **duty]** ****[the accident]**** ***a traumatic event occurig in the*
 53 *performance of duty*** shall be deemed an ordinary disability.

54 Before consideration of an application for accidental disability
 55 allowance by the board of trustees, the physician or physicians
 56 designated by the board shall have first made a medical examina-
 57 tion of the member at his residence or at any other place mutually
 58 agreed upon and shall have certified to the board that he is
 59 physicially or mentally incapacitated for the performance of duty,
 60 and should be retired, and the employer shall have certified to the
 61 board that **[the member is permanently and totally disabled as a**
 62 **direct result of a traumatic event occurring during and as a result**

63 of the performance of his regular and assigned duties] **[an acci-
 64 dent arising out of and in the course of his employment was the
 65 natural and proximate cause of disability]** **the member is
 66 permanently and totally disabled as a direct result of a traumatic
 67 event occurring during and as a result of the performance of his
 68 regular and assigned duties**, the time and place where the duty
 69 causing the disability was performed, that the disability was
 70 not the result of his willful negligence and that the member should
 71 be retired.

72 **[*As used in this section, "course of employment" includes
 73 activities by teaching staff members prior to or after daily con-
 74 tractual hours or the commencement or conclusion of a school
 75 year which are conducted for the purpose of preparing the class-
 76 room or curriculum for a school day or school year or conducted
 77 as part of the teaching staff members regularly assigned
 78 duties.]***

1 **2. Section 43 of P. L. 1954, c. 84 (C. 43:15A-43) is amended
 2 to read as follows:

3 43. A member who has not attained age 65 shall, upon the appli-
 4 cation of the head of the department in which he is employed or
 5 upon his own application or the application of one acting in his
 6 behalf, be retired by the board of trustees, if said employee is
 7 permanently and totally disabled as a direct result of a traumatic
 8 event occurring during and as a result of the performance of his
 9 regular or assigned duties, on an accidental disability allowance.
 10 *A traumatic event occurring during voluntary performance of*
 11 *regular or assigned duties at a place of employment before or*
 12 *after required hours of employment which is not in violation of*
 13 *any valid work rule of the employer or otherwise prohibited by*
 14 *the employer shall be deemed as occurring during the performance*
 15 *of regular or assigned duties.*

16 The application to accomplish such retirement must be filed
 17 within five years of the original traumatic event, but the board
 18 of trustees may consider an application filed after the five-year
 19 period if it can be factually demonstrated to the satisfaction of
 20 the board of trustees that the disability is due to the accident
 21 and the filing was not accomplished within the five-year period
 22 due to a delayed manifestation of the disability or to circumstances
 23 beyond the control of the member.

24 Permanent and total disability resulting from a cardiovascular,
 25 pulmonary or musculo-skeletal condition which was not a direct
 26 result of a traumatic event occurring in the performance of duty
 27 shall be deemed an ordinary disability.

28 Before consideration of the application by the board of trustees,
 29 the physician or physicians designated by the board shall have
 30 first made a medical examination of the member at his residence
 31 or at any other place mutually agreed upon and shall have cer-
 32 tified to the board that he is physically or mentally incapacitated
 33 for the performance of duty, and should be retired, and the ap-
 34 pointing authority shall have certified to the board that the mem-
 35 ber is permanently and totally disabled as a direct result of a
 36 traumatic event occurring during and as a result of the perform-
 37 ance of his regular or assigned duties, the time and place where
 38 the duty causing the disability was performed, that the disability
 39 was not the result of his willful negligence and that the member
 40 should be retired.**

1 **[2.]** **3.** This act shall take effect immediately.

PENSIONS AND RETIREMENT—PERS, TPAF, OTHER
 Revises eligibility requirement for TPAF accidental disability re-
 tirement to cover injuries sustained in or from accident arising
 out of and in course of employment.

ASSEMBLY, No. 491

Introduced Pending Technical Review by Legislative Counsel
PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION

By Assemblyman PALAIA

ASSEMBLY, No. 1843

STATE OF NEW JERSEY

INTRODUCED MAY 7, 1984

By Assemblyman PALAIA

AN Act concerning the "Teachers' Pension and Security Fund Law," and amending N. J. S. 18A:66-39.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. N. J. S. 18A:66-39 is amended to read as follows:

2 18A:66-39. a. Before June 9, 1971, a member, who shall have been
3 a teacher and a member of the retirement system for each of the
4 10 years next preceding his retirement, shall, upon the application
5 of his employer or upon his own application or the application of
6 one acting in his behalf, be retired for ordinary disability by the
7 board of trustees, on a regular disability allowance if he is under
8 60 years of age and on a service allowance if he has reached or
9 passed that age. The physician or physicians designated by the
10 board shall have first made a medical examination of him at his
11 residence or at any other place mutually agreed upon and shall
12 have certified to the board that the member is physically or
13 mentally incapacitated for the performance of duty and should be
14 retired.

15 b. On and after June 9, 1971, a member, under 60 years of age,
16 who has 10 or more years of credit for New Jersey service, shall,
17 upon the application of his employer or upon his own application
18 or the application of one acting in his behalf, be retired for ordi-
19 nary disability by the board of trustees. The physician or physi-
20 cians designated by the board shall have first made a medical
21 examination of him at his residence or at any other place mutually
22 agreed upon and shall have certified to the board that the member

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.
Matter printed in italics thus is new matter.

23 is physically or mentally incapacitated for the performance of
24 duty and should be retired.

25 e. A member, under 65 years of age, shall, upon the application
26 of his employer or upon his own application or the application of
27 one acting in his behalf, be retired by the board of trustees, if said
28 member is permanently and totally disabled as a direct result of
29 **[a traumatic event occurring during and as a result of the perfor-**
30 **mance of his regular or assigned duties]** *personal injuries sus-*
31 *tained in or from an accident arising out of and in the course of his*
32 *employment*, on an accidental disability allowance.

33 The application to accomplish such retirement must be filed
34 within five years of the original **[traumatic event]** *accident*, but
35 the board of trustees may consider an application filed after the
36 five-year period if it can be factually demonstrated to the satisfac-
37 tion of the board of trustees that the disability is due to the acci-
38 dent and the filing was not accomplished within the five-year
39 period due to a delayed manifestation of the disability or to cir-
40 cumstances beyond the control of the member.

41 Permanent and total disability resulting from a cardiovascular,
42 pulmonary or musculo-skeletal condition which was not a direct
43 result of **[a traumatic event occurring in the performance of duty]**
44 *the accident* shall be deemed an ordinary disability.

45 Before consideration of an application for accidental disability
46 allowance by the board of trustees, the physician or physicians
47 designated by the board shall have first made a medical examina-
48 tion of the member at his residence or at any other place mutually
49 agreed upon and shall have certified to the board that he is
50 physically or mentally incapacitated for the performance of duty,
51 and should be retired, and the employer shall have certified to the
52 board that **[the member is permanently and totally disabled as a**
53 **direct result of a traumatic event occurring during and as a result**
54 **of the performance of his regular and assigned duties]** *an accident*
55 *arising out of and in the course of his employment was the natural*
56 *and proximate cause of disability*, the time and place where the
57 duty causing the disability was performed, that the disability was
58 not the result of his willful negligence and that the member should
59 be retired.

1 2. This act shall take effect immediately.

Sponsors

STATEMENT

This bill changes the eligibility requirement for disability retire-
ment applicable to members of the Teachers' Pension and Annuity
Fund.

Currently, a TPAF member under 65 years of age who becomes permanently and totally disabled is qualified for an accidental disability retirement allowance only if the disability is "a direct result of a traumatic event occurring during and as a result of the performance of his regular or assigned duties." This bill substitutes a broader category so that the member's disability may result from "personal injuries sustained in or from an accident arising out of and in the course of his employment."

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 491

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 13, 1986

The Assembly State Government Committee reports favorably and with committee amendments Assembly Bill No. 491.

This bill changes the eligibility requirement for disability retirement applicable to members of the Teachers' Pension and Annuity Fund.

Currently, a TPAF member under 65 years of age who becomes permanently and totally disabled is qualified for an accidental disability retirement allowance only if the disability is "a direct result of a traumatic event occurring during and as a result of the performance of his regular or assigned duties." This bill substitutes a broader category so that the member's disability would qualify him for the accidental disability allowance if it were the result of "personal injuries sustained in or from an accident arising out of and in the course of this employment."

The committee amended the bill:

(1) To clarify that the term "course of employment" would include activities occurring at other times than during contractual hours or the school year if conducted for school purposes; and

(2) To correct references to the title of the law, and to a subsection of the particular section amended by the bill.

This bill was pre-filed for introduction in the 1986 session pending technical review. As amended, the bill includes the changes required by technical review which has been performed.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 491

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with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MARCH 13, 1986

The committee favorably reported this bill, as amended.

Assembly Bill No. 491 (OCR), as amended, provides authority in the disability retirement provisions of the Teachers' Pension and Annuity Fund (TPAF) and the Public Employees Retirement System (PERS) to extend accidental disability retirement to members who suffer traumatic events while voluntarily performing regular or assigned duties at a place of employment before or after their required hours of employment. The before or after hours work must not be in violation of any employer's workplace regulations.

BACKGROUND:

The bill, with amendments by the Assembly State Government Committee adopted February 13, 1986, changed the eligibility requirement for disability retirement applicable to members of the Teachers' Pension and Annuity Fund (TPAF). The bill would have proposed a broader standard of medical causation for eligibility of benefits replacing disability "as a direct result of a traumatic event" with disability as a result of "personal injury sustained in or from an accident. . . ." The bill also required that the accident occur in the course of employment and defined that term to include teachers' activities during non-school hours, activities before or after the school year to prepare the classroom or curriculum, or activities conducted as part of a teacher's regularly assigned duties.

COMMITTEE AMENDMENTS:

The amendments restore to the TPAF disability retirement section, in section one of the bill, the existing statutory language of disability "as a direct result of a traumatic event. . . ." This restores the more exacting standard of medical causation for eligibility of benefits which is currently required by the statute and the case law. A "traumatized event" would ordinarily entail a traumatic injury suffered as a result of an external force or violence and in other situations having trau-

matic origins such as exposure to toxic fumes, smoke or gases. Also under existing law, a traumatic event need not be the sole or exclusive cause of the disability, where an underlying condition is aggravated, as long as a traumatic event is essentially significant or a substantial contributing cause of the disability.

The amendments remove the definition of "course of employment," and add that the traumatic event occurring during the performance of regular or assigned duties may be before or after required work hours while the employee is at the place of employment.

These amendments also add to the bill the accidental disability retirement section of the "Public Employees Retirement System Act" (PERS) to include therein the same before or after hours of employment qualification requirement as is added to TPAF.

SENATE STATE GOVERNMENT, FEDERAL AND INTERSTATE
RELATIONS AND VETERANS' AFFAIRS COMMITTEE

Statement to

ASSEMBLY BILL NO. 491 2nd OCR

Dated: June 5, 1986

The Senate State Government Committee reports favorably Assembly Bill No. 491 2nd OCR.

This bill concerns accidental disability retirement for members of the Teachers' Pension and Annuity Fund and the Public Employees' Retirement System. It extends accidental disability retirement to members who suffer traumatic events while voluntarily performing regular or assigned duties at a place of employment before or after their required hours of employment. The before or after hours work, however, shall not be in violation of an employer's work rules.