

WTC Presumptive Bill

On June 16, 2005, the Governor signed Senate Bill number S.5657, the World Trade Center (“WTC”) Presumption Bill, [into law](#). In general, this bill amends various sections of the Retirement and Social Security Law and the New York City Administrative Code to provide that any injury, illness or disease, including future manifestations, which was contracted by certain State and City employees as a result of participation in the rescue, recovery and cleanup efforts associate with the WTC tragedy, shall be presumed to have arisen as a result of an accident sustained in the performance and discharge of duties. The bill additionally provides a mechanism whereby a member originally retired on a service retirement, ordinary disability retirement or performance of duty disability retirement can apply to have his or her retirement reclassified as an accident disability retirement. The provisions of the bill, as it affects the New York City retirement systems and pension funds (“retirement systems”), are outlined below. All provisions below, except where indicated, apply to applicants for retirement and applicants for reclassification.

NYC Coverage

ALL major uniformed titles: Police, Fire, Sanitation & Corrections

ALL non-uniformed members of the City's five retirement systems that have taken a pre-employment physical examination upon entry into service (except Tier 1 & Tier 2 in BERS & TRS)

Categories of illnesses and diseases covered (all prefaced by “including but not limited to”)

Upper Respiratory Tract & Mucosae (rhinitis, sinusitis, vocal cord disease, etc.)

Lower Respiratory Tract (bronchitis, asthma, pneumonitis, etc.)

Gastroesophageal Tract (esophagitis and reflux disease, etc.)

Psychological Axis (post-traumatic stress disorder, anxiety, depression, etc.)

Skin Disease (contact dermatitis or burns, either acute or chronic, infectious, irritant)

New Onset Diseases (cancer, chronic obstructive pulmonary disease, asbestos-related disease, heavy metal poisoning, etc.)

Members Covered

Anyone who successfully passed a physical examination prior to employment which did not disclose evidence of the condition that forms the basis for the application for disability retirement, and who

Participated in WTC rescue, recovery or cleanup operations at one of the four covered sites (listed below) for at least 40 hours during the period commencing September 11, 2001 and ending September 12, 2002, or

Participated in WTC rescue, recovery or cleanup operations at the WTC Site and sustained a documented physical injury between September 11, 2001 and September 12, 2001 that resulted

in a disability that precluded the member from participating in the rescue, recovery or cleanup operations for at least 40 hours, and that disability is the condition for which the member seeks to be eligible for retirement under the WTC presumption statute

Sites Covered

WTC Site - defined as south of Canal St., from the Hudson River to Pike Street, and south of Pike Street to the East River, extending to the lower tip of Manhattan

Fresh Kills Land Fill

NYC Morgue and temporary morgue on pier locations on the west side of Manhattan

Barges traveling between the west side of Manhattan & the Fresh Kills Land Fill

Application/Certification Process

Both active and retired members must file a statement, indicating the dates and locations of employment, with the retirement system no later than 2 years after the effective date of the bill

Medical Board/Board of Trustees Involvement

For active members, once the Medical Board determines that an active member is disabled by a qualifying condition, that member is entitled to the presumption

For retired members applying for reclassification, once the Medical Board determines that the member is disabled by a qualifying condition, the Board of Trustees must determine that an illness or disease was caused by a member's involvement at one of the WTC Sites. Upon such determination, it is then presumed that it was the result of an accident and would have been disabling had the condition been known and fully developed at the time of the member's retirement

Reclassification

Covered members who have retired either for service or ordinary disability can apply to have their pension benefit reclassified to an accidental disability benefit

Reclassified benefit is paid prospectively, effective on the date of the reclassification

The member's original option selection remains in effect

September 11 th Workers Protection Task Force

The task force consists of 19 members appointed as follows: six by the Governor, three by the temporary president of the Senate (two from the unions of affected workers and one from a health organization); three by the Speaker of the Assembly (two from the unions of affected workers and one from a health organization); the State Comptroller, the City Comptroller, the Mayor, the

Commissioner of the State Department of Health; the Commissioner of the State Department of Labor; the Director of the State Division of the Budget; and the Commissioner of the State Department of Civil Service.

Charged with reviewing and monitoring the health of affected workers, implementation of the bill, holding hearings, consulting with health organizations, identifying federal funding sources to help state and local governments pay costs of new disability benefits, etc.

Issuing a report to the Legislature and Governor beginning on June 1, 2006 and every June thereafter addressing the progress of the task force and strategies or actions for ongoing treatment and monitoring of individuals.