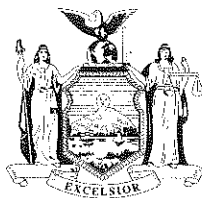


THE SENATE
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***** Press Release *****

EMS, Corrections and Sanitation Members Urge Passage of Senator Golden and Assemblyman Abbate Bill Addressing Disability Pensions

3/16/2017 – Today, at a press conference held on the steps of City Hall, State Senator Marty Golden (R-C-I, Brooklyn) and Assemblyman Peter Abbate (D-Brooklyn) announced they are sponsoring a bill (S.1762/A.2988) that would protect members of the public employee retirement systems from having to endure repeat appeals from a retirement system determination denying a disability pension when the reviewing Court finds that the denial was arbitrary, capricious, and not supported by substantial evidence.

Frequently, applications for disability pensions are denied until the application has been judicially reviewed and remanded. Even then, there is no guarantee that the application will be granted and many disabled retirement system members have to appeal to the Courts at least one more additional time.

“Fighting the denial of a disability pension is very expensive, extremely stressful and time consuming. The disabled person will have to pay court costs and, most likely, attorney's fees to overturn the denial decision”, stated Senator Marty Golden. “When signed into law, it will give judges more authority to adjudicate disability cases fairly and expedite the appeal process. It is important that our EMS, Corrections, Sanitation personnel and other uniformed public employees are protected, legitimate disability claims are approved and their pensions preserved.”

“I am proud to support and sponsor legislation that will impact the hard working men and women who apply for disability pensions”, stated Assemblyman Peter Abbate. “All too often those who apply for their disability pensions are denied and have to go through a lengthy and burdensome appeal process until a judge rightfully rules in their favor. We must do all we can to help the public employees who become disabled, and this will help ease the burden of fighting for their rightful pension and stop the vicious cycle of appeals.”

Izzy Miranda, President of EMS Local 2507 stated “Many EMTs and Paramedics have been denied a disability pension by NYCERS medical board. Although the medical evidence may clearly indicate their disability. This legislative initiative will provide a fair decision through the appeals process based on the medical evidence by which a New York State Supreme Court Judge will have the authority to grant such a disability pension.”

Harry Nespoli, President Uniformed Sanitationmen's Association: "This important legislation will allow our members who have already lost their ability to work, are entitled to a timely determination of their pension status, so they can move on with their lives. Justice delayed is justice denied. I applaud Senator Golden and Assemblyman Abbate on their efforts and hope this bill will soon become law."

COBA President Elias Husamudeen said, "Correction officers who are forced to retire due to a disability have already suffered enough and should not have to pay exorbitant costs or be forced to wait inordinate amounts of time to get their disability pensions approved. We are grateful to Senator Martin Golden and Assemblyman Peter Abbate for recognizing this problem and introducing legislation to fix it. COBA will do everything we can to help get this bill signed into law."

♻️

1762

2017-2018 Regular Sessions

IN SENATE

January 10, 2017

Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the civil practice law and rules, in relation to judgments in favor of a petitioner in article 78 proceedings relating to disability pensions

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 7806 of the civil practice law and rules, as
2 amended by chapter 318 of the laws of 1962, is amended to read as
3 follows:

4 S 7806. Judgment. The judgment may grant the petitioner the relief to
5 which he is entitled, or may dismiss the proceeding either on the merits
6 or with leave to renew. If the proceeding was brought to review a deter-
7 mination, the judgment may annul or confirm the determination in whole
8 or in part, or modify it, and may direct or prohibit specified action by
9 the respondent, PROVIDED, HOWEVER, THAT WHEN THE DETERMINATION BEING
10 REVIEWED IS A DETERMINATION BY A PENSION OR RETIREMENT SYSTEM OF THE
11 STATE OR CIVIL DIVISION THEREOF DENYING THE PETITIONER A DISABILITY
12 PENSION, THE COURT, UPON A FINDING THAT THE DETERMINATION WAS ARBITRARY
13 AND CAPRICIOUS AND NOT SUPPORTED BY SUBSTANTIAL EVIDENCE, MAY ANNUL THE
14 DETERMINATION AND GRANT THE PETITIONER THE REQUESTED DISABILITY PENSION.
15 Any restitution or damages granted to the petitioner must be incidental
16 to the primary relief sought by the petitioner, and must be such as he
17 might otherwise recover on the same set of facts in a separate action or
18 proceeding suable in the supreme court against the same body or officer
19 in its or his official capacity.

20 S 2. This act shall take effect immediately and shall apply to all
21 appeals that have been filed but not yet adjudicated.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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