

Sec. 3309.39. Application for disability retirement may be made by a member, or by a person acting in his behalf, or by the member's employer, provided the member has at least five years of total service credit and has not attained age sixty. The application for retirement shall be made on a form provided by the retirement board. Any member who is approved for disability retirement shall be placed on retirement as of the first day of the month next following the [date the application is filed with the retirement board, or on the first day of the month next following the] last day of employment for which compensation was paid [; whichever is the later date] IF THE BOARD RECEIVES THE APPLICATION WITHIN THREE MONTHS AFTER THAT DATE. IF THE APPLICATION IS RECEIVED LATER THAN THREE MONTHS AFTER THAT DATE, THE BOARD SHALL PLACE THE MEMBER ON RETIREMENT AS OF THE FIRST DAY OF THE MONTH NEXT FOLLOWING THE DATE OF RECEIPT.

Medical examination of a member who has applied for disability retirement shall be conducted by a competent disinterested physician or physicians selected by the retirement board to determine whether the member is mentally or physically incapacitated for the performance of his last assigned primary duty as an employee by a disabling condition either permanent or presumed to be permanent. Such disability must have occurred since last becoming a member or have increased since last becoming a member to such extent as to make the disability permanent or presumed to be permanent. Application for disability retirement must be made within two years from the date the member's contributing service terminated [; The], UNLESS THE disability [for which the allowance is granted must have] HAS existed in some degree as evidenced by medical records before the member's contributing service was terminated.

If such physician or physicians determine that the member qualifies for retirement by reason of disability, and the retirement board concurs with such determination, the member shall be retired for disability and the action of the board shall be final.

In the event an employer files a disability retirement application to retire a member on disability retirement as a result of his having been separated from service because he is considered to be mentally or physically incapacitated for the performance of his last assigned primary duty as an employee, and the physician or physicians selected by the board report to the board that the member is physically and mentally capable of performing service similar to that from which he was separated, and the board concurs in such report, then the board shall so certify to the employer and the said employer shall restore the member to his previous position and salary or to a similar position and salary.

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