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Sec. 3309.39. Application for disability retirement may be made by a member, or by a person acting in ~~his~~ THE MEMBER'S 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 ~~not be placed on retirement sooner than~~ RETIRED ON the first day of the month next following the LATER OF:

(A) THE last day of employment for which compensation was paid ~~-If the application is filed after that date, the board shall retire the member on the first day of the month next following the last day of employment for which compensation was paid;~~

(B) THE DATE ON WHICH THE MEMBER WAS FIRST INCAPACITATED BY THE DISABLING CONDITION.

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~~ THE MEMBER'S last assigned primary duty as an employee by a disabling condition either permanent or presumed to be permanent FOR TWELVE CONTINUOUS MONTHS FOLLOWING THE FILING OF AN APPLICATION. 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, unless the disability has existed in some degree as evidenced by medical records before the member's contributing service was terminated. Application may not be made by any person receiving a service retirement allowance or commuted service retirement allowance under section 3309.36 or 3309.38 of the Revised Code or any person who, pursuant to section 3309.42 of the Revised Code, has been paid the accumulated contributions standing to the credit of his individual account in the employees' savings fund.

If ~~such~~ THE physician or physicians determine that the member qualifies for retirement by reason of disability, and the retirement board concurs with ~~such~~ THE determination, the member shall be retired for disability and the action of the board shall be final. AT THE TIME THE BOARD DECIDES IT CONCURS WITH THE DETERMINATION OF THE PHYSICIAN OR PHYSICIANS, THE BOARD SHALL DETERMINE THE DATE ON WHICH THE MEMBER WAS FIRST INCAPACITATED BY THE DISABLING CONDITION.

In the event an employer files a disability retirement application to retire a member on disability retirement as a result of ~~his~~ THE MEMBER having been separated from service because he is considered to be mentally or physically incapacitated for the performance of ~~his~~ THE MEMBER'S 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.

Section 3309.44 of the Revised Code is amended by this act and also by Am. Sub. H.B. 167 of the 118th General Assembly. Section 3309.39 of the Revised Code is amended by this act and also by Sub. S.B. 182 of the 118th General Assembly. Comparison of these amendments in pursuance of section 1.52 of the Revised Code discloses that they are not irreconcilable, so that they are required by that section to be harmonized to give effect to each amendment.

Reed S. Stoddard
Director, Legislative Service Commission

Effective
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