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I N   S E N A T E

May 21, 2014

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Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the retirement and social security law, in relation to injuries or illnesses suffered as a result of participating in rescue, recovery and cleanup directly related to attacks at the World Trade Center on September 11, 2001

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

1     Section 1. Paragraph (a) of subdivision 36 of section 2 of the retire-  
2     ment and social security law, as amended by chapter 489 of the laws of  
3     2013, is amended to read as follows:  
4     (a) "Qualifying World Trade Center condition" shall mean a qualifying  
5     condition or impairment of health resulting in disability to a member  
6     who participated in World Trade Center rescue, recovery or cleanup oper-  
7     ations for a qualifying period, as those terms are defined below,  
8     provided the following conditions have been met: (i) such member, or  
9     eligible beneficiary in the case of the member's death, must have filed  
10    a written and sworn statement with the member's retirement system on a  
11    form provided by such system indicating the underlying dates and  
12    locations of employment not later than September eleventh, two thousand  
13    [ten, or any later date as hereinafter provided in this paragraph;]  
14    FIFTEEN, and (ii) such member has either successfully passed a physical  
15    examination for entry into public service, or authorized release of all  
16    relevant medical records, if the member did not undergo a physical exam-  
17    ination for entry into public service; and (iii) there is no evidence of  
18    the qualifying condition or impairment of health that formed the basis  
19    for the disability in such physical examination for entry into public  
20    service or in the relevant medical records, prior to September eleventh,  
21    two thousand one EXCEPT FOR SUCH MEMBER, OR ELIGIBLE BENEFICIARY IN THE  
22    CASE OF THE MEMBER'S DEATH, OF A LOCAL RETIREMENT SYSTEM OF A CITY WITH  
23    A POPULATION OF ONE MILLION OR MORE THAT IS COVERED BY SECTION 13-551 OF  
24    THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK, OR BY SECTION

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

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1 TWENTY-FIVE HUNDRED SEVENTY-FIVE OF THE EDUCATION LAW AND FOR SUCH  
2 MEMBER WHO SEPARATED FROM SERVICE WITH VESTED RIGHTS, OR ELIGIBLE BENE-  
3 FICIARY OF SUCH MEMBER WHO SEPARATED FROM SERVICE WITH VESTED RIGHTS IN  
4 THE CASE OF THE MEMBER'S DEATH, OF A LOCAL RETIREMENT SYSTEM OF A CITY  
5 WITH A POPULATION OF ONE MILLION OR MORE WHO ARE COVERED BY SECTIONS  
6 13-168, 13-252.1 OR 13-353.1 OF THE ADMINISTRATIVE CODE OF THE CITY OF  
7 NEW YORK OR SECTIONS FIVE HUNDRED SEVEN-C, SIX HUNDRED FIVE-B, SIX  
8 HUNDRED FIVE-C, OR SIX HUNDRED SEVEN-B OF THIS CHAPTER. The deadline for  
9 filing a written and sworn statement required by subparagraph (i) of  
10 this paragraph [is hereby extended to] SHALL BE September eleventh, two  
11 thousand fourteen for such member, or eligible beneficiary in the case  
12 of the member's death, of a local retirement system of a city with a  
13 population of one million or more that is covered by section 13-551 of  
14 the administrative code of the city of New York, or by section twenty-  
15 five hundred seventy-five of the education law and for such member who  
16 separated from service with vested rights, or eligible beneficiary of  
17 such member who separated from service with vested rights in the case of  
18 the member's death, of A local retirement [systems] SYSTEM of a city  
19 with a population of one million or more who are covered by sections  
20 13-168, 13-252.1 [and] OR 13-353.1 of the administrative code of the  
21 city of New York and sections five hundred seven-c, six hundred five-b,  
22 six hundred five-c, [and] OR six hundred seven-b of this chapter. Every  
23 retirement system shall keep a copy of every written and sworn statement  
24 that is presented for filing not later than September eleventh, two  
25 thousand [fourteen] FIFTEEN, including those that are rejected for  
26 filing as untimely.

27 S 2. Notwithstanding any other provision of law to the contrary, none  
28 of the provisions of this act shall be subject to section 25 of the  
29 retirement and social security law.

30 S 3. This act shall take effect immediately.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

PROVISIONS OF PROPOSED LEGISLATION: With respect to the New York City Retirement Systems ("NYCRS"), the proposed legislation would amend Retirement and Social Security Law ("RSSL") Section 2, to extend the deadline for filing a registration of participation under the World Trade Center ("WTC") Disability Law to certain members who participated in the Rescue, Recovery or Cleanup operations related to the World Trade Center attack on September 11, 2001.

The NYCRS include: New York City Employees' Retirement System ("NYCERS"), New York City Teachers' Retirement System ("NYCTRS"), New York City Board of Education Retirement System ("BERS"), New York City Police Pension Fund ("POLICE") and New York Fire Department Pension Fund ("FIRE").

The WTC Disability Law was enacted under Chapter 104 of the Laws of 2005, and was amended by Chapter 93 of the Laws of 2005, Chapter 102 of the Laws of 2006, Chapter 444 of the Laws of 2006, Chapter 445 of the Laws of 2006, Chapter 5 of the Laws of 2007, Chapter 214 of the Laws of 2007, Chapter 495 of the Laws of 2007, Chapter 489 of the Laws of 2008, Chapter 361 of the Laws of 2010 and Chapter 489 of 2013.

The Effective Date of this proposed legislation would be the date of enactment.

DEADLINES FOR FILING A REGISTRATION OF PARTICIPATION UNDER EXISTING WTC-RELATED PROVISIONS: Under current law, as a result of the enactment of Chapter 489 of 2013, the deadline for filing a written and sworn statement with the member's retirement system to register for participation under the WTC Disability Law is September 11, 2014 for certain

groups ("Chapter 489/13 Covered Groups"). These Chapter 489/13 Covered Groups are as follows:

- \* Active, vested and retired members in NYCTRS in Tiers I and II
- \* Active, vested and retired members in BERS in Tiers I and II
- \* Vested members in NYCERS in Tiers I and II
- \* Vested members in POLICE in Tiers I and II
- \* Vested members in FIRE in Tiers I and II
- \* Vested Uniformed Corrections members in NYCERS in Tier III
- \* Vested Uniformed Sanitation members in NYCERS in Tier IV
- \* Vested Deputy Sheriff members in NYCERS in Tier IV and Tier VI
- \* Vested EMT members in NYCERS in Tier IV and Tier VI

Similarly, the deadline for filing a written and sworn statement with the member's retirement system to register for participation under the WTC Disability law is September 11, 2010 for all groups not included in the Chapter 489/13 Covered Groups (the "Original Covered Groups").

**DEADLINES FOR FILING A REGISTRATION OF PARTICIPATION UNDER PROPOSED LEGISLATION:** With respect to the NYCRS, the proposed legislation would extend the deadline for filing a registration of participation under the WTC Disability Law for the Original Covered Groups from September 11, 2010 to September 11, 2015. The deadline for filing a registration of participation under the WTC Disability Law for the Chapter 489/13 Covered Groups would remain unchanged at September 11, 2014.

**ADDITIONAL EMPLOYER COSTS:** The cost of the proposed legislation would depend on the number of additional members who file the required form, meet the requirements and then ultimately benefit from one of the WTC Disability Laws.

As the Actuary believes that most members who would be eligible for the benefits provided under the WTC Disability Law have already filed the required form to register for participation, only a few members likely would benefit from the proposed legislation and, therefore, the increase in employer costs likely would be de minimis.

**ADDITIONAL EMPLOYER CONTRIBUTIONS:** In general, the increase in employer contributions will be comparable to the increase in employer costs.

**ACTUARIAL ASSUMPTIONS AND METHODS:** The additional employer costs and contributions have been determined based on the actuarial assumptions and methods used in June 30, 2013 (Lag) actuarial valuations of NYCERS, NYCTRS, BERS, POLICE and FIRE.

**ECONOMIC VALUES OF BENEFITS:** The actuarial assumptions used to determine the financial impact of the proposed legislation discussed in this Fiscal Note are those appropriate for budgetary models and determining annual employer contributions to the NYCRS.

However, the economic assumptions that are used for determining employer contributions do not develop risk-adjusted, economic values of benefits. Such risk-adjusted, economic values of benefits would likely differ significantly from those developed by the budgetary models.

**STATEMENT OF ACTUARIAL OPINION:** I, Robert C. North, Jr., am the Chief Actuary for the New York City Retirement Systems. I am a Fellow of the Society of Actuaries and a Member of the American Academy of Actuaries. I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

**FISCAL NOTE IDENTIFICATION:** This estimate is intended for use only during the 2014 Legislative Session. It is Fiscal Note 2014-18, dated April 30, 2014, prepared by the Chief Actuary for the New York City Employees' Retirement System, the New York City Teachers' Retirement System, the New York City Board of Education Retirement System, the New

York City Police Pension Fund and the New York Fire Department Pension Fund.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill would amend chapter 93 of the Laws of 2005 and chapter 445 of the Laws of 2006, which provided members of public retirement systems who contract any form of disease or disability related to exposure to any elements in connection with the World Trade Center tragedy of September 11, 2001 to be presumptive evidence that such disability, or death as a result of such disability was the result of an accident and was sustained in the performance of duty.

Insofar as this bill would affect the New York State and Local Employees' Retirement and the New York State and Local Police and Fire Retirement System, this bill would extend the deadline for filing notice regarding the eligibility for benefits for certain members who participated in the World Trade Center rescue, recovery or cleanup operation to September 11, 2015.

If this bill is enacted, it would lead to more disabilities being classified as "in performance of duty" or "accidental". For the disabilities so classified due to this bill, the cost would depend on the age, service, salary and plan of the affected member or retiree, as well as whether such person would have otherwise been eligible for, or has been receiving an ordinary disability, a performance of duty disability or a service retirement. For those who contract such disease prior to retirement, it is estimated that there could be per person one-time costs of as much as four (4) times salary. For those who contract such disease subsequent to a service retirement, it is estimated that there would be an average per person cost of approximately 150% of final average salary. For those who contract such disease subsequent to an ordinary disability retirement, it is estimated that there would be an average per person cost of approximately four (4) times final average salary.

This bill would also lead to more deaths being classified as "accidental". For each death classified as accidental due to this bill, the cost would depend on the age, service, salary and plan of the affected individual, as well as whether such person was an active member or has been receiving an ordinary disability, a performance of duty disability, an accidental disability or a service retirement. It is estimated that the cost for each ERS and PFRS individual affected would average approximately three (3) times final average salary and seven (7) times final average salary, respectively.

ERS Costs: Pursuant to Section 25 of the Retirement and Social Security Law, the increased cost to the New York State and Local Employees' Retirement System would be borne entirely by the State of New York and would require an itemized appropriation sufficient to pay the cost of the provision. A precise cost can't be determined at this time. Every year a cost will be determined (and billed to the state) based on those benefiting from this provision.

PFRS Costs: These costs would be shared by the State of New York and the participating employers in the PFRS.

Summary of relevant resources:

The membership data used in measuring the impact of the proposed change was the same as that used in the March 31, 2013 actuarial valuation. Distributions and other statistics can be found in the 2013 Report of the Actuary and the 2013 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2010, 2011, 2012 and 2013 Annual Report to the Comptroller on Actuarial

Assumptions, and the Codes Rules and Regulations of the State of New York: Audit and Control.

The Market Assets and GASB Disclosures are found in the March 31, 2013 New York State and Local Retirement System Financial Statements and Supplementary Information.

I am a member of the American Academy of Actuaries and meet the Qualification Standards to render the actuarial opinion contained herein.

This estimate, dated June 4, 2014, and intended for use only during the 2014 Legislative Session, is Fiscal Note No. 2014-148, prepared by the Actuary for the New York State and Local Employees' Retirement and the New York State and Local Police and Fire Retirement System.

FISCAL NOTE.-- Pursuant to Legislative Law, Section 50:

This bill would amend Subdivision 36 of Section 2 of the Retirement and Social Security Law to extend the deadline to September 11, 2015 for filing notice of having participated in the World Trade Center rescue, recover or cleanup operations during the qualifying period. Members who become disabled or die as a result of a "qualifying World Trade Center condition" are assumed to have become disabled or died as a result of an accidental or on-the-job disability or death.

The annual cost to the employers of members of the New York State Teachers' Retirement System is estimated to be negligible if this bill is enacted.

Employee data is from the System's most recent actuarial valuation files, consisting of data provided by the employers to the Retirement System. Data distributions and statistics can be found in the System's Comprehensive Annual Financial Report (CAFR). System assets are as reported in the System's financial statements, and can also be found in the CAFR. Actuarial assumptions and methods are provided in the System's Actuarial Valuation Report.

The source of this estimate is Fiscal Note 2014-35 dated June 9, 2014 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2014 Legislative Session. I, Richard A. Young, am the Actuary for the New York State Teachers' Retirement System. I am a member of the American Academy of Actuaries and I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.