

STATE OF NEW YORK

5988

2019-2020 Regular Sessions

IN SENATE

May 16, 2019

Introduced by Sen. GOUNARDES -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to amend the retirement and social security law, in relation to certain medical presumptions applicable to members of the New York state and local employees' retirement system

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 2 of section 363-a of the retirement and social
2 security law, as amended by chapter 437 of the laws of 2016, is amended
3 to read as follows:

4 2. Notwithstanding any provision of this chapter or of any general,
5 special, or local law to the contrary, any condition of impairment of
6 health caused by diseases of the heart, resulting in disability or death
7 to a police officer, presently employed, and who shall have sustained
8 such disability while so employed, shall be presumptive evidence that it
9 was incurred in the performance and discharge of duty and the natural
10 and proximate result of an accident, unless the contrary be proved by
11 competent evidence.

12 § 2. The retirement and social security law is amended by adding a new
13 section 809 to read as follows:

14 § 809. Effect and rebuttal of certain medical presumptions pertaining
15 to diseases of the heart. a. This section shall apply to certain appli-
16 cations for disability retirement allowances made by or on behalf of a
17 member of the New York state and local employees' retirement system or
18 the New York state and local police and fire retirement system. It
19 shall apply only to applications that are subject under this chapter to
20 a provision that any condition of impairment of health caused by a
21 disease of the heart, resulting in disability, shall be presumptive
22 evidence that such disability was incurred in the performance and
23 discharge of duty and the natural and proximate result of an accident.

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

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1 b. Notwithstanding any other provision of law to the contrary an
2 application for an accidental disability retirement allowance that is
3 based on a permanent incapacity caused by a disease of the heart, shall
4 not be required to allege or establish:

5 (1) that the member sustained an accident or other incident related to
6 the performance and discharge of duty; or

7 (2) that notice was provided thereof.

8 c. Notwithstanding any other provision of law to the contrary, the
9 presumptions referred to in subdivision a of this section may be
10 rebutted only by competent evidence that the disability is not the
11 natural and proximate result of the performance and discharge of duty.

12 § 3. The retirement and social security law is amended by adding a new
13 section 810 to read as follows:

14 § 810. Effect and rebuttal of certain medical presumptions pertaining
15 to diseases of the heart. a. This section shall apply to all applica-
16 tions for disability retirement allowances made by or on behalf of a
17 member of the New York state and local employees' retirement system. It
18 shall apply to all applications that are subject under this chapter to a
19 provision that any condition of impairment of health caused by a disease
20 of the heart, resulting in disability, shall be presumptive evidence
21 that such disability was incurred in the performance and discharge of
22 duty and the natural and proximate result of an accident.

23 b. Notwithstanding any other provision of law to the contrary an
24 application for an accidental disability retirement allowance that is
25 based on a permanent incapacity caused by a disease of the heart, shall
26 not be required to allege or establish:

27 (1) that the member sustained an accident or other incident related to
28 the performance and discharge of duty; or

29 (2) that notice was provided thereof.

30 c. Notwithstanding any other provision of law to the contrary, the
31 presumptions referred to in subdivision a of this section may be
32 rebutted only by competent evidence that the disability is not the
33 natural and proximate result of the performance and discharge of duty.

34 § 4. The amendment made to subdivision 2 of section 363-a of the
35 retirement and social security law by section one of this act shall not
36 affect, impair or invalidate any temporary right, privilege or benefit
37 conferred pursuant to the provisions of a general, special or local law
38 (other than pursuant to articles 14 and 15 of the retirement and social
39 security law) for any member of a public retirement system or pension
40 plan funded by the state or one of its political subdivisions, nor shall
41 any amendment thereto affect the application of such provisions as
42 extended by the provisions of section 480 of the retirement and social
43 security law.

44 § 5. This act shall take effect immediately.

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

This bill would amend the Retirement and Social Security Law in relation to heart disease related disabilities for members in the New York State and Local Employees' Retirement System (ERS) and the New York State and Local Police and Fire Retirement System (PFRS) who currently have heart presumptions that reference an accident. It would grant accidental disability benefits for heart cases by deeming such disabilities to have been sustained in the performance of duty, and the natural and proximate result of an accident. Such presumptions may be rebutted only by competent evidence that the disability is not the result of the performance and discharge of duty. Further, this bill would provide that

the same criteria that exist for determining accidental death benefits for firefighters would be extended to police officers.

If this bill is enacted, more accidental disability benefits would be granted. The estimated increase in the annual contributions to the State of New York would be approximately \$660,000 for its PFRS members and approximately \$1.1 million for its Unified Court Officers. The increases in annual contributions for the participating employers in the PFRS would be approximately \$2.6 million.

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, 2018 actuarial valuation. Distributions and other statistics can be found in the 2018 Report of the Actuary and the 2018 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2015, 2016, 2017 and 2018 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, 2018 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 fiscal note does not constitute a legal opinion on the viability of the proposed change nor is it intended to serve as a substitute for the professional judgment of an attorney.

This estimate, dated May 16, 2019, and intended for use only during the 2019 Legislative Session, is Fiscal Note No. 2019-122, prepared by the Actuary for the New York State and Local Retirement System.