S T A T E O F N E W Y O R K

4103

2009-2010 Regular Sessions

I N A S S E M B L Y

January 30, 2009

Introduced by M. of A. ABBATE -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the retirement and social security law, in relation to certain disabilities of environmental police officers

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

Section 1. Section 363-a of the retirement and social security law, as amended by chapter 967 of the laws of 1974, subdivision 3 as amended by chapter 357 of the laws of 2002 and subdivision 4 as amended by chapter 768 of the laws of 1975, is amended to read as follows:

S 363-a. [Firemen and policemen] FIREFIGHTERS AND POLICE OFFICERS; certain disabilities. 1. Notwithstanding any provision of this chapter or of any general, special, or local law to the contrary, any condition of impairment of health caused by diseases of the heart, resulting in disability or death to a [fireman] FIREFIGHTER shall be presumptive evidence that it was incurred in the performance and discharge of duty and the natural and proximate result of an accident, unless the contrary be proved by competent evidence.

2. Notwithstanding any provision of this chapter or of any general, special, or local law to the contrary, any condition of impairment of health caused by diseases of the heart, resulting in disability or death to a [policeman] POLICE OFFICER, presently employed, and who shall have sustained such disability while so employed, shall be presumptive evidence that [is] IT was incurred in the performance and discharge of duty, unless the contrary be proved by competent evidence.

3. As used in this section, the [term "fireman" and "policeman" means] TERMS "FIREFIGHTER" AND "POLICE OFFICER" MEAN any member who is performing police or fire service, as the phrase police or fire service is defined in paragraphs a, b, c, d, F (AS ADDED BY CHAPTER SIX HUNDRED SEVENTY-FOUR OF THE LAWS OF NINETEEN EIGHTY-SIX), F (AS ADDED BY CHAPTER SIX HUNDRED SEVENTY-SEVEN OF THE LAWS OF NINETEEN EIGHTY-SIX), g, and h

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

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of subdivision eleven of section three hundred two of this article, and who, prior to entry into service as a [fireman or policeman] FIREFIGHTER OR POLICE OFFICER, successfully passed a physical examination which failed to disclose evidence of any disease or other impairment of the heart.

4. The provisions of this section shall remain in full force and effect to and including August thirty-first, nineteen hundred seventy-six.

S 2. The amendments made to section 363-a of the retirement and social security law by section one of this act shall not affect, impair, or invalidate any temporary right, privilege, or benefit conferred pursuant to the provisions of a general, special or local law (other than pursuant to articles 14 and 15 of the retirement and social security law) for any member of a public retirement system or pension plan funded by the state or one of its political subdivisions, nor shall any amendments thereto affect the application of such provisions as extended by the provisions of section 480 of the retirement and social security law.

S 3. This act shall take effect immediately; provided, however, that the amendments to section 363-a of the retirement and social security law made by section one of this act shall not affect the expiration of such section as provided in section 480 of the retirement and social security law and shall expire therewith.

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. It would add a "heart bill" provision for police officers of the Division of Law Enforcement in the Department of Environmental Conservation who are members of the New York State and Local Police and Fire Retirement System.

If this bill is enacted, it could lead to more disabilities being classified as "performance of duty". We anticipate that few performance of duty disability retirements will be granted, and thus, the resulting costs will be negligible.

This estimate, dated January 15, 2009, and intended for use only during the 2009 Legislative Session, is Fiscal Note No. 2009-99, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.