

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

2825--A

2009-2010 Regular Sessions

I N A S S E M B L Y

January 21, 2009

Introduced by M. of A. ABBATE, BOYLAND, PHEFFER, COLTON, SCHROEDER --
Multi-Sponsored by -- M. of A. COOK, HOOPER -- read once and referred
to the Committee on Governmental Employees -- recommitted to the
Committee on Governmental Employees in accordance with Assembly Rule
3, sec. 2 -- 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
benefits payable to, or on behalf of, certain employees of the divi-
sion of parole injured or killed in the performance of duty; and
providing for the repeal of such provisions upon expiration thereof

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

1 Section 1. The retirement and social security law is amended by adding
2 a new section 63-g to read as follows:
3 S 63-G. DISABILITY RETIREMENT FOR PEACE OFFICERS OF THE DIVISION OF
4 PAROLE; CERTAIN DISABILITIES. A. NOTWITHSTANDING ANY PROVISION OF THIS
5 CHAPTER OR OF ANY GENERAL OR SPECIAL LAW TO THE CONTRARY, ANY CONDITION
6 OF IMPAIRMENT OF HEALTH CAUSED BY DISEASES OF THE HEART, RESULTING IN
7 DISABILITY OR DEATH TO A PEACE OFFICER EMPLOYED BY THE DIVISION OF
8 PAROLE SHALL BE PRESUMPTIVE EVIDENCE THAT IT WAS INCURRED IN THE
9 PERFORMANCE AND DISCHARGE OF DUTY AND THE NATURAL AND PROXIMATE RESULT
10 OF AN ACCIDENT, UNLESS THE CONTRARY BE PROVED BY COMPETENT EVIDENCE.
11 B. AS USED IN THIS SECTION, THE TERM "PEACE OFFICER" SHALL MEAN ANY
12 EMPLOYEE OF THE DIVISION OF PAROLE WHO IS DESIGNATED AS A PEACE OFFICER
13 PURSUANT TO SUBDIVISION TWENTY-THREE OR TWENTY-THREE-A OF SECTION 2.10
14 OF THE CRIMINAL PROCEDURE LAW, WHO, PRIOR TO ENTRY INTO SERVICE AS A
15 PAROLE OR SENIOR PAROLE OFFICER SUCCESSFULLY PASSED A PHYSICAL EXAMINA-
16 TION WHICH FAILED TO DISCLOSE EVIDENCE OF ANY DISEASE OR OTHER IMPAIR-
17 MENT OF THE HEART.
18 S 2. The retirement and social security law is amended by adding a new
19 section 605-d to read as follows:

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

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1 S 605-D. DISABILITY RETIREMENT FOR PEACE OFFICERS OF THE DIVISION OF
2 PAROLE; ACCIDENTAL DISABILITY RETIREMENT FOR CERTAIN DISABILITIES. A.
3 NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER OR OF ANY GENERAL OR
4 SPECIAL LAW TO THE CONTRARY, IF AN IMPAIRMENT OF HEALTH CAUSED BY
5 DISEASES OF THE HEART, RESULTS IN DISABILITY OR DEATH TO A PEACE OFFICER
6 EMPLOYED BY THE DIVISION OF PAROLE SUCH IMPAIRMENT SHALL BE PRESUMPTIVE
7 EVIDENCE THAT IT WAS INCURRED IN THE PERFORMANCE AND DISCHARGE OF DUTY
8 AND THE NATURAL AND PROXIMATE RESULT OF AN ACCIDENT, UNLESS THE CONTRARY
9 BE PROVED BY COMPETENT EVIDENCE, AND SUCH PEACE OFFICER SHALL BE PAID A
10 PERFORMANCE OF DUTY DISABILITY RETIREMENT ALLOWANCE EQUAL TO THAT WHICH
11 IS PROVIDED IN SECTION SIXTY-THREE OF THIS CHAPTER SUBJECT TO THE
12 PROVISIONS OF SECTION SIXTY-FOUR OF THIS CHAPTER. SAID PEACE OFFICER
13 MAY MAKE APPLICATION FOR ACCIDENTAL DISABILITY RETIREMENT SUBJECT TO THE
14 FILING REQUIREMENTS PROVIDED BY SECTION SIXTY-THREE OF THIS CHAPTER.

15 B. AS USED IN THIS SECTION, THE TERM "PEACE OFFICER" SHALL MEAN ANY
16 EMPLOYEE OF THE DIVISION OF PAROLE WHO IS DESIGNATED AS A PEACE OFFICER
17 PURSUANT TO SUBDIVISION TWENTY-THREE OR TWENTY-THREE-A OF SECTION 2.10
18 OF THE CRIMINAL PROCEDURE LAW, WHO, PRIOR TO ENTRY INTO SERVICE AS A
19 PAROLE OR SENIOR PAROLE OFFICER SUCCESSFULLY PASSED A PHYSICAL EXAMINA-
20 TION WHICH FAILED TO DISCLOSE EVIDENCE OF ANY DISEASE OR OTHER IMPAIR-
21 MENT OF THE HEART.

22 S 3. This act shall take effect on the ninetieth day after it shall
23 have become a law and shall expire and be deemed repealed July 1, 2011.

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 and deaths. It would add a "heart presumption" for peace officers of the Division of Parole who are members of the New York State and Local Employees' Retirement System. The presumption would help individuals, or those filing on their behalf, who sustained a job related accident establish that their heart disability or death is the natural and proximate result of such accident. The accidental disability benefit would be 75% of final average salary less workers' compensation.

If this bill is enacted, it could increase benefits from 1/3 of final average salary to 3/4 of final average salary, less workers' compensation. We anticipate that very few members would receive increased benefits under this proposal, since the member, or the person filing on behalf of the member, would have to prove that such heart related disability or death was the result of an accident. The estimated increase in the annual contributions for the State of New York would be approximately \$93,000.

These estimated costs are based on one thousand one hundred fifty (1150) members having a total annual salary for the fiscal year ending March 31, 2009 of approximately \$84 million.

This estimate, dated December 21, 2009 and intended for use only during the 2010 Legislative Session, is Fiscal Note No. 2010-35, prepared by the Actuary for the New York State and Local Employees' Retirement System.