

2557

2009-2010 Regular Sessions

I N S E N A T E

February 24, 2009

Introduced by Sens. ADDABBO, DIAZ, HUNTLEY, C. JOHNSON, KLEIN, SAVINO --  
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  
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:

20 S 605-D. DISABILITY RETIREMENT FOR PEACE OFFICERS OF THE DIVISION OF  
21 PAROLE; ACCIDENTAL DISABILITY RETIREMENT FOR CERTAIN DISABILITIES. A.  
22 NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER OR OF ANY GENERAL OR

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

LBD05604-01-9

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

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

19 S 3. This act shall take effect on the ninetieth day after it shall  
20 have become a law and shall expire and be deemed repealed July 1, 2010;  
21 provided, however, that the amendment to the retirement and social secu-  
22 rity law, made by section two of this act, shall not affect the expira-  
23 tion of and shall expire on the same date as article 15 of such law  
24 expires pursuant to section 615 of the retirement and social security  
25 law.

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 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 who sustained a job related accident establish that their heart disability is the natural and proximate result of such accident. The accidental disability benefit would be 75% of final average salary less worker's 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 worker's compensation. We anticipate that very few members would receive increased benefits under this proposal, since the member would have to prove that such heart related disability was the result of an accident. The estimated increase in the annual contributions for the State of New York would be approximately \$88,000.

These estimated costs are based on one thousand one hundred fifty-seven (1157) members having a total annual salary for the fiscal year ending March 31, 2008 of approximately \$80 million.

This estimate, dated December 1, 2008 and intended for use only during the 2009 Legislative Session, is Fiscal Note No. 2009-46, prepared by the Actuary for the New York State and Local Employees' Retirement System.