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

S. 4853 A. 7267

2011-2012 Regular Sessions

S E N A T E - A S S E M B L Y

April 27, 2011

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

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

AN ACT to amend the retirement and social security law and the general municipal law, in relation to extending the presumption relating to certain lung disabilities incurred by firefighters

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

Section 1. Section 363-f of the retirement and social security law, as amended by chapter 103 of the laws of 2006, is amended to read as follows:

S 363-f. Firefighters; presumption in certain diseases. Notwithstanding any provision of this chapter or of any general, special or local law to the contrary, and for the purposes of this chapter, any condition of impairment of health caused by diseases of the lung, resulting in total or partial disability or death to a uniformed member of a paid fire department, where such member successfully passed a physical examination on entry into such service or subsequent thereto, which examination failed to reveal any evidence of such conditions, shall be presumptive evidence that such disability or death (1) was caused by the natural and proximate result of an accident, not caused by such firefighter's own negligence and (2) was incurred in the performance and discharge of duty, unless the contrary be proven by competent evidence. The provisions of this section shall remain in full force and effect to and including the thirtieth day of June, two thousand [eight] THIRTEEN.

S 2. Section 207-q of the general municipal law, as amended by chapter 103 of the laws of 2006, is amended to read as follows:

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

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S 207-q. Firefighters; presumption in certain diseases. Notwithstanding any provision of this chapter or of any general, special or local law to the contrary, and for the purposes of this chapter, any condition of impairment of health caused by diseases of the lung, resulting in total or partial disability or death to a uniformed member of a paid fire department, where such member successfully passed a physical examination on entry into such service or subsequent thereto, which examination failed to reveal any evidence of such conditions, shall be presumptive evidence that such disability or death (1) was caused by the natural and proximate result of an accident, not caused by such firefighter's own negligence and (2) was incurred in the performance and discharge of duty, unless the contrary be proven by competent evidence. The provisions of this section shall remain in full force and effect to and including the thirtieth day of June, two thousand [eight] THIRTEEN.

S 3. Notwithstanding the provisions of article 5 of the general construction law, the provisions of section 363-f of the retirement and social security law and section 207-q of the general municipal law, as amended by sections one and two of this act respectively, are hereby revived and shall continue in full force and effect as such provisions existed on June 30, 2008.

S 4. This act shall take effect immediately.

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

This bill would extend the effective period of the provisions of Section 363-f of the Retirement and Social Security Law, which provides that any condition or impairment of health caused by diseases of the lung, resulting in disability or death to a firefighter shall be presumptive evidence that, unless the contrary be proven by competent evidence, such disability or death was caused by the natural and proximate cause of an accident, and was incurred in the performance and discharge of duty.

If this bill is enacted, we do not anticipate that there would be an additional cost since these provisions are included among those which are regularly extended by the passage of the legislation which provides for the "extension of all temporary rights and benefits".

This estimate, dated December 28, 2010, and intended for use only during the 2011 Legislative Session, is Fiscal Note No. 2011-78, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.