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

5091--B

2011-2012 Regular Sessions

I N A S S E M B L Y

February 11, 2011

Introduced by M. of A. ABBATE -- read once and referred to the Committee on Governmental Employees -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, 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 department of corrections and community supervision 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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The retirement and social security law is amended by adding a new section 63-g to read as follows:

S 63-G. DISABILITY RETIREMENT FOR PAROLE OFFICERS, PAROLE REVOCATION SPECIALISTS AND WARRANT OFFICERS IN THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION; CERTAIN DISABILITIES. A. NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER OR OF ANY GENERAL OR SPECIAL LAW TO THE CONTRARY, ANY CONDITION OF IMPAIRMENT OF HEALTH CAUSED BY DISEASES OF THE HEART, RESULTING IN DISABILITY OR DEATH TO A PAROLE OFFICER, PAROLE REVOCATION SPECIALIST OR WARRANT OFFICER IN THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION 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.

B. AS USED IN THIS SECTION, THE TERM "PAROLE OFFICER", "PAROLE REVOCATION SPECIALIST" OR "WARRANT OFFICER" IN THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION SHALL MEAN AN EMPLOYEE WHO IS DESIGNATED AS A PEACE OFFICER PURSUANT TO SUBDIVISION TWENTY-THREE OR TWENTY-THREE-A OF SECTION 2.10 OF THE CRIMINAL PROCEDURE LAW, WHO, PRIOR TO ENTRY INTO

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

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SERVICE SUCCESSFULLY PASSED A PHYSICAL EXAMINATION WHICH FAILED TO DISCLOSE EVIDENCE OF ANY DISEASE OR OTHER IMPAIRMENT OF THE HEART.

S 2. The retirement and social security law is amended by adding a new section 605-d to read as follows:

S 605-D. DISABILITY RETIREMENT FOR PAROLE OFFICERS, PAROLE REVOCATION SPECIALISTS AND WARRANT OFFICERS IN THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION; ACCIDENTAL DISABILITY RETIREMENT FOR CERTAIN DISABILITIES. A. NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER OR OF ANY GENERAL OR SPECIAL LAW TO THE CONTRARY, IF AN IMPAIRMENT OF HEALTH CAUSED BY DISEASES OF THE HEART, RESULTS IN DISABILITY OR DEATH TO A PAROLE OFFICER, PAROLE REVOCATION SPECIALIST OR WARRANT OFFICER IN THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION SUCH IMPAIRMENT 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, AND SUCH PEACE OFFICER SHALL BE PAID A PERFORMANCE OF DUTY DISABILITY RETIREMENT ALLOWANCE EQUAL TO THAT WHICH IS PROVIDED IN SECTION SIXTY-THREE OF THIS CHAPTER SUBJECT TO THE PROVISIONS OF SECTION SIXTY-FOUR OF THIS CHAPTER. SAID PAROLE OFFICER, PAROLE REVOCATION SPECIALIST OR WARRANT OFFICER IN THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION MAY MAKE APPLICATION FOR ACCIDENTAL DISABILITY RETIREMENT SUBJECT TO THE FILING REQUIREMENTS PROVIDED BY SECTION SIXTY-THREE OF THIS CHAPTER.

B. AS USED IN THIS SECTION, THE TERM "PAROLE OFFICER", "PAROLE REVOCATION SPECIALIST" OR "WARRANT OFFICER" IN THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION SHALL MEAN AN EMPLOYEE WHO IS DESIGNATED AS A PEACE OFFICER PURSUANT TO SUBDIVISION TWENTY-THREE OR TWENTY-THREE-A OF SECTION 2.10 OF THE CRIMINAL PROCEDURE LAW, WHO, PRIOR TO ENTRY INTO SERVICE SUCCESSFULLY PASSED A PHYSICAL EXAMINATION WHICH FAILED TO DISCLOSE EVIDENCE OF ANY DISEASE OR OTHER IMPAIRMENT OF THE HEART.

S 3. This act shall take effect on the ninetieth day after it shall have become a law and shall expire and be deemed repealed July 1, 2014.

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 parole officers, parole revocation specialists and warrant officers in the Department of Corrections and Community Supervision who are designated as a peace officer and 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 $101,000.

These estimated costs are based on 1,171 members having a total annual salary for the fiscal year ending March 31, 2011 of approximately $92 million.

Summary of relevant resources:

Data: March 31, 2011 Actuarial Year End File with distributions of membership and other statistics displayed in the 2011 Report of the Actuary and 2011 Comprehensive Annual Financial Report.

Assumptions and Methods: 2010 and 2011 Annual Report to the Comptroller on Actuarial Assumptions, Codes Rules and Regulations of the State of New York: Audit and Control.

Market Assets and GASB Disclosures: March 31, 2011 New York State and Local Retirement System Financial Statements and Supplementary Information.

Valuation of Benefit Liabilities and Actuarial Assets: summarized in the 2011 Actuarial Valuations report.

I am a member of the American Academy of Actuaries and meet the Qualification Standards to render the actuarial opinion contained herein.

This estimate, dated November 14, 2011, and intended for use only during the 2012 Legislative Session, is Fiscal Note No. 2012-17, prepared by the Actuary for the New York State and Local Employees' Retirement System.