

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

7781--B

2011-2012 Regular Sessions

I N A S S E M B L Y

May 17, 2011

Introduced by M. of A. ABBATE, RAMOS -- 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 -- 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 certain disabilities of environmental police officers, forest rangers and state university of New York police officers

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

1 Section 1. Section 363-a of the retirement and social security law, as
2 amended by chapter 967 of the laws of 1974, subdivision 3 as amended by
3 chapter 357 of the laws of 2002 and subdivision 4 as amended by chapter
4 768 of the laws of 1975, is amended to read as follows:
5 S 363-a. [Firemen and policemen] FIREFIGHTERS AND POLICE OFFICERS;
6 certain disabilities. 1. Notwithstanding any provision of this chapter
7 or of any general, special, or local law to the contrary, any condition
8 of impairment of health caused by diseases of the heart, resulting in
9 disability or death to a [fireman] FIREFIGHTER shall be presumptive
10 evidence that it was incurred in the performance and discharge of duty
11 and the natural and proximate result of an accident, unless the contrary
12 be proved by competent evidence.
13 2. Notwithstanding any provision of this chapter or of any general,
14 special, or local law to the contrary, any condition of impairment of
15 health caused by diseases of the heart, resulting in disability or death
16 to a [policeman] POLICE OFFICER, presently employed, and who shall have
17 sustained such disability while so employed, shall be presumptive
18 evidence that [is] IT was incurred in the performance and discharge of
19 duty, unless the contrary be proved by competent evidence.

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

LBD10309-05-2

1 3. As used in this section, the [term "fireman" and "policeman" means]
2 TERMS "FIREFIGHTER" AND "POLICE OFFICER" MEAN any member who is perform-
3 ing police or fire service, as the phrase police or fire service is
4 defined in paragraphs a, b, c, d, F (AS ADDED BY CHAPTER SIX HUNDRED
5 SEVENTY-FOUR OF THE LAWS OF NINETEEN EIGHTY-SIX), F (AS ADDED BY CHAPTER
6 SIX HUNDRED SEVENTY-SEVEN OF THE LAWS OF NINETEEN EIGHTY-SIX), g, and h
7 of subdivision eleven of section three hundred two of this article AND
8 ANY MEMBER WHO IS A FOREST RANGER AS DEFINED BY SUBDIVISION A OF SECTION
9 THREE HUNDRED EIGHTY-THREE-C OF THE RETIREMENT AND SOCIAL SECURITY LAW,
10 and who, prior to entry into service as a [fireman or policeman] FIRE-
11 FIGHTER OR POLICE OFFICER, successfully passed a physical examination
12 which failed to disclose evidence of any disease or other impairment of
13 the heart.

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

17 S 2. The retirement and social security law is amended by adding a
18 new section 63-g to read as follows:

19 S 63-G. PERFORMANCE OF DUTY DISABILITY RETIREMENT; CERTAIN EMPLOYEES.

20 1. ANY MEMBER EMPLOYED BY THE STATE UNIVERSITY OF NEW YORK AS A POLICE
21 OFFICER AS DEFINED BY PARAGRAPH (S) OF SUBDIVISION THIRTY-FOUR OF
22 SECTION 1.20 OF THE CRIMINAL PROCEDURE LAW, WHO BECOMES PHYSICALLY OR
23 MENTALLY INCAPACITATED AS THE NATURAL AND PROXIMATE RESULT OF AN INJURY
24 SUSTAINED IN THE PERFORMANCE OR DISCHARGE OF HIS OR HER DUTIES SHALL BE
25 PAID A PERFORMANCE OF DUTY DISABILITY RETIREMENT ALLOWANCE EQUAL TO THAT
26 WHICH IS PROVIDED IN SECTION THREE HUNDRED SIXTY-THREE-C OF THIS CHAP-
27 TER.

28 2. NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER OR OF ANY GENERAL OR
29 SPECIAL LAW TO THE CONTRARY, ANY CONDITION OF IMPAIRMENT OF HEALTH
30 CAUSED BY DISEASE OF THE HEART, RESULTING IN DISABILITY OR DEATH TO A
31 MEMBER COVERED BY THIS SECTION, PRESENTLY EMPLOYED, AND WHO SHALL HAVE
32 SUSTAINED SUCH DISABILITY WHILE SO EMPLOYED, AND WHO SUCCESSFULLY PASSED
33 A PHYSICAL EXAMINATION ON ENTRY INTO SERVICE AS A POLICE OFFICER, AS
34 DEFINED IN PARAGRAPH (S) OF SUBDIVISION THIRTY-FOUR OF SECTION 1.20 OF
35 THE CRIMINAL PROCEDURE LAW, WHICH EXAMINATION FAILED TO DISCLOSE
36 EVIDENCE OF ANY DISEASE OR OTHER IMPAIRMENT OF THE HEART, SHALL BE
37 PRESUMPTIVE EVIDENCE THAT SUCH CONDITION WAS INCURRED IN THE PERFORMANCE
38 AND DISCHARGE OF DUTY, UNLESS THE CONTRARY BE PROVED BY COMPETENT
39 EVIDENCE.

40 S 3. The retirement and social security law is amended by adding a new
41 section 507-j to read as follows:

42 S 507-J. PERFORMANCE OF DUTY DISABILITY RETIREMENT; CERTAIN EMPLOYEES.

43 1. ANY MEMBER EMPLOYED BY THE STATE UNIVERSITY OF NEW YORK AS A POLICE
44 OFFICER AS DEFINED BY PARAGRAPH (S) OF SUBDIVISION THIRTY-FOUR OF
45 SECTION 1.20 OF THE CRIMINAL PROCEDURE LAW, WHO BECOMES PHYSICALLY OR
46 MENTALLY INCAPACITATED AS THE NATURAL AND PROXIMATE RESULT OF AN INJURY
47 SUSTAINED IN THE PERFORMANCE OR DISCHARGE OF HIS OR HER DUTIES SHALL BE
48 PAID A PERFORMANCE OF DUTY DISABILITY RETIREMENT ALLOWANCE EQUAL TO THAT
49 WHICH IS PROVIDED IN SECTION THREE HUNDRED SIXTY-THREE-C OF THIS CHAP-
50 TER.

51 2. NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER OR OF ANY GENERAL OR
52 SPECIAL LAW TO THE CONTRARY, ANY CONDITION OF IMPAIRMENT OF HEALTH
53 CAUSED BY DISEASE OF THE HEART, RESULTING IN DISABILITY OR DEATH TO A
54 MEMBER COVERED BY THIS SECTION, PRESENTLY EMPLOYED, AND WHO SHALL HAVE
55 SUSTAINED SUCH DISABILITY WHILE SO EMPLOYED, AND WHO SUCCESSFULLY PASSED
56 A PHYSICAL EXAMINATION ON ENTRY INTO SERVICE AS A POLICE OFFICER, AS

1 DEFINED IN PARAGRAPH (S) OF SUBDIVISION THIRTY-FOUR OF SECTION 1.20 OF
2 THE CRIMINAL PROCEDURE LAW, WHICH EXAMINATION FAILED TO DISCLOSE
3 EVIDENCE OF ANY DISEASE OR OTHER IMPAIRMENT OF THE HEART, SHALL BE
4 PRESUMPTIVE EVIDENCE THAT SUCH CONDITION WAS INCURRED IN THE PERFORMANCE
5 AND DISCHARGE OF DUTY, UNLESS THE CONTRARY BE PROVED BY COMPETENT
6 EVIDENCE.

7 S 4. The retirement and social security law is amended by adding a new
8 section 607-i to read as follows:

9 S 607-I. PERFORMANCE OF DUTY DISABILITY RETIREMENT; CERTAIN EMPLOYEES.
10 1. ANY MEMBER EMPLOYED BY THE STATE UNIVERSITY OF NEW YORK AS A POLICE
11 OFFICER AS DEFINED BY PARAGRAPH (S) OF SUBDIVISION THIRTY-FOUR OF
12 SECTION 1.20 OF THE CRIMINAL PROCEDURE LAW, WHO BECOMES PHYSICALLY OR
13 MENTALLY INCAPACITATED AS THE NATURAL AND PROXIMATE RESULT OF AN INJURY
14 SUSTAINED IN THE PERFORMANCE OR DISCHARGE OF HIS OR HER DUTIES SHALL BE
15 PAID A PERFORMANCE OF DUTY DISABILITY RETIREMENT ALLOWANCE EQUAL TO THAT
16 WHICH IS PROVIDED IN SECTION THREE HUNDRED SIXTY-THREE-C OF THIS CHAP-
17 TER.

18 2. NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER OR OF ANY GENERAL OR
19 SPECIAL LAW TO THE CONTRARY, ANY CONDITION OF IMPAIRMENT OF HEALTH
20 CAUSED BY DISEASE OF THE HEART, RESULTING IN DISABILITY OR DEATH TO A
21 MEMBER COVERED BY THIS SECTION, PRESENTLY EMPLOYED, AND WHO SHALL HAVE
22 SUSTAINED SUCH DISABILITY WHILE SO EMPLOYED, AND WHO SUCCESSFULLY PASSED
23 A PHYSICAL EXAMINATION ON ENTRY INTO SERVICE AS A POLICE OFFICER, AS
24 DEFINED IN PARAGRAPH (S) OF SUBDIVISION THIRTY-FOUR OF SECTION 1.20 OF
25 THE CRIMINAL PROCEDURE LAW, WHICH EXAMINATION FAILED TO DISCLOSE
26 EVIDENCE OF ANY DISEASE OR OTHER IMPAIRMENT OF THE HEART, SHALL BE
27 PRESUMPTIVE EVIDENCE THAT SUCH CONDITION WAS INCURRED IN THE PERFORMANCE
28 AND DISCHARGE OF DUTY, UNLESS THE CONTRARY BE PROVED BY COMPETENT
29 EVIDENCE.

30 S 5. The amendments made to section 363-a of the retirement and social
31 security law by section one of this act shall not affect, impair, or
32 invalidate any temporary right, privilege, or benefit conferred pursuant
33 to the provisions of a general, special or local law (other than pursu-
34 ant to articles 14 and 15 of the retirement and social security law) for
35 any member of a public retirement system or pension plan funded by the
36 state or one of its political subdivisions, nor shall any amendments
37 thereto affect the application of such provisions as extended by the
38 provisions of section 480 of the retirement and social security law.

39 S 6. This act shall take effect immediately.

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 and forest rangers 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.

This bill would also grant police officers employed by the state university of New York (SUNY) a 50% of pay performance of duty disability benefit, including disabilities from heart disease.

If this bill is enacted during the 2012 legislative session, for the police officers and forest rangers of the Division of Law Enforcement in the Department of Environmental Conservation, 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.

In addition to these costs, there would also be additional annual costs of approximately 1.8% of the payroll to the State of New York on behalf of the SUNY police officers for the fiscal year ending March 31, 2013.

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.

Valuations 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 February 24, 2012, and intended for use only during the 2012 Legislative Session, is Fiscal Note No. 2012-93, prepared by the Actuary for the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System.