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

5655

2011-2012 Regular Sessions

I N S E N A T E

June 9, 2011

Introduced by Sen. BONACIC -- 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 disability retirement applications made by or on behalf of certain deputy sheriffs

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

Section 1. Subdivision aa of section 555 of the retirement and social security law, as added by chapter 165 of the laws of 1995, is amended to read as follows:

aa. At the time of the filing of an application pursuant to this section, the member must:

1. Have at least ten years of total service credit, and

2. Actually be in service upon which his or her membership is based, or, have been discontinued from service, either voluntarily or involuntarily, for not more than ninety days, providing the member was disabled prior to such discontinuance.

AN APPLICATION FOR DISABILITY RETIREMENT SHALL NOT BE DISAPPROVED ON THE BASIS OF A DEPUTY SHERIFF HAVING FAILED TO ENGAGE DIRECTLY IN CRIMINAL LAW ENFORCEMENT ACTIVITIES THAT AGGREGATE FIFTY PER CENTUM OF A DEPUTY SHERIFF'S SERVICE DURING A PERIOD PRECEDING THE FILING OF THE APPLICATION PROVIDED THE FAILURE TO DO SO WAS THE RESULT OF THE DISABILITY ALLEGED IN THE APPLICATION AND FURTHER PROVIDED THE DEPUTY SHERIFF WAS CERTIFIED AS SO ENGAGED IN CRIMINAL LAW ENFORCEMENT ACTIVITIES BY THE COUNTY SHERIFF FOR THE CALENDAR YEAR PRECEDING THE ONSET OF THE DISABILITY.

After the filing of such an application, such member shall be given one or more medical examinations. If the comptroller determines that the member is physically or mentally incapacitated for the performance of duty and ought to be retired for ordinary disability, he or she shall be

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

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so retired. Such retirement shall be effective as of a date approved by the comptroller.

S 2. Subdivision a of section 556 of the retirement and social security law, as amended by chapter 489 of the laws of 2008, is amended to read as follows:

a. A member shall be entitled to an accidental disability retirement allowance if, at the time application therefor is filed, he or she is:

1. Physically or mentally incapacitated for performance of duty as the natural and proximate result of an accident not caused by his or her own willful negligence sustained in such service and while actually a member of the retirement system, and

2. Actually in service upon which his or her membership is based. However, in a case where a member is discontinued from service subsequent to the accident, either voluntarily or involuntarily, and provided that the member meets the requirements of paragraph one of this subdivision, application may be made either (a) by a vested member incapacitated as the result of a qualifying World Trade Center condition as defined in section two of this chapter at any time, or (b) not later than two years after the member is first discontinued from service and provided that the member meets the requirements of paragraph one of this subdivision.

AN APPLICATION FOR DISABILITY RETIREMENT SHALL NOT BE DISAPPROVED ON THE BASIS OF A DEPUTY SHERIFF HAVING FAILED TO ENGAGE DIRECTLY IN CRIMINAL LAW ENFORCEMENT ACTIVITIES THAT AGGREGATE FIFTY PER CENTUM OF A DEPUTY SHERIFF'S SERVICE DURING A PERIOD PRECEDING THE FILING OF THE APPLICATION PROVIDED THE FAILURE TO DO SO WAS THE RESULT OF THE DISABILITY ALLEGED IN THE APPLICATION AND FURTHER PROVIDED THE DEPUTY SHERIFF WAS CERTIFIED AS SO ENGAGED IN CRIMINAL LAW ENFORCEMENT ACTIVITIES BY THE COUNTY SHERIFF AT THE TIME THE ACCIDENT IS ALLEGED TO HAVE OCCURRED.

S 3. Subdivision b of section 558 of the retirement and social security law, as added by chapter 165 of the laws of 1995, paragraph 2 as amended by chapter 489 of the laws of 2008, is amended to read as follows:

b. Eligibility. A member shall be entitled to retirement for disability incurred in the performance of duty if, at the time application therefor is filed, he or she is:

1. Physically or mentally incapacitated for performance of duty as the natural and proximate result of a disability not caused by his or her own willful negligence sustained in such service and while actually a member of the retirement system, and

2. Actually in service upon which his or her membership is based. However, in a case where a member is discontinued from service, and provided that the member meets the requirements of paragraph one of this subdivision, application may be made, either (a) by a vested member incapacitated as the result of a qualifying World Trade Center condition as defined in section two of this chapter at any time, or (b) not later than two years after the member is discontinued from service and provided that the member meets the requirements of subdivision a of this section and this subdivision.

AN APPLICATION FOR DISABILITY RETIREMENT SHALL NOT BE DISAPPROVED ON THE BASIS OF A DEPUTY SHERIFF HAVING FAILED TO ENGAGE DIRECTLY IN CRIMINAL LAW ENFORCEMENT ACTIVITIES THAT AGGREGATE FIFTY PER CENTUM OF A DEPUTY SHERIFF'S SERVICE DURING A PERIOD PRECEDING THE FILING OF THE APPLICATION PROVIDED THE FAILURE TO DO SO WAS THE RESULT OF THE DISABILITY ALLEGED IN THE APPLICATION AND FURTHER PROVIDED THE DEPUTY SHERIFF WAS CERTIFIED AS SO ENGAGED IN CRIMINAL LAW ENFORCEMENT ACTIVITIES BY

THE COUNTY SHERIFF AT THE TIME THE PHYSICAL OR MENTAL INCAPACITATION FOR THE PERFORMANCE OF DUTY IS ALLEGED TO HAVE OCCURRED.

S 4. This act shall take effect immediately and shall apply to all applications filed pursuant to section 555, 556 or 558 of the retirement and social security law on and after July 1, 2009.

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

This bill would amend the requirements for certain deputy sheriffs who file a disability application. The application would not be disapproved on the basis that such deputy failed to engage directly in criminal law enforcement activities that aggregate at least fifty percent during a period preceding the filing of the application, provided the failure to do so was the result of the disability alleged in the application. Further such deputy must have been certified by the county sheriff as engaged in criminal law enforcement activities that aggregate at least fifty percent at the time the accident is alleged to have occurred. This will apply to all applications filed on and after July 1, 2009.

If this bill is enacted, the number of affected members cannot be readily determined. The cost would depend on the number of affected cases, as well as the type of disability granted, the age, service, salary, plan and tier of the affected members. These costs would be borne by the State of New York and all participating employers in the New York State and Local Employees' Retirement System.

This estimate, dated May 31, 2011, and intended for use only during the 2011 Legislative Session, is Fiscal Note No. 2011-190, prepared by the Actuary for the New York State and Local Employees' Retirement System.