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

7520

2013-2014 Regular Sessions

I N A S S E M B L Y

May 23, 2013

Introduced by M. of A. ABBATE, WEISENBERG -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the retirement and social security law, in relation to providing accidental disability retirement benefits for chief fire marshals, assistant fire marshals, division supervising fire marshals, supervising fire marshals, fire marshals and fire marshal trainees in Nassau county

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 605-d to read as follows:

S 605-D. ACCIDENTAL DISABILITY RETIREMENT FOR CHIEF FIRE MARSHALS, ASSISTANT FIRE MARSHALS, DIVISION SUPERVISING FIRE MARSHALS, SUPERVISING FIRE MARSHALS, FIRE MARSHALS AND FIRE MARSHAL TRAINEES IN NASSAU COUNTY. A. A MEMBER EMPLOYED AS A CHIEF FIRE MARSHAL, ASSISTANT FIRE MARSHAL, DIVISION SUPERVISING FIRE MARSHAL, SUPERVISING FIRE MARSHAL, FIRE MARSHAL OR FIRE MARSHAL TRAINEE IN NASSAU COUNTY SHALL BE ENTITLED TO AN ACCIDENTAL DISABILITY RETIREMENT ALLOWANCE IF, AT THE TIME APPLICATION THEREFOR IS FILED, SUCH MEMBER IS:

1. PHYSICALLY OR MENTALLY INCAPACITATED FOR PERFORMANCE OF DUTY AS THE NATURAL AND PROXIMATE RESULT OF AN ACCIDENT, UNLESS THE CONTRARY BE PROVED BY COMPETENT EVIDENCE, 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 NOT LATER THAN TWO YEARS AFTER THE MEMBER IS FIRST DISCONTINUED FROM SERVICE.

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

LBD10443-03-3

B. APPLICATION FOR AN ACCIDENTAL DISABILITY RETIREMENT ALLOWANCE FOR SUCH A MEMBER MAY BE MADE BY:

1. SUCH MEMBER; OR

2. THE HEAD OF THE DEPARTMENT IN WHICH SUCH MEMBER IS EMPLOYED; OR

3. ANY PERSON ACTING ON BEHALF OF AND AUTHORIZED BY SUCH MEMBER.

C. 1. AFTER THE FILING OF SUCH AN APPLICATION, SUCH MEMBER SHALL BE GIVEN ONE OR MORE MEDICAL EXAMINATIONS. NO SUCH APPLICATION SHALL BE APPROVED, HOWEVER, UNLESS THE MEMBER OR SOME OTHER PERSON ON HIS OR HER BEHALF SHALL HAVE FILED WRITTEN NOTICE IN THE OFFICE OF THE COMPTROLLER WITHIN NINETY DAYS AFTER THE ACCIDENT, SETTING FORTH:

(A) THE TIME WHEN AND THE PLACE WHERE SUCH ACCIDENT OCCURRED; AND

(B) THE PARTICULARS THEREOF; AND

(C) THE NATURE AND EXTENT OF THE MEMBER'S INJURIES; AND

(D) HIS OR HER ALLEGED INCAPACITY.

2. THE NOTICE HEREIN REQUIRED NEED NOT BE GIVEN:

(A) IF THE NOTICE OF SUCH ACCIDENT SHALL BE FILED IN ACCORDANCE WITH THE PROVISIONS OF THE WORKERS' COMPENSATION LAW OF ANY STATE WITHIN WHICH A PARTICIPATING EMPLOYER IN NASSAU COUNTY SHALL HAVE ITS EMPLOYEES LOCATED OR PERFORMING FUNCTIONS AND DUTIES WITHIN THE NORMAL SCOPE OF THEIR EMPLOYMENT; OR

(B) IF THE APPLICATION FOR ACCIDENTAL DISABILITY RETIREMENT IS FILED WITHIN ONE YEAR AFTER THE DATE OF SUCH ACCIDENT; OR

(C) IF A FAILURE TO FILE NOTICE HAS BEEN EXCUSED FOR GOOD CAUSE SHOWN AS PROVIDED BY RULES AND REGULATIONS PROMULGATED BY THE COMPTROLLER.

D. IF THE COMPTROLLER DETERMINES THAT THE MEMBER IS PHYSICALLY OR MENTALLY INCAPACITATED FOR THE PERFORMANCE OF DUTY AND OUGHT TO BE RETIRED FOR ACCIDENTAL DISABILITY, SUCH MEMBER SHALL BE SO RETIRED. SUCH RETIREMENT SHALL BE EFFECTIVE AS OF A DATE APPROVED BY THE COMPTROLLER.

E. THE ANNUAL RETIREMENT ALLOWANCE PAYABLE UPON ACCIDENTAL DISABILITY RETIREMENT SHALL BE A PENSION OF THREE-QUARTERS OF HIS OR HER FINAL AVERAGE SALARY. THE PAYMENT OF SUCH PENSION SHALL BE SUBJECT TO THE PROVISIONS OF SECTION SIXTY-FOUR OF THIS CHAPTER.

F. IF THE MEMBER, AT THE TIME OF THE FILING OF AN APPLICATION UNDER THE PROVISIONS OF SUBDIVISION B OF THIS SECTION, IS ELIGIBLE FOR A SERVICE RETIREMENT BENEFIT, THEN AND IN THAT EVENT, HE OR SHE MAY SIMULTANEOUSLY FILE AN APPLICATION FOR SERVICE RETIREMENT IN ACCORDANCE WITH THE PROVISIONS OF SECTION SEVENTY OF THIS CHAPTER, PROVIDED THAT THE MEMBER INDICATES ON THE APPLICATION FOR SERVICE RETIREMENT THAT SUCH APPLICATION IS FILED WITHOUT PREJUDICE TO THE APPLICATION FOR ACCIDENTAL DISABILITY RETIREMENT.

G. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THIS SECTION SHALL APPLY TO CHIEF FIRE MARSHALS, ASSISTANT FIRE MARSHALS, DIVISION SUPERVISING FIRE MARSHALS, SUPERVISING FIRE MARSHALS, FIRE MARSHALS AND FIRE MARSHAL TRAINEES IN NASSAU COUNTY WHO WERE HIRED ON OR AFTER JULY TWENTY-SEVENTH, NINETEEN HUNDRED SEVENTY-SIX.

S 2. All costs associated with implementing the provisions of this act shall be borne by Nassau county.

S 3. This act shall take effect immediately.

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

This bill would grant Nassau County Tier 3, 4, 5 and 6 chief fire marshals, assistant fire marshals, division supervising fire marshals, supervising fire marshals, fire marshals and fire marshal trainees and accidental disability for injuries sustained in the performance of duty and the result of an accident, unless the contrary be proven by competent evidence. The benefit for an accidental disability would be 75% of final average salary less workers' compensation.

If this bill is enacted during the 2013 session, there will be an estimated increase of approximately $61,500 in the annual contributions of Nassau County for the fiscal year ending March 31, 2014.

These estimated costs are based on fifty-two (52) members having an annual salary for the fiscal year ending March 31, 2013 of approximately $5.9 million.

Summary of relevant resources:

Data: March 31, 2012 Actuarial Year End File with distributions of membership and other statistics displayed in the 2012 Report of the Actuary and 2012 Compensation Annual Financial Report.

Assumptions and Methods: 2010, 2011 and 2012 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, 2012 New York State and Local Retirement System Financial Statements and Supplementary Information.

Valuations of Benefit Liabilities and Actuarial Assets: summarized in the 2012 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 May 14, 2013 and intended for use only during the 2013 Legislative Session, is Fiscal Note No. 2013-130, prepared by the Actuary for the New York State and Local Employees' Retirement System.