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

9030

I N A S S E M B L Y

March 10, 2014

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

AN ACT to amend the retirement and social security law, in relation to certain lung disabilities incurred by certain retirement system members in the performance of duty

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

Section 1. Section 63-a of the retirement and social security law is amended by adding a new subdivision d to read as follows:

D. 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 LUNG, RESULTING IN DISABILITY OR DEATH TO A MEMBER COVERED BY THIS SECTION, PRESENTLY EMPLOYED AND WHO SHALL HAVE SUSTAINED SUCH DISABILITY WHILE SO EMPLOYED, WHO SUCCESSFULLY PASSED A PHYSICAL EXAMINATION ON ENTRY INTO SERVICE AS A CORRECTION OFFICER OR SECURITY HOSPITAL TREATMENT ASSISTANT, WHICH EXAMINATION FAILED TO DISCLOSE EVIDENCE OF ANY DISEASE OR OTHER IMPAIRMENT OF THE LUNG, SHALL BE PRESUMPTIVE EVIDENCE THAT IT WAS INCURRED IN THE PERFORMANCE AND DISCHARGE OF DUTY, UNLESS THE CONTRARY BE PROVED BY COMPETENT EVIDENCE.

S 2. Section 507-b of the retirement and social security law is amended by adding a new subdivision g to read as follows:

G. 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 LUNG, RESULTING IN DISABILITY OR DEATH TO A MEMBER COVERED BY THIS SECTION, PRESENTLY EMPLOYED AND WHO SHALL HAVE SUSTAINED SUCH DISABILITY WHILE SO EMPLOYED, WHO SUCCESSFULLY PASSED A PHYSICAL EXAMINATION ON ENTRY INTO SERVICE AS A CORRECTION OFFICER OR SECURITY HOSPITAL TREATMENT ASSISTANT, WHICH EXAMINATION FAILED TO DISCLOSE EVIDENCE OF ANY DISEASE OR OTHER IMPAIRMENT OF THE LUNG, SHALL BE PRESUMPTIVE EVIDENCE THAT IT WAS INCURRED IN THE PERFORMANCE AND DISCHARGE OF DUTY, UNLESS THE CONTRARY BE PROVED BY COMPETENT EVIDENCE.

S 3. Section 607-a of the retirement and social security law is amended by adding a new subdivision d to read as follows:

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

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D. 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 LUNG, RESULTING IN DISABILITY OR DEATH TO A MEMBER COVERED BY THIS SECTION, PRESENTLY EMPLOYED AND WHO SHALL HAVE SUSTAINED SUCH DISABILITY WHILE SO EMPLOYED, WHO SUCCESSFULLY PASSED A PHYSICAL EXAMINATION ON ENTRY INTO SERVICE AS A SECURITY HOSPITAL TREATMENT ASSISTANT, WHICH EXAMINATION FAILED TO DISCLOSE EVIDENCE OF ANY DISEASE OR OTHER IMPAIRMENT OF THE LUNG, SHALL BE PRESUMPTIVE EVIDENCE THAT IT WAS INCURRED IN THE PERFORMANCE AND DISCHARGE OF DUTY, UNLESS THE CONTRARY BE PROVED BY COMPETENT EVIDENCE.

S 4. This act shall take effect immediately.

Fiscal Note.-- Pursuant to Legislative Law, Section 50:

This bill would grant improved disability pensions to State Correction Officers and Security Hospital Treatment Assistants who sustain a disability related to lung disease. This bill would help individuals who sustained such disabilities to establish the presumption that they were incurred in the performance and discharge of duty, unless the contrary be proven by competent evidence. The disability benefits of affected members with lung related disabilities would increase from approximately 1/3 of final average salary (FAS) to 75% of FAS less worker's compensation.

If this bill is enacted, the estimated increase in the annual contributions of the State of New York for the fiscal year ending March 31, 2015 would be approximately $1.8 million.

These estimated costs are based on 20,735 members having an annual salary for the fiscal year ending March 31, 2013 of approximately $1.66 billion.

Summary of relevant resources:

The membership data used in measuring the impact of the proposed change was the same as that used in the March 31, 2013 actuarial valuation. Distributions and other statistics can be found in the 2013 Report of the Actuary and the 2013 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2010, 2011, 2012 and 2013 Annual Report to the Comptroller on Actuarial Assumptions, and the Codes Rules and Regulations of the State of New York: Audit and Control.

The Market Assets and GASB Disclosures are found in the March 31, 2013 New York State and Local Retirement System Financial Statements and Supplementary Information.

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

This estimate, dated November 4, 2013, and intended for use only during the 2014 Legislative Session, is Fiscal Note No. 2014-32, prepared by the Actuary for the New York State and Local Employees' Retirement System.