STATE OF NEW YORK

7185

2017-2018 Regular Sessions

IN ASSEMBLY

April 12, 2017

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

AN ACT to amend the retirement and social security law and the general municipal law, in relation to pension benefits of widows or widowers of sanitation workers

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 7 of section 501 of the retirement and social security law, as amended by chapter 18 of the laws of 2012, is amended to read as follows:

7. "Eligible beneficiary" for the purposes of section five hundred nine of this article shall mean the following persons or classes of persons in the order set forth: (a) a surviving spouse who has not renounced survivorship rights in a separation agreement, until remarriage, (b) surviving children until age twenty-five, (c) dependent parents, determined under regulations promulgated by the comptroller, (d) any other person who qualified as a dependent on the final federal income tax return of the member or the return filed in the year immediately preceding the year of death, until such person reaches twenty-one years of age [~~and~~], (e) with respect to members of the New York city employees' retirement system (other than a New York city uniformed correction/sanitation revised plan member or an investigator revised plan member) and the board of education retirement system of the city of New York, a person whom the member shall have nominated in the form of a written designation, duly acknowledged and filed with the head of the retirement system for the purpose of section five hundred eight of this article. In the event that a class of eligible beneficiaries consists of more than one person, benefits shall be divided equally among the persons in such class. For the purposes of section five hundred eight of this article the term "eligible beneficiary" shall mean such person as the member shall have nominated to receive the benefits provided in this

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

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article. To be effective, such a nomination must be in the form of a written designation, duly acknowledged and filed with the head of the retirement system for this specific purpose. In the event such designated beneficiary does not survive him, or if he shall not have so designated a beneficiary, such benefits shall be payable to the deceased member's estate or as provided in section one thousand three hundred ten of the surrogate's court procedure act **and (f) notwithstanding any other provisions of law, "eligible beneficiary" of a New York city uniformed sanitation revised plan member for the purposes of section five hundred nine of this article shall mean the following persons or classes of persons in the order set forth: (i) a surviving spouse who has not renounced survivorship rights in a separation agreement, (ii) surviving children until age twenty-five, (iii) dependent parents, determined under regulations promulgated by the comptroller and (iv) any other person who qualified as a dependent on the final federal income tax return of the member or the return filed in the year immediately preceding the year of death, until such person reaches twenty-one years of age**.

§ 2. Subdivision d of section 601 of the retirement and social security law, is amended by adding a new paragraph 6 to read as follows:

6. Notwithstanding any other provisions of law, "eligible beneficiary" of a New York city uniformed sanitation member shall mean the following persons or classes of persons in the order set forth: (i) a surviving spouse who has not renounced survivorship in a separation agreement, (ii) surviving children until age twenty-five, (iii) dependent parents, determined under regulations promulgated by the comptroller and (iv) any other person who qualified as a dependent on the final federal income tax return of the member or the return filed in the year immediately preceding the year of death, until such person reaches twenty-one years of age.

§ 3. Subdivision a of section 208-f of the general municipal law, as separately amended by chapters 583 and 742 of the laws of 2004, is amended to read as follows:

a. Notwithstanding any other provision of law, the special accidental death benefit provided by this section shall be paid to the widow or widower or the deceased member's children under the age of eighteen, or, if a student under the age of twenty-three, if the widow or widower has died of: (i) a deceased member of a pension or retirement system of a police department or paid fire department of a city, town or village; (ii) a deceased paid member of the police force of the police department of the New York city transit authority; (iii) a deceased paid member of the police force of the police department of the New York city housing authority; (iv) a deceased paid member of the uniformed correction force of the New York city department of correction; (v) a deceased paid uniformed member of a county sheriff's department (outside the city of New York); [~~or~~] (vi) a deceased employee of the city of New York or the New York city health and hospitals corporation in a title whose duties are those of an emergency medical technician or advanced emergency medical technician (as those terms are defined in section three thousand one of the public health law), or in a title whose duties require the supervision of employees whose duties are those of an emergency medical technician or advanced emergency medical technician (as those terms are defined in section three thousand one of the public health law); [~~or (vi)~~] **(vii)** a deceased paid bridge and tunnel member of the New York city employees' retirement system**; or (viii) a deceased employee of the department of sanitation of the city of New York**, providing the widow or

widower is ineligible to receive benefits pursuant to section three hundred sixty-one-a of the retirement and social security law as [~~added~~] amended by chapter [~~four hundred seventy-two~~] seven hundred thirty-three of the laws of [~~nineteen hundred seventy-eight~~] nineteen hundred ninety and the deceased member:

1. Died before the effective date of his or her retirement, as the natural and proximate result of an accident sustained in the performance of duty in the service upon which his membership was based, and

2. Did not cause such accident by his or her own willful negligence, and

3. At the time of such accident was actually a member of: (i) a pension or retirement system of a police department or paid fire department of a city, town or village; (ii) a pension or retirement system covering the police force of the police department of the New York city transit authority; (iii) a pension or retirement system covering the police force of the police department of the New York city housing authority; (iv) a pension or retirement system covering the uniformed correction force of the New York city department of correction; (v) a pension or retirement system covering uniformed members of a county sheriff's department (outside the city of New York); [~~or~~] (vi) a pension or retirement system covering employees of the city of New York, or the New York city health and hospitals corporation in a title whose duties are those of an emergency medical technician or advanced emergency medical technician (as those terms are defined in section three thousand one of the public health law), or in a title whose duties require the supervision of employees whose duties are those of an emergency medical technician or advanced emergency medical technician (as those terms are defined in section three thousand one of the public health law); [~~or (vi)~~] (vii) a pension or retirement system covering paid bridge and tunnel members of the New York city employees' retirement system; or (viii) a pension or retirement system covering employees of the department of sanitation of the city of New York.

§ 4. This act shall take effect immediately, provided that section three of this act shall be deemed to have been in full force and effect on or after November 13, 1996.

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

PROVISIONS OF PROPOSED LEGISLATION: The proposed legislation would amend General Municipal Law (GML) Section 208-f to provide Special Accidental Death Benefits (SADB) to eligible beneficiaries of employees of the City of New York (the City) who are employed in the Uniformed Force of the Department of Sanitation (Sanitation), are members of the the New York City Employees' Retirement System (NYCERS), and die as a natural and proximate result of an accident sustained in the performance of duty on and after November 13, 1996.

The proposed legislation further amends Retirement and Social Security Law (RSSL) Sections 501 and 601 to prospectively expand the definition of a Tier 4 and 6 (modified Tier 3) eligible beneficiary for Accidental Death Benefits contained in RSSL Sections 509 and 607 to include a surviving spouse who remarries after the eligible member's death.

The Effective Date of the proposed legislation would be the date of enactment, provided that the SADB would be retroactive to accidental deaths sustained in the performance of duty on and after November 13, 1996.

IMPACT ON SADB BENEFITS PAYABLE: The SADB provided by GML 208-f is paid to the deceased member's surviving spouse, if alive. If the spouse

is no longer alive, then the SADB is paid to the deceased member's children until age eighteen or until age twenty-three if a student.

Under the proposed legislation, eligible beneficiaries of deceased Sanitation members, who met or meet the criteria of GML Section 208-f on and after November 13, 1996, would receive the SADB.

Under GML Section 208-f, the basic SADB is defined to equal:

The salary of the deceased member at date of death (or, in certain instances, a greater salary based on rank or other status)(Final Salary),

Reduced by:

Any Accidental Death Benefit (generally equal to an annual pension of 50% of Final Salary) as adjusted by any Supplementation or Cost-of-Living Adjustment (COLA) paid to the deceased member's eligible beneficiaries,

Any death benefit paid by Social Security to the deceased member's eligible beneficiaries, and

Any Workers' Compensation benefit paid to the deceased member's eligible beneficiaries (but it is the understanding of the OA that Sanitation members are ineligible for Workers' Compensation benefits).

The GML also provides that the SADB has been subject in the past to escalation based on the calendar year of the member's death.

IMPACT ON ACCIDENTAL DEATH BENEFITS PAYABLE: The Accidental Death Benefits provided by RSSL Sections 509 and 607 (generally 50% of Final Salary as adjusted by any Supplementation or COLA) are paid to the deceased member's surviving spouse, who has not renounced survivorship rights in a separation agreement, if alive and until remarriage.

If the surviving spouse is no longer alive or no longer eligible, then the Accidental Death Benefit is paid in successive order to any surviving children until age twenty-five, or any dependent parents. RSSL Section 509 further provides an additional successive class of any dependents listed on the member's federal income in the year immediately preceding the member's death.

Under the proposed legislation, a Sanitation member's surviving spouse, who has not renounced survivorship rights in a separation agreement, would continue to receive Accidental Death Benefits for life, even after remarriage.

FINANCIAL IMPACT - ACTUARIAL PRESENT VALUES OF BENEFITS (APVB): With respect to the eligible beneficiaries of deceased NYCERS members who would be impacted by this proposed legislation, under the actuarial assumptions used in the Preliminary June 30, 2016 (Lag) actuarial valuations of NYCERS, the enactment of this proposed legislation would increase the APVB by approximately $46.2 million as of June 30, 2016. This amount is the sum of:

APVB of retroactive payments to current beneficiaries*: $7.9 million

APVB of prospective payments to current beneficiaries: $24.3 million

APVB of prospective payments to beneficiaries of current active members: $14.0 million

*It has been assumed that no interest will be credited on these retroactive payments.

The APVB was calculated without regard to any death benefit paid by Social Security to the deceased member's eligible beneficiaries.

FINANCIAL IMPACT - EMPLOYER PAYMENTS: In accordance with the Administrative Code of the City of New York (ACNY) Section 13.638.2(k-2), new UAAL attributable to benefit changes are to be amortized as determined by the Actuary but generally over the remaining working lifetime of those impacted by the benefit changes. As of June 30, 2016, the remain-

ing working lifetime of the Sanitation members and beneficiaries that would be impacted by the proposed legislation is approximately 11 years.

With respect to NYCERS based on the actuarial assumptions and methods used in the Preliminary June 30, 2016 valuations of NYCERS, the enactment of this proposed legislation would increase annual employer contributions by approximately $6.5 million per year beginning in Fiscal Year 2018.

Historically, the State of New York (the State) reimbursed the City for most GML Section 208-f payments. However, it is the understanding of the Actuary that since 2009 the State has limited its reimbursement to a fixed amount. Assuming this procedure is the same and the State does not reimburse beyond the current fixed amount, then the additional cost of this proposed legislation would be borne entirely by the City of New York.

OTHER COSTS: The enactment of this proposed legislation would also be expected to result in modest increases in administrative expenses of NYCERS.

CENSUS DATA: As of June 30, 2016, there are 7,338 active Sanitation members with an average age of approximately 42.9, average service of 12.0 years, and an average salary of approximately $94,000.

As of June 30, 2016, there are 23 Sanitation beneficiaries currently in receipt of accidental death benefits with an average age of approximately 52.6, average number of years in receipt of an accidental death benefit of 8.3 years, and an average annual pension benefit of approximately $36,500.

ACTUARIAL ASSUMPTIONS AND METHODS: The additional APVB presented herein have been calculated based on the actuarial assumptions and methods in effect for the Preliminary June 30, 2016 (Lag) actuarial valuations used to determine the Preliminary Fiscal Year 2018 employer contributions of NYCERS. Also, for purposes of this Fiscal Note, we have assumed that the escalation of 3% per year provided historically to this benefit will continue in the future.

STATEMENT OF ACTUARIAL OPINION: I, Sherry S. Chan, am the Chief Actuary for, and independent of, the New York City Pension Funds and Retirement Systems. I am a Fellow of the Society of Actuaries, a Fellow of the Conference of Consulting Actuaries and a Member of the American Academy of Actuaries. I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

FISCAL NOTE IDENTIFICATION: This Fiscal Note 2017-01R dated March 29, 2017 was prepared by the Chief Actuary for the New York City Employees' Retirement System. This estimate is intended for use only during the 2017 Legislative Session.