STATE OF NEW YORK

10366

IN ASSEMBLY

April 18, 2018

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 and the workers' compensation law, in relation to participants in the World Trade Center rescue

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

Section 1. Paragraph (a) of subdivision 36 of section 2 of the retirement and social security law, as amended by chapter 326 of the laws of 2016, is amended to read as follows:

(a) "Qualifying World Trade Center condition" shall mean a qualifying condition or impairment of health resulting in disability to a member who participated in World Trade Center rescue, recovery or cleanup operations for a qualifying period, as those terms are defined below, provided the following conditions have been met: (i) such member, or eligible beneficiary in the case of the member's death, must have filed a written and sworn statement with the member's retirement system on a form provided by such system indicating the underlying dates and locations of employment not later than September eleventh, two thousand [~~eighteen~~] twenty-two, and (ii) such member has either successfully passed a physical examination for entry into public service, or authorized release of all relevant medical records, if the member did not undergo a physical examination for entry into public service; and (iii) there is no evidence of the qualifying condition or impairment of health that formed the basis for the disability in such physical examination for entry into public service or in the relevant medical records, prior to September eleventh, two thousand one except for such member, or eligible beneficiary in the case of the member's death, of a local retirement system of a city with a population of one million or more that is covered by section 13-551 of the administrative code of the city of New York, or by section twenty-five hundred seventy-five of the education law and for such member who separated from service with vested rights, or eligible beneficiary of such member who separated from service with vested rights in the case of the member's death, of a local

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

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retirement system of a city with a population of one million or more who are covered by sections 13-168, 13-252.1 or 13-353.1 of the administrative code of the city of New York or sections five hundred seven-c, six hundred five-b, six hundred five-c, or six hundred seven-b of this chapter. The deadline for filing a written and sworn statement required by subparagraph (i) of this paragraph shall be September eleventh, two thousand [~~eighteen~~] twenty-two for such member, or eligible beneficiary in the case of the member's death, of a local retirement system of a city with a population of one million or more that is covered by section 13-551 of the administrative code of the city of New York, or by section twenty-five hundred seventy-five of the education law and for such member who separated from service with vested rights, or eligible beneficiary of such member who separated from service with vested rights in the case of the member's death, of a local retirement system of a city with a population of one million or more who are covered by sections 13-168, 13-252.1 or 13-353.1 of the administrative code of the city of New York and sections five hundred seven-c, six hundred five-b, six hundred five-c, or six hundred seven-b of this chapter. Every retirement system shall keep a copy of every written and sworn statement that is presented for filing not later than September eleventh, two thousand [~~eighteen~~] twenty-two, including those that are rejected for filing as untimely.

§ 2. Section 162 of the workers' compensation law, as amended by chapter 326 of the laws of 2016, is amended to read as follows:

§ 162. Registration of participation in World Trade Center rescue, recovery and clean-up operations. In order for the claim of a participant in World Trade Center rescue, recovery and clean-up operations to come within the application of this article, such participant must file a written and sworn statement with the board on a form promulgated by the chair indicating the dates and locations of such participation and the name of such participant's employer during the period of participation. Such statement must be filed not later than September eleventh, two thousand [~~eighteen~~] twenty-two. The board shall transmit a copy of such statement to the employer or carrier named therein. The filing of such a statement shall not be considered the filing of a claim for benefits under this chapter.

§ 3. Section 168 of the workers' compensation law is amended by adding a new subdivision 4 to read as follows:

4. A claim by a participant in the World Trade Center rescue, recovery or cleanup operations whose disablement occurred between September eleventh, two thousand fifteen, and September eleventh, two thousand seventeen, shall not be disallowed as barred by section eighteen or section twenty-eight of this chapter if such claim is filed on or before September eleventh, two thousand twenty-two. Any such claim by a participant in the World Trade Center rescue, recovery or cleanup operations whose disablement occurred between September eleventh, two thousand fifteen, and September eleventh, two thousand seventeen, and was disallowed by section eighteen or twenty-eight of this chapter shall be reconsidered by the board.

§ 4. Notwithstanding any other provision to the contrary, none of the provisions of this act shall be subject to section 25 of the retirement and social security law.

§ 5. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after September 11, 2001; provided, however, that the amendments to sections 162 and 168 of the workers' compensation law made by sections two and three of this act,

respectively, shall apply to all open and closed claims coming within its purview.

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

This bill would amend chapter 93 of the Laws of 2005 and chapter 445 of the Laws of 2006, which provided members of public retirement systems who contract any form of disease or disability related to exposure to any elements in connection with the World Trade Center (WTC) attack of September 11, 2001 to be presumptive evidence that such disability, or death as a result of such disability was the result of an accident and was sustained in the performance of duty. The provisions of this act will not be subject to Section 25 of the Retirement and Social Security Law.

Insofar as this bill would affect the New York State and Local Employees' Retirement and the New York State and Local Police and Fire Retirement System, this bill would extend the deadline for filing notice regarding the eligibility for benefits for certain members who participated in the World Trade Center rescue, recovery or cleanup operation to September 11, 2022.

If this bill is enacted, it would reclassify certain current and future retirement benefits. The cost of the revised benefit will depend upon the applicant's age, service, salary, plan, and benefit type otherwise payable.

Benefit without enactment:	None	Ordinary Disability	In Performance of Duty Disability	Service
Cost for WTC benefit:	9 times salary	5 times salary	2.5 times salary	2 times salary

This bill would also lead to more deaths being classified as "accidental". For each death classified as accidental due to this bill, the cost would depend on the age, service, salary, plan, and status at time of death. It is estimated that the cost for each ERS and PFRS individual affected would average approximately 3.5 times final average salary and 8 times final average salary, respectively.

These cost would be shared by the State of New York and the participating employers in the ERS and PFRS.

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, 2017 actuarial valuation. Distributions and other statistics can be found in the 2017 Report of the Actuary and the 2017 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2015, 2016, and 2017 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, 2017 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 actuarial opinion contained herein.

This estimate, dated February 8, 2018 and intended for use only during the 2018 Legislative Session, is Fiscal Note No. 2018-55, prepared by the Actuary for the New York State and Local Retirement System.

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

This bill would amend Subdivision 36 of Section 2 of the Retirement and Social Security Law to extend the deadline to September 11, 2022 for

filing notice of having participated in the World Trade Center rescue, recover or cleanup operations during the qualifying period. Members who become disabled or die as a result of a "qualifying World Trade Center condition" are assumed to have become disabled or died as a result of an accidental or on-the-job disability or death. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after September 11, 2001.

The annual cost to the employers of members of the New York State Teachers' Retirement System is estimated to be negligible if this bill is enacted.

Member data is from the System's most recent actuarial valuation files, consisting of data provided by the employers to the Retirement System. Data distributions and statistics can be found in the System's Comprehensive Annual Financial Report (CAFR). System assets are as reported in the System's financial statements, and can also be found in the CAFR. Actuarial assumptions and methods are provided in the System's Actuarial Valuation Report.

The source of this estimate is Fiscal Note 2018-12 dated March 9, 2018 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2018 Legislative Session. I, Richard A. Young, am the Actuary for the New York State Teachers' Retirement System. I am a member of the American Academy of Actuaries and I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

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

SUMMARY OF BILL: With respect to the New York City Retirement Systems and Pension Funds (NYCRS), the proposed legislation would amend Retirement and Social Security Law (RSSL) Section 2, to extend, for certain members who participated in the Rescue, Recovery or Cleanup operations related to the World Trade Center (WTC) attack on September 11, 2001 (Covered Groups), the deadline for filing a Notice of Participation under the WTC Disability Law.

The NYCRS include: New York City Employees' Retirement System (NYCERS), New York City Teachers' Retirement System (NYCTRS), New York City Board of Education Retirement System (BERS), New York City Police Pension Fund (POLICE) and New York City Fire Pension Fund (FIRE).

The proposed legislation would also amend provisions of the Workers' Compensation Law (WCL). However, because such provisions do not directly impact the NYCRS, the financial impact of amendments to the WCL are not reflected in this fiscal note.

None of the provisions of the proposed legislation would be subject to Retirement and Social Security Law Section 25, and therefore, State appropriation would not be required.

Effective Date for this proposed legislation: Upon enactment, and would, as it relates to the NYCERS, be deemed retroactive to September 11, 2001.

DEADLINES UNDER EXISTING PROVISIONS: Under current law, as enacted by Chapter 326 of the Laws of 2016, the deadline to file a Notice of Participation for Covered Groups is September 11, 2018.

DEADLINES UNDER PROPOSED LEGISLATION: With respect to the NYCRS, the proposed legislation would extend the deadline for filing a Notice of Participation under the WTC Disability Law for Covered Groups from September 11, 2018 to September 11, 2022.

ADDITIONAL EMPLOYER CONTRIBUTIONS: The increase in employer contributions resulting from the proposed legislation would depend on the number of additional members who timely file the required form, meet the

requirements of the WTC Disability Law, and ultimately benefit from such Law.

Most members eligible for the benefits provided under the WTC Disability Law have already filed the required form to register for participation. Therefore, for the purpose of this Fiscal Note it has been assumed that only a minimal number of NYCRS members would benefit from the proposed legislation and that the increase in employer contributions would likely be de minimis.

ACTUARIAL ASSUMPTIONS AND METHODS: The additional employer contributions presented herein have been calculated based on the same actuarial assumptions and methods in effect for the June 30, 2016 (Lag) actuarial valuations used to determine the Preliminary Fiscal Year 2018 employer contributions of NYCRS. Please note these assumptions and methods are subject to change as this valuation is not considered final until the end of the Fiscal Year 2018.

STATEMENT OF ACTUARIAL OPINION: I, Sherry S. Chan, am the Chief Actuary for, and independent of, the New York City Retirement Systems and Pension Funds. I am a Fellow of the Society of Actuaries, an Enrolled Actuary under the Employee Retirement Income and Security Act of 1974 (ERISA), a Member of the American Academy of Actuaries, and a Fellow of the Conference of Consulting Actuaries. I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein. To the best of my knowledge, the results contained herein have been prepared in accordance with generally accepted actuarial principles and procedures and with the Actuarial Standards of Practice issued by the Actuarial Standards Board.

FISCAL NOTE IDENTIFICATION: This Fiscal Note 2018-07 dated March 9, 2018, was prepared by the Chief Actuary for New York City Employees' Retirement System, the New York City Teachers' Retirement System, the New York City Board of Education Retirement System, the New York City Police Pension Fund, and the New York City Fire Pension Fund. This estimate is intended for use only during the 2018 Legislative Session.