STATE OF NEW YORK

11125

IN ASSEMBLY

November 6, 2020

Introduced by COMMITTEE ON RULES -- (at request of 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 administrative code of the city of New York, in relation to allowing for the electronic submission of a notice that a member of a retirement system participated in World Trade Center rescue, recovery or cleanup operations for a qualifying period

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

Section 1. Subparagraph (a) of paragraph 36 of section 2 of the retirement and social security law, as amended by chapter 266 of the laws of 2018, 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 **either** filed a written and sworn statement with the member's retirement system on a form provided by such system**, or electronically submitted a statement through a secure online portal maintained by the member's retirement system that has duly validated the member's identity,** indicating the underlying dates and locations of employment not later than September eleventh, two thousand 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

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

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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 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 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 twenty-two, including those that are rejected for filing as untimely.

§ 2. Subparagraph (e) of paragraph 1 and clause (i) of subparagraph (b) of paragraph 2 of subdivision h of section 363-bb of the retirement and social security law, as amended by chapter 495 of the laws of 2007, are amended to read as follows:

(e) In order to be eligible for consideration for such presumption, such member must file **either** a written and sworn statement with the member's retirement system on a form provided by such system**, or electronically submit a statement through a secure online portal maintained by the member's retirement system that has duly validated the member's identity,** indicating the dates and locations of employment. Such statement must be filed not later than four years following the effective date of chapter one hundred four of the laws of two thousand five.

(i) the member files **either** a written and sworn statement with the member's retirement system on a form provided by such system**, or electronically submits a statement through a secure online portal maintained by the member's retirement system that has duly validated the member's identity,** indicating the dates and locations of employment within four years following the effective date of chapter one hundred four of the laws of two thousand five; and

§ 3. Clause (i) of subparagraph (b) of paragraph 2 of subdivision h of section 605 of the retirement and social security law, as amended by chapter 489 of the laws of 2008, is amended to read as follows:

(i) the member files **either** a written and sworn statement with the member's retirement system on a form provided by such system**, or electronically submits a statement through a secure online portal maintained by the member's retirement system that has duly validated the member's identity,** indicating the dates and locations of employment within four years following the effective date of chapter one hundred four of the laws of two thousand five; and

§ 4. Paragraph a of section 13-168 of the administrative code of the city of New York, as amended by chapter 489 of the laws of 2008, is amended to read as follows:

a. Medical examination of a member in city-service for accident disability and investigation of all statements and certifications by him or her or on his **or her** behalf in connection therewith shall be made upon the application of the head of the agency in which the member is employed, or upon the application of a member or of a person acting in his or her behalf, **either in writing or electronically submitted through a secure online portal maintained by the member's retirement system that has duly validated the member's identity,** stating that such member is physically or mentally incapacitated for the performance of city-service, as a natural and proximate result of such city-service, and certifying the time, place and conditions of such city-service performed by such member resulting in such alleged disability and that such alleged disability was not the result of wilful negligence on the part of such member and that such member should, therefore, be retired. Such application shall be filed within two years from the happening of such accident, except, however, that such requirement as to time of filing shall not apply to any such application which (1) is filed by or with respect to a member who is a member of the uniformed force of the department of sanitation (as such force is defined in subdivision a of section 13-154 of this chapter) and is based on an accident occurring wholly on or after July first, nineteen hundred sixty-three, or (2) if filed by a vested member incapacitated as a result of a qualifying World trade Center condition as defined in section two of the retirement and social security law. If such medical examination and investigation shows that any member, by whom or with respect to whom an application is filed under this section, is physically or mentally incapacitated for the performance of city-service as a natural and proximate result of an accidental injury received in such city-service while a member, and that such disability was not the result of wilful negligence on the part of such member and that such member should be retired, the medical board shall so certify to the board stating the time, place and conditions of such city-service performed by such member resulting in such disability. The board shall review such certification with respect to any issues other than the existence or non-existence of physical or mental incapacitation and shall determine the member's eligibility with respect to any such issues. Upon such certification by the medical board of the member's physical or mental incapacitation and a determination by the board finding the member otherwise eligible, such member shall be retired for accident disability effective the date the application is filed or the date immediately following the last date the member was on the payroll, whichever is later.

§ 5. This act shall take effect immediately.

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

SUMMARY OF BILL: This proposed legislation, as it relates to the New York City Retirement Systems and Pension Funds (NYCRS), would, among other things, amend provisions of the of the Retirement and Social Security Law (RSSL) and the Administrative Code of the City of New York to permit certain NYCRS members to file a World Trade Center (WTC) Notice of Participation electronically. The electronic filing would provide an alternative mechanism to the current written and sworn Notice of Participation filing.

EFFECTIVE DATE: Upon enactment.

BACKGROUND: Currently, in order to eligible for WTC benefits, members must file a written and sworn WTC Notice of Participation statement with their respective retirement system on a form provided by such system within the permitted time deadline.

The proposed legislation would allow a member to electronically submit a WTC Notice of Participation through a secure online portal maintained by the member's retirement system that has duly validated the member's identity.

IMPACT ON BENEFITS: If enacted, this proposed legislation, to the extent an electronic filing would not enable a Notice of Participation to be submitted timely when a written sworn statement would be untimely, would have no impact on benefits paid to members.

FINANCIAL IMPACT - ANNUAL EMPLOYER CONTRIBUTIONS: The Employer Contribution for a fiscal year includes the amount of administrative expenses paid during the second prior fiscal year adjusted with interest to the current date. If enacted, this proposed legislation would increase the amount of administrative expenses initially due to the cost of setting up electronic submission capabilities but could potentially have long term savings and therefore, the impact on annual Employer Contribution will depend on the actual change in administrative expenses. The actual increase or decrease in the Employer Contribution, is expected to be de minimis.

ACTUARIAL ASSUMPTIONS AND METHODS: The interest rate for adjusting the administrative expenses from the date paid out of NYCRS to the date the Employer Contribution is received is 7%.

RISK AND UNCERTAINTY: The costs presented in this Fiscal Note depend highly on the realization of the actuarial assumptions used, as well as certain demographic characteristics of NYCRS and other exogenous factors such as investment, contribution, and other risks. If actual experience deviates from actuarial assumptions, the actual costs could differ from those presented herein. Costs are also dependent on the actuarial methods used, and therefore different actuarial methods could produce different results. Quantifying these risks is beyond the scope of this Fiscal Note.

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, 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 2020-49 dated June 3, 2020 was prepared by the Chief Actuary for the five New York City Retirement Systems and Pension Funds. This estimate is intended for use only during the 2020 Legislative Session.