STATE OF NEW YORK

7907--A

2019-2020 Regular Sessions

IN ASSEMBLY

May 28, 2019

Introduced by M. of A. ABBATE -- read once and referred to the Committee on Governmental Employees -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the retirement and social security law, in relation to certain medical presumptions applicable to members of the New York state and local employees' retirement system

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

Section 1. Subdivision 2 of section 363-a of the retirement and social security law, as amended by chapter 437 of the laws of 2016, is amended to read as follows:

2. Notwithstanding any provision of this chapter or of any general, special, or local law to the contrary, any condition of impairment of health caused by diseases of the heart, resulting in disability or death to a police officer, presently employed, and who shall have sustained such disability while so employed, shall be presumptive evidence that it was incurred in the performance and discharge of duty **and the natural and proximate result of an accident**, unless the contrary be proved by competent evidence.

§ 2. The retirement and social security law is amended by adding a new section 809 to read as follows:

§ 809. Effect and rebuttal of certain medical presumptions pertaining to diseases of the heart. a. This section shall apply to certain applications for disability retirement allowances made by or on behalf of a member of the New York state and local employees' retirement system or the New York state and local police and fire retirement system. It shall apply only to applications that are subject under this chapter to a provision that any condition of impairment of health caused by a disease of the heart, resulting in disability, shall be presumptive evidence that such disability was incurred in the performance and discharge of duty and the natural and proximate result of an accident.

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

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b. Notwithstanding any other provision of law to the contrary an application for an accidental disability retirement allowance that is based on a permanent incapacity caused by a disease of the heart, shall not be required to allege or establish:

(1) that the member sustained an accident or other incident related to the performance and discharge of duty; or

(2) that notice was provided thereof.

c. Notwithstanding any other provision of law to the contrary, the presumptions referred to in subdivision a of this section may be rebutted only by competent evidence that the disability is not the natural and proximate result of the performance and discharge of duty.

§ 3. The amendment made to subdivision 2 of section 363-a of the retirement and social security law by section one of this act shall not affect, impair or invalidate any temporary right, privilege or benefit conferred pursuant to the provisions of a general, special or local law (other than pursuant to articles 14 and 15 of the retirement and social security law) for any member of a public retirement system or pension plan funded by the state or one of its political subdivisions, nor shall any amendment thereto affect the application of such provisions as extended by the provisions of section 480 of the retirement and social security law.

§ 4. This act shall take effect immediately.

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

This bill would amend the Retirement and Social Security Law in relation to heart disease related disabilities for members in the New York State and Local Employees' Retirement System (ERS) and the New York State and Local Police and Fire Retirement System (PFRS) who currently have heart presumptions that reference an accident. It would grant accidental disability benefits for heart cases by deeming such disabilities to have been sustained in the performance of duty, and the natural and proximate result of an accident. Such presumptions may be rebutted only by competent evidence that the disability is not the result of the performance and discharge of duty. Further, this bill would provide that the same criteria that exist for determining accidental death benefits for firefighters would be extended to police officers.

If this bill is enacted, more accidental disability benefits would be granted. The estimated increase in the annual contributions to the State of New York would be approximately $660,000 for its PFRS members and approximately $1.1 million for its Unified Court Officers. The increases in annual contributions for the participating employers in the PFRS would be approximately $2.6 million.

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, 2018 actuarial valuation. Distributions and other statistics can be found in the 2018 Report of the Actuary and the 2018 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2015, 2016, 2017 and 2018 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, 2018 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 fiscal note does not constitute a legal opinion on the viability of the proposed change nor is it intended to serve as a substitute for the professional judgment of an attorney.

This estimate, dated May 16, 2019, and intended for use only during the 2019 Legislative Session, is Fiscal Note No. 2019-122, prepared by the Actuary for the New York State and Local Retirement System.