

STATE OF NEW YORK

6217--B

2019-2020 Regular Sessions

IN SENATE

May 23, 2019

Introduced by Sen. GOUNARDES -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Civil Service and Pensions in accordance with Senate Rule 6, sec. 8 -- 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 establishing accidental disability retirement for correction officers, correction supervisors, deputy sheriff patrol and deputy sheriff patrol supervisors

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

1 Section 1. The retirement and social security law is amended by adding
2 a new section 605-f to read as follows:

3 § 605-f. Accidental disability retirement for correction officers,
4 correction supervisors, deputy sheriff patrol and deputy sheriff patrol
5 supervisors. a. A member employed as a correction officer, correction
6 supervisor, deputy sheriff patrol and deputy sheriff patrol supervisor
7 shall be entitled to an accidental disability retirement allowance if,
8 at the time application therefor is filed, such member is:

9 1. Physically or mentally incapacitated for performance of duty as the
10 natural and proximate result of an accident, unless the contrary be
11 proved by competent evidence, not caused by his or her own willful
12 negligence, sustained in such service and while actually a member of the
13 retirement system; and

14 2. Actually in service upon which his or her membership is based.
15 However, in a case where a member is discontinued from service subse-
16 quent to the accident, either voluntarily or involuntarily, and provided
17 that the member meets the requirements of paragraph one of this subdivi-

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

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1 sion, application may be made not later than two years after the member
2 is first discontinued from service.

3 b. Application for an accidental disability retirement allowance for
4 such a member may be made by:

5 1. Such member; or

6 2. The head of the department in which such member is employed; or

7 3. Any person acting on behalf of and authorized by such member.

8 c. 1. After the filing of such an application, such member shall be
9 given one or more medical examinations. No such application shall be
10 approved, however, unless the member or some other person on his or her
11 behalf shall have filed written notice in the office of the comptroller
12 within ninety days after the accident, setting forth:

13 (a) The time when and the place where such accident occurred; and

14 (b) The particulars thereof; and

15 (c) The nature and extent of the member's injuries; and

16 (d) His or her alleged incapacity.

17 2. The notice herein required need not be given:

18 (a) If the notice of such accident shall be filed in accordance with
19 the provisions of the workers' compensation law of any state within
20 which a participating employer shall have its employees located or
21 performing functions and duties within the normal scope of their employ-
22 ment; or

23 (b) If the application for accidental disability retirement is filed
24 within one year after the date of such accident; or

25 (c) If a failure to file notice has been excused for good cause shown
26 as provided by rules and regulations promulgated by the comptroller.

27 d. If the comptroller determines that the member is physically or
28 mentally incapacitated for the performance of duty and ought to be
29 retired for accidental disability, such member shall be so retired.
30 Such retirement shall be effective as of a date approved by the comp-
31 troller.

32 e. The annual retirement allowance payable upon accidental disability
33 retirement shall be a pension of three-quarters of his or her final
34 average salary. The payment of such pension shall be subject to the
35 provisions of section sixty-four of this chapter.

36 f. If the member, at the time of the filing of an application under
37 the provisions of subdivision b of this section, is eligible for a
38 service retirement benefit, then and in that event, he or she may simul-
39 taneously file an application for service retirement in accordance with
40 the provisions of section seventy of this chapter, provided that the
41 member indicates on the application for service retirement that such
42 application is filed without prejudice to the application for accidental
43 disability retirement.

44 g. Notwithstanding any other provision of law, this section shall
45 apply to correction officers, correction supervisors, deputy sheriff
46 patrol and deputy sheriff patrol supervisors who were hired on or after
47 July twenty-seventh, nineteen hundred seventy-six.

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

51 § 3. This act shall take effect immediately.

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

This bill would allow Tier 3, 4, 5 and 6 county correction officers,
correction supervisors, deputy sheriff patrol and deputy sheriff patrol
supervisors to be eligible for an accidental disability if the member is
physically or mentally incapacitated for performance of duty as the

natural and proximate result of an accident, unless the contrary be proven by competent evidence. The benefit for an accidental disability would be 75% of final average salary less worker's compensation. The provisions of Section 25 of the Retirement and Social Security Law (RSSL) do not apply.

If this bill is enacted, the cost will vary depending on a member's plan. For members currently covered under the provisions of Article 14-B of the RSSL, the future annual cost will be 0.3% of salary. For all other members, the future annual cost will be 1.4% of salary. However, there is no cost if an employer has already elected Section 607-c of the RSSL.

In addition to the annual contributions discussed above, there will be an immediate past service cost which will vary depending on a member's plan. For members currently covered under the provisions of Article 14-B of the RSSL, the past service cost will be 2.9% of salary. For all other members, the past service cost will be 6.3%. However, there is no cost if an employer has already elected 607-c of the RSSL. This cost would be shared by the State of New York and all participating employers of the New York State and Local Employees' Retirement System.

The exact number of members who could be affected by this legislation cannot be readily determined.

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, 2019 actuarial valuation. Distributions and other statistics can be found in the 2019 Report of the Actuary and the 2019 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2015, 2016, 2017, 2018, and 2019 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, 2019 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 March 11, 2020, and intended for use only during the 2020 Legislative Session, is Fiscal Note No. 2020-78, prepared by the Actuary for the New York State and Local Retirement System.