STATE OF NEW YORK

10022

IN ASSEMBLY

March 4, 2020

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, in relation to providing accidental disability retirement benefits for fire protection specialists

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

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

§ 605-f. Accidental disability retirement for fire protection specialists. a. A member employed as a fire protection specialist I, fire protection specialist II or fire protection specialist III shall be entitled to an accidental disability retirement allowance if, at the time application therefor is filed, such member is:

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

2. Actually in service upon which his or her membership is based. However, in a case where a member is discontinued from service subsequent to the accident, either voluntarily or involuntarily, and provided that the member meets the requirements of paragraph one of this subdivision, application may be made not later than two years after the member is first discontinued from service.

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

1. Such member; or

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

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

c. 1. After the filing of such an application, such member shall be given one or more medical examinations. No such application shall be approved, however, unless the member or some other person on his or her

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

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behalf shall have filed written notice in the office of the comptroller within ninety days after the accident, setting forth:

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

(b) The particulars thereof; and

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

(d) His or her alleged incapacity.

2. The notice herein required need not be given:

(a) If the notice of such accident shall be filed in accordance with the provisions of the workers' compensation law of any state within which a participating employer in New York State shall have its employees located or performing functions and duties within the normal scope of their employment; or

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

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

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

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

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

g. Notwithstanding any other provision of law, this section shall apply to fire protection specialists I, fire protection specialists II and fire protection specialists III who were hired on or after July twenty-seventh, nineteen hundred seventy-six.

§ 2. This act shall take effect immediately.

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

This proposal will allow State employees in civil service job titles fire protection specialist 1, 2, or 3, to be eligible to receive an accidental disability benefit of three-quarters of final average salary, less worker's compensation. Currently, such members are eligible for a benefit of one-third of final average salary in the event of an accidental or ordinary disability.

If this legislation is enacted during the 2020 legislative session, we anticipate that there will be an increase in the annual contributions of the State of New York of approximately $68,000 for the fiscal year ending March 31, 2021. In future years, this cost will vary as the billing rates and salary of the covered members change.

In addition to the annual contributions discussed above, it is estimated that there will be a past service cost of approximately $163,000 which will be borne by the State of New York as a one-time payment. This estimate is based on the assumption that payment will be made on March 1, 2021.

This fiscal note relies upon job title codes provided by the office of Assemblyman Peter J. Abbate, Jr. Based on this information, this

proposal is expected to cover 138 active members earning a salary of approximately $10.5 million as of March 31, 2019. If subsequent to the release of this estimate additional members are determined to be covered, all costs to the State of New York are expected to increase.

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 February 27, 2020, and intended for use only during the 2020 Legislative Session, is Fiscal Note No. 2020-38, prepared by the Actuary for the New York State and Local Retirement System.