

# STATE OF NEW YORK

10288

## IN ASSEMBLY

April 8, 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 implementing a presumption of performance of duty disability for post-traumatic stress disorder in certain employees of Suffolk county

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 certain employees in  
4 Suffolk county. Notwithstanding any provision of this chapter or of any  
5 general, special or local law to the contrary, any member who serves in  
6 Suffolk county as a public safety dispatcher I, public safety dispatcher  
7 II, public safety dispatcher III, including Spanish speaking dispatchers  
8 in such titles, emergency service dispatcher I, emergency service  
9 dispatcher II, emergency service dispatcher III, including Spanish  
10 speaking dispatchers in such titles, emergency complaint operator,  
11 including Spanish speaking operators in such title, public safety offi-  
12 cer I, public safety officer II, public safety officer III, including  
13 Spanish speaking officers in such titles, and case worker or case worker  
14 trainee in the department of social services family and children's  
15 service administration, child protective services investigating bureau  
16 and child protective preventative services bureau, who is diagnosed with  
17 post-traumatic stress disorder, resulting in disability or death to such  
18 member, presently employed, and who shall have sustained such disability  
19 while so employed, shall be presumptive evidence that such disability  
20 was incurred in the performance and discharge of duty and the natural  
21 and proximate result of an accident, unless the contrary be proved by  
22 competent evidence; provided, however, that prior to entry into service,  
23 such member was not previously diagnosed with post-traumatic stress  
24 disorder.

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

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

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1 § 3. This act shall take effect immediately.

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

This bill would grant improved disability eligibility to any Tier 3, 4, 5 or 6 member of the New York State and Local Employees' Retirement System (ERS) employed by any municipality within Suffolk County, including Suffolk County itself, in the title of

1. public safety dispatcher,
2. public safety officer,
3. emergency complaint operator,
4. emergency service dispatcher, or
5. case worker with the Department of Social Services.

For any member so employed who is diagnosed with post-traumatic stress disorder, resulting in disability, such diagnosis shall be considered as presumptive evidence that the disability was incurred in the performance of the member's duties and the result of an accident, unless the contrary be proven by competent evidence and provided no such diagnosis was made prior to employment with Suffolk County. The annual accidental disability benefit for these members would be 1/3 of final average salary (FAS). Currently, in order to receive a 1/3 of FAS disability benefit, members must have at least ten years of service.

If this bill is enacted, it would lead to more disabilities being classified as "accidental". The cost of the benefit will depend upon the applicant's age, service and salary. It is estimated that the per-person cost will be up to five (5) times salary.

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

All costs arising from this bill would be shared by the State of New York and all of the participating employers in the ERS.

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. 2020-83, prepared by the Actuary for the New York State and Local Retirement System.