

# STATE OF NEW YORK

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7716--A

2019-2020 Regular Sessions

## IN ASSEMBLY

May 17, 2019

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Introduced by M. of A. REYES, CRUZ, BRAUNSTEIN, DE LA ROSA, RAMOS, M. G. MILLER, DICKENS, GRIFFIN, COLTON, SIMON, DeSTEFANO, LAWRENCE, ORTIZ, SAYEGH, L. ROSENTHAL, RAIA, MIKULIN -- Multi-Sponsored by -- M. of A. ENGLEBRIGHT -- 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 general municipal law, in relation to disabilities of certain retired firefighters caused by cancer

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

1 Section 1. Section 207-kk of the general municipal law, as amended by  
2 chapter 531 of the laws of 2003, is amended to read as follows:

3 § 207-kk. Disabilities of firefighters in certain cities caused by  
4 cancer. Notwithstanding any other provisions of this chapter to the  
5 contrary, any condition of impairment of health caused by (i) any condi-  
6 tion of cancer affecting the lymphatic, digestive, hematological,  
7 urinary, neurological, breast, reproductive, or prostate systems or (ii)  
8 melanoma resulting in total or partial disability or death to a paid  
9 member of a fire department in a city with a population of one million  
10 or more, or any retired member of such department who has been retired  
11 for five or less years, who successfully passed a physical examination  
12 on entry into the service of such department, which examination failed  
13 to reveal any evidence of such condition, shall be presumptive evidence  
14 that it was incurred in the performance and discharge of duty unless the  
15 contrary be proved by competent evidence. The provisions of this section  
16 shall remain in full force and effect [~~to and including the thirtieth~~  
17 ~~day of June, two thousand five~~] pursuant to section four hundred eighty  
18 of the retirement and social security law.

19 § 2. The board of trustees of the New York City fire department  
20 pension fund shall take appropriate administrative action to implement  
21 the intent of section one of this act.

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

LBD11238-03-9

1 § 3. This act shall take effect immediately.

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

SUMMARY OF BILL: This proposed legislation would amend General Municipal Law (GML) Section 207-kk to allow retirees of the New York City Fire Pension Fund (FIRE) who become disabled from an enumerated cancer within five years of retirement use of the Cancer Bill presumptions.

Effective Date: Upon enactment.

BACKGROUND: Currently, the Cancer Bill presumption only applies to active members of FIRE. The presumption is that the enumerated disabling cancer resulted from an accident on the job, but the presumption of causation can be rebutted by evidence to the contrary. If the presumption is not rebutted by the Medical Board, the member is granted accidental disability benefits.

FINANCIAL IMPACT - PRESENT VALUES: There is no data available to estimate the number of members who might develop and become disabled by cancer within five years of retirement, and potentially benefit from this proposed legislation. Therefore, the estimated financial impact has been calculated on a per-event basis equal to the increase in the Present Value of Future Benefits (PVFB) for an average member who is diagnosed with cancer as the result of the enactment of the proposed legislation.

With respect to an individual member, the additional cost of this proposed legislation could vary greatly depending on the member's length of service, age, and salary history.

Based on the census data and the actuarial assumptions and methods described herein, the enactment of this proposed legislation would increase the PVFB by approximately \$420,000, on average, for each occurrence of cancer within five years of retirement.

FINANCIAL IMPACT - ANNUAL EMPLOYER CONTRIBUTIONS: Enactment of this proposed legislation would increase employer contributions, where such amount would depend on the number of members affected as well as other characteristics including the age, years of service, and salary history of the member.

As there is no data currently available to estimate the number of members who might be diagnosed with cancer within five years of retirement, the financial impact would be recognized at the time of event.

Consequently, changes in employer contributions have been estimated assuming that the increase in the PVFB will be financed over a time period used under the current amortization period for actuarial losses. Using this approach, the additional PVFB would be amortized over a closed 15-year period (14 payments under the One-Year Lag Methodology (OYLM) using level dollar payments.

Based on the Actuary's actuarial assumptions and methods in effect as of June 30, 2018, the enactment of this proposed legislation is estimated to increase annual employer contributions by approximately \$50,000 for each Accidental Disability Retirement (ADR) reclassification due to cancer within five years of retirement. With respect to the timing, increases in employer contributions would depend upon when members would be reclassified, but generally, increased employer contributions will first occur the second fiscal year following approval of the ADR.

OTHER COSTS: Not measured in this Fiscal Note are the following:

- \* The initial, additional administrative costs of FIRE and other New York City agencies to implement the proposed legislation.

- \* The impact of this proposed legislation on Other Postemployment Benefit (OPEB) costs.

\* The cost of any potential Special Accidental Death Benefits paid pursuant to GML Section 208-f.

\* The potential Line-of-Duty Death benefits paid to beneficiaries should the member die within five years of retirement.

CENSUS DATA: The estimates presented herein are based on the census data used in the Preliminary June 30, 2018 (Lag) actuarial valuation of FIRE to determine the Preliminary Fiscal Year 2020 employer contributions.

There are 103 FIRE members who retired for service during Fiscal Year 2018 with an average age of approximately 56 years, average service of approximately 29 years, average annual pension of approximately \$123,500, plus a Variable Supplements Fund (VSF) payment of \$12,000 per year.

ACTUARIAL ASSUMPTIONS AND METHODS: The changes in the PVFB and annual employer contributions presented herein have been calculated based on the actuarial assumptions and methods in effect for the June 30, 2018 (Lag) actuarial valuations used to determine the Preliminary Fiscal Year 2020 employer contributions of FIRE. Also, based on the analysis of World Trade Center disabilities from 2001 to 2017, it was estimated that the ADR benefits are approximately 40% greater than the service retirement benefits.

RISK AND UNCERTAINTY: The costs presented in this Fiscal Note depend highly on the actuarial assumptions and methods used and are subject to change based on the realization of potential investment, demographic, 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 2019-29 dated May 31, 2019 was prepared by the Chief Actuary for the New York City Fire Pension Fund. This estimate is intended for use only during the 2019 Legislative Session.