# STATE OF NEW YORK

7784--A

2019-2020 Regular Sessions

# IN ASSEMBLY

May 21, 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 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:**

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 correction officers, correction supervisors, deputy sheriff patrol and deputy sheriff patrol supervisors. a. A member employed as a correction officer, correction supervisor, deputy sheriff patrol and deputy sheriff patrol supervisor 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**

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

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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 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 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 correction officers, correction supervisors, deputy sheriff patrol and deputy sheriff patrol supervisors who were hired on or after July twenty-seventh, nineteen hundred seventy-six.

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

§ 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 1.5% 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, 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 June 7, 2019, and intended for use only during the 2019 Legislative Session, is Fiscal Note No. 2019-139, prepared by the Actuary for the New York State and Local Retirement System.