STATE OF NEW YORK

5898

2019-2020 Regular Sessions

IN SENATE

May 16, 2019

Introduced by Sen. GAUGHRAN -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to amend the retirement and social security law, in relation to disability retirement benefits for certain participants in World Trade Center rescue, recovery, or cleanup operations

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

Section 1. Paragraph 4 of subdivision d of section 605 of the retirement and social security law is renumbered paragraph 5 and a new paragraph 4 is added to read as follows:

4. Notwithstanding any other law, rule or regulation to the contrary, any member who had an active membership when such member participated in World Trade Center rescue, recovery, or cleanup operations, as such participation is defined in section two of this chapter, who incurred a qualifying World Trade Center condition, as defined in section two of this chapter, that is determined to have been incurred in the performance and discharge of duty and is the natural and proximate result of an accident not caused by such member's own willful negligence, shall be paid a performance of duty disability retirement allowance equal to three-quarters of final average salary. The payment of such pension shall be subject to the provisions of section sixty-four of this chapter.

§ 2. Section 507 of the retirement and social security law is amended by adding a new subdivision h-1 to read as follows:

h-1. Notwithstanding any other law, rule or regulation to the contrary, any member who had an active membership when such member participated in World Trade Center rescue, recovery, or cleanup operations, as such participation is defined in section two of this chapter, who incurred a qualifying World Trade Center condition, as defined in section two of this chapter, that is determined to have been incurred in the performance and discharge of duty and is the natural and proximate

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

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result of an accident not caused by such member's own willful negligence, shall be paid a performance of duty disability retirement allowance equal to three-quarters of final average salary. The payment of such pension shall be subject to the provisions of section sixty-four of this chapter.

§ 3. This act shall take effect immediately and apply to all active members who are determined to have incurred a qualifying World Trade Center condition in the performance and discharge of duty that is the natural and proximate result of an accident not caused by such member's own willful negligence prior to the effective date of this act.

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

This bill would amend the benefits of certain members of public retirement systems who are subject to the provisions of Article 14 or Article 15 of the Retirement and Social Security Law who contract any form of disease or disability related to exposure to any elements in connection with the World Trade Center rescue, recovery or cleanup operations. The annual accidental disability benefit would be 75% of a member's final average salary less workers compensation, regardless of a member's plan coverage. Currently, eligible members receive the accidental disability benefit specified in the plan under which they are covered, which for most Article 14 and 15 members is 1/3 of final average salary. This improved benefit would be payable only to current members or their beneficiaries. Current retirees and their beneficiaries would not be affected by this bill.

If this bill is enacted, the cost of the revised benefit will depend upon the applicant's age, service, salary, plan, and benefit type otherwise payable, but is expected to cost up to 4 times final average salary per individual.

Insofar as this bill would affect the New York State and Local Employees' Retirement System, there are currently 610 active members, with a combined salary of $6.4 million, who have filed an Application for World Trade Center Notice who could potentially receive benefits under this bill.

A precise cost for future years cannot be determined at this time. However, pursuant to Section 25 of the Retirement and Social Security Law, any increased cost would be borne entirely by the State of New York and would require an itemized appropriation sufficient to pay the cost of the provision. Every year a cost will be determined (and billed to the State) based on those benefiting from this provision.

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 April 18, 2019, and intended for use only during the 2019 Legislative Session, is Fiscal Note No. 2019-102, prepared by the Actuary for the New York State and Local Retirement System.

This bill would amend Sections 507 and 605 of the Retirement and Social Security Law to allow any member of the New York State Teachers' Retirement System who had an active membership when such member participated in the World Trade Center rescue, recovery, or cleanup operations and who incurred a qualifying World Trade Center condition determined to have been incurred in the performance and discharge of duty to receive a performance of duty disability retirement benefit equal to 75% of final average salary. Currently an active member would receive an accidental disability retirement benefit which is generally one-third of final average salary. Members who become disabled or die as a result of a qualifying World Trade Center condition are assumed to have become disabled or died as a result of an accidental or on-the-job disability or death. This bill would take effect immediately and apply to all active members who are determined to have incurred a qualifying World Trade Center condition in the performance and discharge of duty prior to the effective date of this act.

The cost, or additional present value of benefits, is estimated to be, on average, $320,000 for each member who receives this performance of duty disability retirement benefit. Although the potential increase in an affected member's benefit is estimated to be large, the additional annual cost to the employers of members of the New York State Teachers' Retirement System is estimated to be negligible if this bill is enacted because it is anticipated there would be few applications received for this performance of duty disability retirement benefit from our membership.

Member data is from the System's most recent actuarial valuation files, consisting of data provided by the employers to the Retirement System. Data distributions and statistics can be found in the System's Comprehensive Annual Financial Report (CAFR). System assets are as reported in the System's financial statements, and can also be found in the CAFR. Actuarial assumptions and methods are provided in the System's Actuarial Valuation Report.

The source of this estimate is Fiscal Note 2019-26 dated May 10, 2019 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2019 Legislative Session. I, Richard A. Young, am the Actuary for the New York State Teachers' Retirement System. I am a member of the American Academy of Actuaries and I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.