STATE OF NEW YORK

4946--A

2021-2022 Regular Sessions

IN ASSEMBLY

February 9, 2021

Introduced by M. of A. ABBATE, DeSTEFANO, DURSO -- read once and referred to the Committee on Governmental Employees -- recommitted to the Committee on Governmental Employees in accordance with Assembly Rule 3, sec. 2 -- 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 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:

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

§ 605-g. Accidental disability retirement for certain employees in Suffolk county. Notwithstanding any provision of this chapter or of any general, special or local law to the contrary, any member who serves in Suffolk county as a public safety dispatcher I, public safety dispatcher II, public safety dispatcher III, including Spanish speaking dispatchers in such titles, emergency service dispatcher I, emergency service dispatcher II, emergency service dispatcher III, including Spanish speaking dispatchers in such titles, emergency complaint operator, including Spanish speaking operators in such title, public safety officer I, public safety officer II, public safety officer III, including Spanish speaking officers in such titles, and case worker or case worker trainee in the department of social services family and children's service administration, child protective services investigating bureau and child protective preventative services bureau, who is diagnosed with post-traumatic stress disorder, resulting in disability or death to such member, presently employed, and who shall have sustained such disability while so employed, shall be presumptive evidence that such disability was incurred in the performance and discharge of duty and the natural and proximate result of an accident, unless the contrary be proved by

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

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competent evidence; provided, however, that prior to entry into service, such member was not previously diagnosed with post-traumatic stress disorder.

§ 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 grant improved disability eligibility to any Tier 3, 4, 5 or 6 member of the New York State and Local Employees' Retirement System (NYSLERS) 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.

Insofar as this bill affects the NYSLERS, if this legislation is enacted during the 2022 legislative session, 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 and one half (5.5) times salary.

The exact number of current members as well as future members who could 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 NYSLERS.

Summary of relevant resources:

Membership data as of March 31, 2021 was used in measuring the impact of the proposed change, the same data used in the April 1, 2021 actuarial valuation. Distributions and other statistics can be found in the 2021 Report of the Actuary and the 2021 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2020 and 2021 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, 2021 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 of the viability of the proposed change nor is it intended to serve as a substitute for the professional judgement of an attorney.

This estimate, dated December 17, 2021, and intended for use only during the 2022 Legislative Session, is Fiscal Note No. 2022-32, prepared by the Actuary for New York State and Local Retirement System.