STATE OF NEW YORK

6384--A

2021-2022 Regular Sessions

IN ASSEMBLY

March 16, 2021

Introduced by M. of A. ABBATE, 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 retirement and social security law, in relation to including certain employees who were employed in public service but became members of a retirement system at a later date for eligibility for those who participated in the 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 (e) of subdivision 36 of section 2 of the retirement and social security law, as added by chapter 489 of the laws of 2008, is amended to read as follows:

(e) "Participated in World Trade Center rescue, recovery or cleanup operations" shall mean any member who: (i) participated in the rescue, recovery, or cleanup operations at the World Trade Center site, as defined in paragraph (f) of this subdivision; (ii) worked at the Fresh Kills Land Fill in New York; (iii) worked at the New York city morgue or the temporary morgue on pier locations on the west side of Manhattan; (iv) manned the barges between the west side of Manhattan and the Fresh Kills Land Fill in New York; (v) repaired, cleaned or rehabilitated vehicles or equipment, including emergency vehicle radio equipment owned by the city of New York that were contaminated by debris in the World Trade Center site, as defined in paragraph (f) of this subdivision, regardless of whether the work on the repair, cleaning or rehabilitation of said vehicles and equipment was performed within the World Trade Center site, provided such work was performed prior to decontamination of such vehicles or equipment; or (vi) worked in the following departments, worksites and titles: (A) New York City Police Department at 11 Metrotec Center in Brooklyn or 1 Police Plaza in Manhattan as a Police

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

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Communication Technician (PCT), Supervisor Police Communication Technician (SPCT), Principal Police Communication Technician I, Principal Police Communication Technician II, Principal Police Communication Technician III, Administrative Manager - Communications, or in the Police Administrative Aide title series; (B) Fire Department of the City of New York at 35 Empire Boulevard in Brooklyn, 79th Street Transverse in Manhattan, 83-98 Woodhaven Boulevard in Queens, 1129 East 180 Street in the Bronx, 65 Slosson Avenue in Staten Island, 9 Metrotec Center in Brooklyn, or 25 Rockaway Avenue in Brooklyn as Fire Alarm Dispatchers (FAD), Supervising Fire Alarm Dispatchers I (SFAD), Supervising Fire Alarm Dispatchers II (Borough Supervisor), Deputy Director & Director Fire Dispatch Operations, or Assistant Commissioner for Communications; (C) for the Fire Department of the City of New York's Emergency Medical Service at 1 or 9 Metrotec Centers in Brooklyn, or 55-30 58 Street in Maspeth Queens as Emergency Medical Specialist-Level I (EMT), Emergency Medical Specialist Level II-(Paramedic), Supervising Emergency Medical Specialist Level I (LT), Supervising Emergency Medical Specialist Level II (Capt), Deputy Chief EMS Communications, or Division Commander EMS Communications. **For purposes of this paragraph, the term "member" shall include each person who during the qualifying period was in the employment of a public employer which then participated for such employees in a public retirement system in this state, irrespective of whether the person was a participant in such system at that time, provided that the person has become a participant in such retirement system and has purchased service credit for a period of time that includes some or all of the qualifying period in accordance with provisions of law applicable to such purchase of service credit.**

§ 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 expand the definition of a member who participated in World Trade Center rescue, recovery or cleanup operations. The term member shall include any person during the qualifying period who was employed by a public employer participating in the New York State and Local Retirement System (NYSLRS) irrespective of whether the employee was a participant of the system at that time. The employee must have become a participant in NYSLRS since that time and purchased service credit for some or all of qualifying period.

If this bill is enacted, it would reclassify certain current and future retirement benefits. The cost of the revised benefit will depend upon the applicant's age, service, salary, plan, and benefit type otherwise payable.

Benefit without enactment:	None	Ordinary Disability	In Performance of Duty Disability	Service
Cost for WTC benefit:	9 times salary	5 times salary	2.5 times salary	2 times salary

This bill would also lead to more deaths being classified as "accidental". For each death classified as accidental due to this bill, the cost would depend on the age, service, salary, plan, and status at time of death. It is estimated that the cost for each Employees' Retirement System (ERS) member affected would average approximately 3.5 times final

average salary. The estimated cost for each Police and Fire Retirement System (PFRS) member would average approximately 11 times final average salary.

ERS Costs: These costs would be shared by the State of New York and the participating employees in the ERS.

PFRS Costs: These costs would be shared by the State of New York and the participating employees in the PFRS.

Summary of relevant resources:

Membership data as of March 31, 2020 was used in measuring the impact of the proposed change, the same data used in the April 1, 2020 actuarial valuation. Distributions and other statistics can be found in the 2020 Report of the Actuary and the 2020 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2020 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, 2020 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 May 17, 2021, and intended for use only during the 2021 Legislative Session, is Fiscal Note No. 2021-142, prepared by the Actuary for the New York State and Local Retirement System.

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

This bill (legislative bill draft 03559-08-1) would amend paragraph e of subdivision 36 in section 2 of the Retirement and Social Security Law to expand the term "member" to include those individuals who were employed by a public employer during a qualifying period of the World Trade Center rescue, recovery or cleanup operations, who later became a member of a New York State public retirement system and purchased prior service credit during all or part of a qualifying period of the World Trade Center rescue, recovery or cleanup operations. The public employer must be a participating employer in a New York State public retirement system.

The 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.

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 Annual Report. System assets are as reported in the System's financial statements and can also be found in the System's Annual Report. Actuarial assumptions and methods are provided in the System's Actuarial Valuation Report.

The source of this estimate is Fiscal Note 2021-55 dated May 27, 2021 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2021 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.

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

SUMMARY OF BILL: This proposed legislation (see Appendix) would amend Section 2 of the Retirement and Social Security Law (RSSL) to permit eligible members of the New York City Retirement Systems and Pension Funds (NYCRS)1 who participated in the Rescue, Recovery, or Cleanup operations related to the World Trade Center (WTC) attack on September 11, 2001 as non-members employed by a public employer within the State and subsequently purchased such service as a NYCRS member, to be eligible for the applicable WTC presumption.

Effective Date: Upon enactment.

FINANCIAL IMPACT - OVERVIEW: There is no data available to estimate the number of members who might buyback service during qualifying WTC participation periods 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 a qualifying WTC condition and could benefit from the enactment of the proposed legislation.

In determining the increase in the PVFB for members who could benefit from the proposed legislation, we have shown the impact due to disability and death separately. To value the impact due to disability, it has been assumed that 100% of the members who would retire with a WTC qualifying condition were those who would have retired with an Ordinary Disability Retirement benefit or Service Retirement benefit, if eligible, if the proposed legislation were not passed. To value the impact due to death, it has also been assumed that 100% of the beneficiaries of members who would die due to a WTC qualifying condition would have been entitled to receive an Ordinary Death benefit, if the proposed legislation were not passed.

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. In particular, the increase in PVFB due to the proposed legislation would be greater for a member who is not yet eligible for an Ordinary Disability Retirement benefit when a disabling WTC related event occurs.

FINANCIAL IMPACT - PRESENT VALUES: Based on the census data and the actuarial assumptions and methods described herein, the enactment of this proposed legislation would increase the PVFB as follows:

NYCRS	Estimated increase in the average PVFB for each occurrence of Accidental Disability Retirement due to a WTC qualifying condition	Estimated increase in the average PVFB for each occurrence of Accidental Death due to a WTC related illness
NYCERS	$101,500	$358,600
TRS	$332,900	$292,000
BERS	$68,700	$156,900
POLICE	$614,500	$2,207,700
FIRE	$656,400	$2,185,100

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 credible data currently available to estimate the number of members who might buyback service during qualifying WTC participation periods, 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 the same time period used for actuarial losses in accordance with Section 13-638.2(k-2) of the Administrative Code of the City of New York. Using this approach, the additional PVFB would be amortized over a closed 15-year period (14 payments under the One-Year Lag Methodology) using level dollar payments.

Based on the Actuary's actuarial assumptions and methods described herein, the enactment of this proposed legislation is estimated to increase annual employer contributions as follows:

NYCRS	Estimated Increase in Annual Employer Contributions for Each Occurrence of Accidental Disability Retirement Due to a WTC Qualifying Condition	Estimated Increase in Annual Employer Contributions for Each Occurrence of Accidental Death Due to a WTC Related Illness
NYCERS	$12,000	$42,400
TRS	$39,400	$34,500
BERS	$8,100	$18,600
POLICE	$72,700	$261,100
FIRE	$77,600	$258,500

With respect to the timing, increases in employer contributions would depend upon when members would retire or die due to a WTC qualifying condition but, generally, increased employer contributions will first occur the second fiscal year following approval of the Accidental Disability Retirement or Accidental Death.

CENSUS DATA: The estimates presented herein are based on the census data used in the June 30, 2020 (Lag) actuarial valuation of each NYCRS to determine the respective Preliminary Fiscal Year 2022 employer contributions. The analysis was based on members that are currently over age 40 on an age-nearest basis (since this population would have been over age 21 as of September 11, 2001).

NYCRS	Count	Average Age	Average Service	Average Salary
NYCERS	132,874	53.8	15.1	$83,700
TRS	72,077	52.1	16.2	$96,700
BERS	22,698	55.2	10.4	$50,400
POLICE	12,911	46.9	19.3	$144,300
FIRE	5,430	48.3	21.0	$142,400

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, 2019 (Lag) actuarial valuations used to determine the Preliminary Fiscal Year 2021 employer contributions of each respective NYCRS.

In addition, for the purposes of this Fiscal Note we have assumed that members have already purchased this service and therefore the only addi-

tional benefit of this legislation is the qualification for WTC presumptions and benefits.

The Actuary is proposing a set of changes for use beginning with the June 30, 2019 (Lag) actuarial valuations of each NYCRS to determine the respective Final Fiscal Year 2021 Employer Contributions (2021 A&M). If the 2021 A&M is enacted it is estimated that it would produce PVFB and annual employer contribution results that are within 3% of the results shown above.

RISK AND UNCERTAINTY: The costs presented in this Fiscal Note depend highly on the realization of the actuarial assumptions used, as well as certain demographic characteristics of each respective NYCRS and other exogenous factors such as investment, 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.

Not measured in this Fiscal Note are the following:

* The initial, additional administrative costs to implement the proposed legislation.

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

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 2021-38 dated June 1, 2021 was prepared by the Chief Actuary for the New York City Retirement Systems and Pension Funds. This estimate is intended for use only during the 2021 Legislative Session.