STATE OF NEW YORK

6547--A

2021-2022 Regular Sessions

IN ASSEMBLY

March 19, 2021

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 providing a heart disease presumption for certain fire marshals in Nassau 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 63-g to read as follows:

§ 63-g. Disability benefits; certain disabilities. Notwithstanding any provision of this chapter or of any general, special or local law to the contrary, any member who is a fire marshal, supervising fire marshal, division supervising fire marshal, assistant chief fire marshal, chief fire marshal or fire marshal trainee employed by Nassau county who contracts any condition of impairment of health caused by diseases of the heart, resulting in disability or death to such fire marshal, supervising fire marshal, division supervising fire marshal, assistant chief fire marshal, chief fire marshal or fire marshal trainee, 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 competent evidence; provided, however, that prior to entry into service, such fire marshal, supervising fire marshal, division supervising fire marshal, assistant chief fire marshal, chief fire marshal or fire marshal trainee successfully passed a physical examination which failed to disclose evidence of any disease or other impairment of the heart.

§ 2. The retirement and social security law is amended by adding a new section 605-f to read as follows:

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

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§ 605-f. Disability benefits; certain disabilities. Notwithstanding any provision of this chapter or of any general, special or local law to the contrary, any member who is a fire marshal, supervising fire marshal, division supervising fire marshal, assistant chief fire marshal, chief fire marshal or fire marshal trainee employed by Nassau county who contracts any condition of impairment of health caused by diseases of the heart, resulting in disability or death to such fire marshal, supervising fire marshal, division supervising fire marshal, assistant chief fire marshal, chief fire marshal or fire marshal trainee, 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 competent evidence; provided, however, that prior to entry into service, such fire marshal, supervising fire marshal, division supervising fire marshal, assistant chief fire marshal, chief fire marshal or fire marshal trainee successfully passed a physical examination which failed to disclose evidence of any disease or other impairment of the heart.

§ 3. All past service costs associated with implementing the provisions of this act shall be borne by the county of Nassau and may be amortized over a period of ten years.

§ 4. This act shall take effect immediately.

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

This bill would allow certain members of the New York State and Local Employees' Retirement System (ERS) employed by Nassau County as chief fire marshal, assistant chief fire marshal, division supervising fire marshal, supervising fire marshal, fire marshal and fire marshal trainee to receive an accidental disability benefit if the member is impaired due to a condition of the heart as a result of an accident, in the performance of his or her duties, unless the contrary be proven by competent evidence. The annual benefit would be 3/4 of final average salary less worker's compensation.

If this bill is enacted during the 2021 legislative session, we anticipate that there will be an increase of approximately $5,200 in the annual contributions of Nassau County for the fiscal year ending March 31, 2022. In future years, this cost will vary as the billing rates and salary of the affected members change.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately $21,400 which will be borne by Nassau County as a one-time payment. This estimate is based on the assumption that payment will be made on February 1, 2022. If Nassau County elects to amortize this cost over a 10 year period, the cost for the first year including interest would be $2,830.

These estimated costs are based on 50 affected members employed by Nassau County, with annual salary of approximately $5.2 million as of March 31, 2020.

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 June 3, 2021, and intended for use only during the 2021 Legislative Session, is Fiscal Note No. 2021-153, prepared by the Actuary for the New York State and Local Retirement System.