STATE OF NEW YORK

6934--A

2021-2022 Regular Sessions

IN ASSEMBLY

April 13, 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 and the administrative code of the city of New York, in relation to allowing for the electronic submission of a notice that a member of a retirement system participated in World Trade Center rescue, recovery or cleanup operations for a qualifying period

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

Section 1. Paragraph (a) of subdivision 36 of section 2 of the retirement and social security law, as amended by chapter 266 of the laws of 2018, is amended to read as follows:

(a) "Qualifying World Trade Center condition" shall mean a qualifying condition or impairment of health resulting in disability to a member who participated in World Trade Center rescue, recovery or cleanup operations for a qualifying period, as those terms are defined below, provided the following conditions have been met: (i) such member, or eligible beneficiary in the case of the member's death, must have **either** filed a written and sworn statement with the member's retirement system on a form provided by such system**, or as allowed by the member's retirement system, electronically submitted a statement on a form provided by such system through a secure online portal maintained by the member's retirement system that has duly validated the member's identity,** indicating the underlying dates and locations of employment not later than September eleventh, two thousand twenty-two, and (ii) such member has either successfully passed a physical examination for entry into public service, or authorized release of all relevant medical records, if the member did not undergo a physical examination for entry into public service; and (iii) there is no evidence of the qualifying condition or impairment of health that formed the basis for the disability in such

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

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physical examination for entry into public service or in the relevant medical records, prior to September eleventh, two thousand one except for such member, or eligible beneficiary in the case of the member's death, of a local retirement system of a city with a population of one million or more that is covered by section 13-551 of the administrative code of the city of New York, or by section twenty-five hundred seventy-five of the education law and for such member who separated from service with vested rights, or eligible beneficiary of such member who separated from service with vested rights in the case of the member's death, of a local retirement system of a city with a population of one million or more who are covered by sections 13-168, 13-252.1 or 13-353.1 of the administrative code of the city of New York or sections five hundred seven-c, six hundred five-b, six hundred five-c, or six hundred seven-b of this chapter. The deadline for filing a written and sworn statement required by subparagraph (i) of this paragraph shall be September eleventh, two thousand twenty-two for such member, or eligible beneficiary in the case of the member's death, of a local retirement system of a city with a population of one million or more that is covered by section 13-551 of the administrative code of the city of New York, or by section twenty-five hundred seventy-five of the education law and for such member who separated from service with vested rights, or eligible beneficiary of such member who separated from service with vested rights in the case of the member's death, of a local retirement system of a city with a population of one million or more who are covered by sections 13-168, 13-252.1 or 13-353.1 of the administrative code of the city of New York and sections five hundred seven-c, six hundred five-b, six hundred five-c, or six hundred seven-b of this chapter. Every retirement system shall keep a copy of every written and sworn statement that is presented for filing not later than September eleventh, two thousand twenty-two, including those that are rejected for filing as untimely.

§ 2. Subparagraph (e) of paragraph 1 and clause (i) of subparagraph (b) of paragraph 2 of subdivision h of section 363-bb of the retirement and social security law, as amended by chapter 495 of the laws of 2007, are amended to read as follows:

(e) In order to be eligible for consideration for such presumption, such member must file **either** a written and sworn statement with the member's retirement system on a form provided by such system**, or as allowed by the member's retirement system, electronically submit a statement on a form provided by such system through a secure online portal maintained by the member's retirement system that has duly validated the member's identity,** indicating the dates and locations of employment. Such statement must be filed not later than four years following the effective date of chapter one hundred four of the laws of two thousand five.

(i) the member files **either** a written and sworn statement with the member's retirement system on a form provided by such system**, or as allowed by the member's retirement system, electronically submits a statement on a form provided by such system through a secure online portal maintained by the member's retirement system that has duly validated the member's identity,** indicating the dates and locations of employment within four years following the effective date of chapter one hundred four of the laws of two thousand five; and

§ 3. Clause (i) of subparagraph (b) of paragraph 2 of subdivision h of section 605 of the retirement and social security law, as amended by chapter 489 of the laws of 2008, is amended to read as follows:

(i) the member files **either** a written and sworn statement with the member's retirement system on a form provided by such system**, or as allowed by the member's retirement system, electronically submits a statement on a form provided by such system through a secure online portal maintained by the member's retirement system that has duly validated the member's identity,** indicating the dates and locations of employment within four years following the effective date of chapter one hundred four of the laws of two thousand five; and

§ 4. Paragraph a of section 13-168 of the administrative code of the city of New York, as amended by chapter 489 of the laws of 2008, is amended to read as follows:

a. Medical examination of a member in city-service for accident disability and investigation of all statements and certifications by him or her or on his **or her** behalf in connection therewith shall be made upon the application of the head of the agency in which the member is employed, or upon the application of a member or of a person acting in his or her behalf, **either in writing or, as allowed by the member's retirement system, electronically submitted on a form provided by such system through a secure online portal maintained by the member's retirement system that has duly validated the member's identity,** stating that such member is physically or mentally incapacitated for the performance of city-service, as a natural and proximate result of such city-service, and certifying the time, place and conditions of such city-service performed by such member resulting in such alleged disability and that such alleged disability was not the result of wilful negligence on the part of such member and that such member should, therefore, be retired. Such application shall be filed within two years from the happening of such accident, except, however, that such requirement as to time of filing shall not apply to any such application which (1) is filed by or with respect to a member who is a member of the uniformed force of the department of sanitation (as such force is defined in subdivision a of section 13-154 of this chapter) and is based on an accident occurring wholly on or after July first, nineteen hundred sixty-three, or (2) if filed by a vested member incapacitated as a result of a qualifying World [~~trade~~] **Trade** Center condition as defined in section two of the retirement and social security law. If such medical examination and investigation shows that any member, by whom or with respect to whom an application is filed under this section, is physically or mentally incapacitated for the performance of city-service as a natural and proximate result of an accidental injury received in such city-service while a member, and that such disability was not the result of wilful negligence on the part of such member and that such member should be retired, the medical board shall so certify to the board stating the time, place and conditions of such city-service performed by such member resulting in such disability. The board shall review such certification with respect to any issues other than the existence or non-existence of physical or mental incapacitation and shall determine the member's eligibility with respect to any such issues. Upon such certification by the medical board of the member's physical or mental incapacitation and a determination by the board finding the member otherwise eligible, such member shall be retired for accident disability effective the date the application is filed or the date immediately following the last date the member was on the payroll, whichever is later.

§ 5. This act shall take effect immediately.

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

This bill would authorize a retirement system to make available the option for a member, or eligible beneficiary in the case of a member's death, to electronically submit a statement through a secure online portal maintained by the member's retirement system indicating that the member participated in World Trade Center rescue, recovery or cleanup operations for a qualifying period.

Insofar as this bill affects the New York State and Local Retirement System (NYSLRS), certain technology upgrades would be necessary to expand current functionality of the online portal, generating additional administrative costs to implement the provisions of this legislation should NYSLRS make this electronic filing option available to members.

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 March 31, 2021, and intended for use only during the 2021 Legislative Session, is Fiscal Note No. 2021-67, prepared by the Actuary for the New York State and Local Retirement System.

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

This bill (bill A6934) would amend subdivision h of Section 605 of the Retirement and Social Security Law to allow the New York State Teachers' Retirement System (NYSTRS) to make available the option for a member, or a member's beneficiary, to electronically submit a statement on a form provided by NYSTRS through a secure online portal maintained by NYSTRS indicating such member participated in the World Trade Center rescue, recovery or cleanup operations during a qualifying period. Currently, a member or beneficiary must file a paper form provided by NYSTRS to indicate their participation in the World Trade Center rescue, recovery or cleanup operations during a qualifying period.

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 2021-50 dated May 12, 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, as it relates to the New York City Retirement Systems and Pension Funds (NYCRS)1, would, among other things, amend provisions of the Retirement and Social Security Law (RSSL) and the Administrative Code of the City of New York to permit certain NYCRS members to file a World Trade Center (WTC) Notice of Participation electronically2. The electronic filing would provide an alternative mechanism to the current written and sworn Notice of Participation filing.

EFFECTIVE DATE: Upon enactment.

BACKGROUND: Currently, in order to be eligible for WTC benefits, members must file a written and sworn WTC Notice of Participation statement with their respective retirement system on a form provided by such system within the permitted time deadline.

The proposed legislation would allow a member to electronically submit a WTC Notice of Participation through a secure online portal maintained by the member's retirement system that has duly validated the member's identity.

IMPACT ON BENEFITS: If enacted, this proposed legislation, to the extent an electronic filing would not enable a Notice of Participation to be submitted timely when a written sworn statement would be untimely, would have no impact on benefits paid to members.

FINANCIAL IMPACT - ANNUAL EMPLOYER CONTRIBUTIONS: The Employer Contribution for a fiscal year includes the amount of administrative expenses paid during the second prior fiscal year adjusted with interest to the current date. If enacted, this proposed legislation would increase the amount of administrative expenses initially due to the cost of setting up electronic submission capabilities but could potentially have long term savings and therefore, the impact on annual Employer Contribution will depend on the actual change in administrative expenses. The actual increase or decrease in the Employer Contribution, is expected to be de minimis.

ACTUARIAL ASSUMPTIONS AND METHODS: The interest rate for adjusting the administrative expenses from the date paid out of NYCRS to the date the Employer Contribution is received is 7%.

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 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.

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 2021-20 dated April 22, 2021 was prepared by the Chief Actuary for the five New York City Retirement Systems and Pension Funds. This estimate is intended for use only during the 2021 Legislative Session.