

# STATE OF NEW YORK

4084--B

2021-2022 Regular Sessions

## IN ASSEMBLY

February 1, 2021

Introduced by M. of A. ABBATE, CUSICK -- read once and referred to the Committee on Governmental Employees -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- 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 providing accidental disability retirement benefits for fire protection specialists

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 fire protection specialists. a. A member employed as a fire protection specialist I, fire protection specialist II or fire protection specialist III shall be entitled to an accidental disability retirement allowance if, at the time application therefor is filed, such member is:

1. Physically or mentally incapacitated for performance of duty as the natural and proximate result of an accident, unless the contrary be proved by competent evidence, not caused by his or her own willful negligence, sustained in such service and while actually a member of the retirement system; and

2. Actually in service upon which his or her membership is based. However, in a case where a member is discontinued from service subsequent to the accident, either voluntarily or involuntarily, and provided that the member meets the requirements of paragraph one of this subdivision, application may be made not later than two years after the member is first discontinued from service.

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

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1 b. Application for an accidental disability retirement allowance for  
2 such a member may be made by:

3 1. Such member; or

4 2. The head of the department in which such member is employed; or

5 3. Any person acting on behalf of and authorized by such member.

6 c. 1. After the filing of such an application, such member shall be  
7 given one or more medical examinations. No such application shall be  
8 approved, however, unless the member or some other person on his or her  
9 behalf shall have filed written notice in the office of the comptroller  
10 within ninety days after the accident, setting forth:

11 (a) The time when and the place where such accident occurred; and

12 (b) The particulars thereof; and

13 (c) The nature and extent of the member's injuries; and

14 (d) His or her alleged incapacity.

15 2. The notice herein required need not be given:

16 (a) If the notice of such accident shall be filed in accordance with  
17 the provisions of the workers' compensation law of any state within  
18 which a participating employer in New York State shall have its employ-  
19 ees located or performing functions and duties within the normal scope  
20 of their employment; or

21 (b) If the application for accidental disability retirement is filed  
22 within one year after the date of such accident; or

23 (c) If a failure to file notice has been excused for good cause shown  
24 as provided by rules and regulations promulgated by the comptroller.

25 d. If the comptroller determines that the member is physically or  
26 mentally incapacitated for the performance of duty and ought to be  
27 retired for accidental disability, such member shall be so retired. Such  
28 retirement shall be effective as of a date approved by the comptroller.

29 e. The annual retirement allowance payable upon accidental disability  
30 retirement shall be a pension of three-quarters of his or her final  
31 average salary. The payment of such pension shall be subject to the  
32 provisions of section sixty-four of this chapter.

33 f. If the member, at the time of the filing of an application under  
34 the provisions of subdivision b of this section, is eligible for a  
35 service retirement benefit, then and in that event, he or she may simul-  
36 taneously file an application for service retirement in accordance with  
37 the provisions of section seventy of this chapter, provided that the  
38 member indicates on the application for service retirement that such  
39 application is filed without prejudice to the application for accidental  
40 disability retirement.

41 g. Notwithstanding any other provision of law, this section shall  
42 apply to fire protection specialists I, fire protection specialists II  
43 and fire protection specialists III who were hired on or after July  
44 twenty-seventh, nineteen hundred seventy-six.

45 § 2. This act shall take effect immediately.

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

This bill would allow State employees in civil service job titles fire protection specialist 1, 2, or 3, to be eligible to receive an accidental disability benefit of three-quarters of final average salary, less worker's compensation. Currently, such members are eligible for a benefit of one-third of final average salary in the event of an accidental or ordinary disability.

If this bill is enacted during the 2022 legislative session, we anticipate that there will be an increase of approximately \$62,000 in the annual contributions of the State of New York for the fiscal year ending

March 31, 2023. 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 \$159,000 which will be borne by the State of New York as a one-time payment. This estimate is based on the assumption that payment will be made on March 1, 2023.

These estimated costs are based on 151 affected members employed by the State of New York, with annual salary of approximately \$14.3 million as of March 31, 2021. The affected members were identified using job title codes provided by the office of Assemblyman Peter J. Abbate, Jr.

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 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 February 16, 2022, and intended for use only during the 2022 Legislative Session, is Fiscal Note No. 2022-45, prepared by the Actuary for the New York State and Local Retirement System.