STATE OF NEW YORK

4084--C

2021-2022 Regular Sessions

IN ASSEMBLY

February 1, 2021

Introduced by M. of A. ABBATE, CUSICK, ENGLEBRIGHT -- 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 -- again reported from said committee with amendments, 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 607-l to read as follows:

§ 607-l. Performance of duty disability retirement; division of homeland security and emergency services. a. Any employee of the division of homeland security and emergency services in the title series fire protection specialist who becomes physically or mentally incapacitated for the performance of duty as the natural and proximate result of an injury sustained in the performance or discharge of his or her duties shall be paid a performance of duty disability retirement allowance equal to that which is provided in section sixty-three-b of this chapter.

b. Notwithstanding any provision of this chapter or of any general or special law to the contrary, any condition of impairment of health caused by diseases of the heart resulting in disability or death to an employee covered by this section presently employed who shall have sustained such disability while so employed and who successfully passed a physical examination on entry into service, which examination failed to disclose evidence of any disease or other impairment of the heart,

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

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shall be presumptive evidence that such disease or impairment was incurred in the performance and discharge of duty, unless the contrary be proved by competent evidence.

§ 2. All past service costs associated with implementing the provisions of this act shall be borne by the state of New York.

§ 3. This act shall take effect immediately.

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

This bill would allow certain employees of the Division of Homeland Security and Emergency Services (DHSES) in the job title series "fire protection specialist" to be eligible to receive a performance of duty disability benefit of 75% of final average salary, less worker's compensation. Further, this proposal provides that diseases of the heart are presumed to have occurred in the performance of duty. 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 $170,000 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 $749,000 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 165 affected members employed by the State of New York, with annual salary of approximately $15.4 million as of March 31, 2021. The affected members were identified using job title codes previously provided by the New York State Assembly.

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 December 14, 2021, and intended for use only during the 2022 Legislative Session, is Fiscal Note No. 2022-7, prepared by the Actuary for the New York State and Local Retirement System.