STATE OF NEW YORK

3312

2021-2022 Regular Sessions

IN SENATE

January 28, 2021

Introduced by Sen. KAPLAN -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

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:

§ 605-f. Disability benefits; certain disabilities. Notwithstanding any provision of this chapter or of any general, special or local law to

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

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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. 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.

§ 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, it would lead to more disabilities being classified as "accidental". 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	Service
Cost for revised benefit:	7.5 times salary	3.5 times salary	1 times salary

However, we anticipate that few additional accidental disability retirements will be granted, and thus, the resulting costs are expected to be negligible.

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 January 5, 2021, and intended for use only during the 2021 Legislative Session, is Fiscal Note No. 2021-13, prepared by the Actuary for the New York State and Local Retirement System.