STATE OF NEW YORK

4233--A

2021-2022 Regular Sessions

IN SENATE

February 3, 2021

Introduced by Sens. GOUNARDES, GAUGHRAN, KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- 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 general municipal law, in relation to disability retirement benefits for the presumption of Parkinson's Disease for paid firefighters

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 363-ff to read as follows:

§ 363-ff. Firefighter certain impairments of health; presumption. Notwithstanding any other provisions of this chapter to the contrary, any condition of impairment of health caused by Parkinson's Disease, resulting in total or partial disability or death to a paid firefighter, who successfully passed a physical examination on entry into firefighter service, which examination failed to reveal any evidence of such condition, shall be presumptive evidence that, unless the contrary be proven by competent evidence, such disability or death (a) was caused by the natural and proximate result of an accident, not caused by such firefighter's own willful negligence, and (b) was sustained in the performance and discharge of duty.

§ 2. The general municipal law is amended by adding a new section 207-kkk to read as follows:

§ 207-kkk. Disabilities of firefighters in certain cities caused by Parkinson's Disease. Notwithstanding any other provisions of this chapter to the contrary, any condition of impairment of health caused by Parkinson's Disease resulting in total or partial disability or death to a paid member of a fire department in a city with a population of one million or more, or any retired member of such department who has been retired for two or less years, who successfully passed a physical exam-

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

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inination on entry into the service of such department, which examination failed to reveal any evidence of such condition, shall be presumptive evidence that it was incurred in the performance and discharge of duty unless the contrary be proved by competent evidence.

§ 3. The board of trustees of the New York city fire department pension fund shall take appropriate administrative action to implement the intent of section two of this act.

§ 4. This act shall take effect immediately.

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

This bill would amend both the General Municipal Law and the Retirement and Social Security Law to provide firefighters with a presumption that any disability or death resulting from impairments of health related to Parkinson's Disease are the result of an accident sustained in the performance of duty, unless the contrary can be proven by competent evidence.

Insofar as it will affect the New York State and Local Police and Fire Retirement System (PFRS), if this bill is enacted it would lead to more disabilities and deaths 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	POD Disability	Service	Death
Cost for revised benefit:	9 times salary	5 times salary	2.5 times salary	2 times salary	11 times salary

However, we anticipate that few additional accidental disability retirements and death benefits will be granted, and thus, the resulting costs are expected to be negligible. All costs will be shared by the State of New York and the participating employers in the PFRS.

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 14, 2021, and intended for use only during the 2021 Legislative Session, is Fiscal Note No. 2021-22, prepared by the Actuary for the New York State and Local Retirement System.

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

SUMMARY OF BILL: This proposed legislation as it relates to the New York City Fire Pension Fund (FIRE) would amend the General Municipal Law (GML) to add a new Section 207-kkk to provide a statutory presumption to

certain FIRE members and retirees who become physically incapacitated for performance of duty, or die, while so employed, or within 2 years of their respective date of retirement, due to Parkinson's Disease.

A qualifying FIRE member or retiree who dies or suffers from a disability due to Parkinson's Disease, absent evidence of such condition upon physical examination at hire, would be provided with a rebuttable presumption that such disability was incurred in the performance and discharge of duty. The presumption of causation could be rebutted by competent evidence to the contrary.

Effective Date: Upon enactment.

FINANCIAL IMPACT - OVERVIEW: There is no data available to estimate the number of members or eligible retirees who might develop and become disabled or die due to Parkinson's Disease, and potentially benefit from this proposed legislation. Therefore, the estimated financial impact has been calculated on a per event basis equal to the increase in the Present Value of Future Benefits (PVFB) for an average affected member who is diagnosed with Parkinson's Disease as the result of the enactment of the proposed legislation and who would benefit from the proposed legislation.

In determining the increase in the PVFB, it has been assumed that 100% of the members who would retire with Parkinson's Disease would retire under ordinary disability if the proposed legislation were not passed. Due to the progressive nature of Parkinson's Disease, the increase in PVFB does not include any cost for additional death benefits.

With respect to an individual member or eligible retiree, the additional cost of this proposed legislation varies greatly.

FINANCIAL IMPACT - PRESENT VALUES: Based on the census data and the actuarial assumptions and methods described herein, the enactment of this proposed legislation would increase the PVFB by an amount ranging from $189,600 to $1,391,200 if an eligible firefighter who could benefit from the proposed legislation develops Parkinson's Disease. The average increase in PVFB for a single eligible member who could benefit from the proposed legislation is approximately $613,900.

FINANCIAL IMPACT - ANNUAL EMPLOYER CONTRIBUTIONS: Enactment of this proposed legislation would increase employer contributions, where such amount would depend on the number of members affected as well as other characteristics including the age, years of service, and salary of each member.

As there is no data currently available to estimate the number of members who might be diagnosed with Parkinson's Disease, the financial impact would be recognized at the time of event. Consequently, changes in employer contributions have been estimated assuming that the increase in the PVFB will be financed over a time period used for actuarial losses in accordance with Section 13-638.2(k-2) of the ACCNY. Using this approach, the additional PVFB would be amortized over a closed 15-year period (14 payments under the One-Year Lag Methodology) using level dollar payments.

Based on the Actuary's actuarial assumptions and methods in effect for the June 30, 2019 (Lag) actuarial valuations used to determine the Preliminary Fiscal Year 2021 employer contribution of FIRE, the enactment of this proposed legislation is estimated to increase annual employer contributions by an amount ranging from $22,400 to $164,600 if a qualifying member develops Parkinson's Disease. The average increase in annual employer contributions for a single member who could benefit from the proposed legislation is approximately $72,600. With respect to the timing, increases in employer contributions would depend upon when

members begin to receive an accidental benefit due to Parkinson's Disease but, generally, increased employer contributions will first occur the second fiscal year following approval of the accident disability retirement.

CENSUS DATA: For purposes of this Fiscal Note, it was assumed that the census data had the same age, gender, and service characteristics as the census data used in the Preliminary June 30, 2019 (Lag) actuarial valuation of FIRE to determine the Preliminary Fiscal Year 2021 employer contribution. Active members' salaries and balances have been adjusted to reflect estimated salary increases from June 30, 2019 to June 30, 2020.

There are 11,244 active FIRE members as of June 30, 2019 who could potentially benefit from the proposed legislation. These active members had an average age of approximately 40.5 years, average service of approximately 13.8 years, and an average salary of approximately $118,900.

There are 245 retired FIRE members who retired between July 1, 2017 and June 30, 2019 who were receiving a pension benefit, other than Accidental Disability or Accidental Death, as of June 30, 2019 and could potentially benefit from the proposed legislation. These retired members had an average age of approximately 56.5 years and an average pension benefit of approximately $108,400.

ACTUARIAL ASSUMPTIONS AND METHODS: The changes in the Present Value of future employer contributions and annual employer contributions presented herein have been calculated based on the actuarial assumptions and methods in effect for the June 30, 2019 (Lag) actuarial valuations used to determine the Preliminary Fiscal Year 2021 employer contribution of FIRE.

The Actuary is proposing a set of changes for use in the June 30, 2019 (Lag) actuarial valuations of NYCRS to determine the Final Fiscal Year 2021 Employer Contributions (2021 A&M). If the 2021 A&M is enacted it is estimated that it would produce increases in the Present Value of Employer Contributions and annual employer contributions that are approximately 2% larger than the results shown above.

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 FIRE 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.

Not measured in this Fiscal Note are the following:

* The initial, additional administrative costs to implement the proposed legislation.

* The impact of this proposed legislation on Other Postemployment Benefit (OPEB) costs.

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 2021-12 dated March 25, 2021 was prepared by the Chief Actuary for the New York City Fire Pension Fund. This estimate is intended for use only during the 2021 Legislative Session.