

STATE OF NEW YORK

9294

IN SENATE

May 12, 2022

Introduced by Sen. GOUNARDES -- 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 and the workers' compensation law, in relation to participants in the World Trade Center rescue

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

1 Section 1. Paragraph (a) of subdivision 36 of section 2 of the retire-
2 ment and social security law, as amended by chapter 425 of the laws of
3 2021, is amended to read as follows:

4 (a) "Qualifying World Trade Center condition" shall mean a qualifying
5 condition or impairment of health resulting in disability to a member
6 who participated in World Trade Center rescue, recovery or cleanup oper-
7 ations for a qualifying period, as those terms are defined below,
8 provided the following conditions have been met: (i) such member, or
9 eligible beneficiary in the case of the member's death, must have either
10 filed a written and sworn statement with the member's retirement system
11 on a form provided by such system, or as allowed by the member's retire-
12 ment system, electronically submitted a statement on a form provided by
13 such system through a secure online portal maintained by the member's
14 retirement system that has duly validated the member's identity, indi-
15 cating the underlying dates and locations of employment not later than
16 September eleventh, two thousand ~~twenty-two~~ twenty-six, and (ii) such
17 member has either successfully passed a physical examination for entry
18 into public service, or authorized release of all relevant medical
19 records, if the member did not undergo a physical examination for entry
20 into public service; and (iii) there is no evidence of the qualifying
21 condition or impairment of health that formed the basis for the disabil-
22 ity in such physical examination for entry into public service or in the
23 relevant medical records, prior to September eleventh, two thousand one
24 except for such member, or eligible beneficiary in the case of the
25 member's death, of a local retirement system of a city with a population
26 of one million or more that is covered by section 13-551 of the adminis-
27 trative code of the city of New York, or by section twenty-five hundred

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

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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]~~ twenty-six 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]~~ twenty-six, including those that are rejected for filing as untimely.

§ 2. Section 162 of the workers' compensation law, as amended by chapter 266 of the laws of 2018, is amended to read as follows:

§ 162. Registration of participation in World Trade Center rescue, recovery and clean-up operations. In order for the claim of a participant in World Trade Center rescue, recovery and clean-up operations to come within the application of this article, such participant must file a written and sworn statement with the board on a form promulgated by the chair indicating the dates and locations of such participation and the name of such participant's employer during the period of participation. Such statement must be filed not later than September eleventh, two thousand ~~[twenty-two]~~ twenty-six. The board shall transmit a copy of such statement to the employer or carrier named therein. The filing of such a statement shall not be considered the filing of a claim for benefits under this chapter.

§ 3. Section 168 of the workers' compensation law is amended by adding a new subdivision 5 to read as follows:

5. A claim by a participant in the World Trade Center rescue, recovery or cleanup operations whose disablement occurred between September eleventh, two thousand seventeen, and September eleventh, two thousand twenty-one, shall not be disallowed as barred by section eighteen or section twenty-eight of this chapter if such claim is filed on or before September eleventh, two thousand twenty-six. Any such claim by a participant in the World Trade Center rescue, recovery or cleanup operations whose disablement occurred between September eleventh, two thousand seventeen, and September eleventh, two thousand twenty-one, and was disallowed by section eighteen or twenty-eight of this chapter shall be reconsidered by the board.

§ 4. Notwithstanding any other provision to the contrary, none of the provisions of this act shall be subject to section 25 of the retirement and social security law.

1 § 5. This act shall take effect immediately and shall be deemed to
 2 have been in full force and effect on and after September 11, 2001;
 3 provided, however, that the amendments to sections 162 and 168 of the
 4 workers' compensation law made by sections two and three of this act,
 5 respectively, shall apply to all open and closed claims coming within
 6 its purview.

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

This bill would amend chapter 93 of the Laws of 2005 and chapter 445 of the Laws of 2006, which provided that, for members of public retirement systems who contract any form of disease related to exposure to any elements connected to the World Trade Center (WTC) attack of September 11, 2001, resulting in disability or death, said disability or death will be presumed to be a result of an accident and sustained in the performance of duty

Insofar as this bill affects the New York State and Local Employees' Retirement System (NYSLERS) and the New York State and Local Police and Fire Retirement System (NYSLPFRS), if enacted during the 2022 legislative session, this legislation would extend the deadline for filing notice regarding the eligibility for benefits for certain members who participated in the World Trade Center rescue, recovery or cleanup operation to September 11, 2026.

By extending the deadline for filing notice, certain current and future retirement benefits would be reclassified as a WTC accidental disability. The cost of the revised benefit will depend upon the applicant's age, service, salary, plan, and benefit type otherwise payable.

Benefit without	None	Ordinary	Performance of	Service
enactment:		Disability	Duty Disability	

Cost for WTC benefit:	10 times	5.5 times	3 times	2 times
	salary	salary	salary	salary

This bill would also lead to more deaths being classified as "accidental". For each death classified as accidental due to this bill, the cost would depend on the age, service, salary, plan, and status of the member at time of death. It is estimated that the cost for each NYSLERS and NYSLPFRS participant affected would average approximately 4.5 times final average salary and 13 times final average salary, respectively.

The provisions of this act will not be subject to Section 25 of the Retirement and Social Security Law. Therefore, all costs would be shared by the State of New York and the participating employers in the NYSLERS and NYSLPFRS.

The exact number of current and future participants who could be affected by this legislation cannot be readily determined.

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 May 2, 2022, and intended for use only during the 2022 Legislative Session, is Fiscal Note No. 2022-130, prepared by the Actuary for the New York State and Local Retirement System.