STATE OF NEW YORK

5205--A

2023-2024 Regular Sessions

IN ASSEMBLY

March 6, 2023

Introduced by M. of A. PHEFFER AMATO, COLTON, SANTABARBARA, GUNTHER -- read once and referred to the Committee on Governmental Employees -- 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 a lung disease presumption for correction officers, correction supervisors, deputy sheriff patrol or deputy sheriff patrol supervisors

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-j to read as follows:

§ 63-j. 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 correction officer, correction supervisor, deputy sheriff patrol or deputy sheriff patrol supervisor who is a member of the New York state and local employees' retirement system and contracts any condition of impairment of health caused by diseases of the lung, resulting in disability or death to such correction officer, correction supervisor, deputy sheriff patrol or deputy sheriff patrol supervisor, 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 correction officer, correction supervisor, deputy sheriff patrol or deputy sheriff patrol supervisor successfully passed a physical examination which failed to disclose evidence of any disease or other impairment of the lung.

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

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§ 2. The retirement and social security law is amended by adding a new section 605-h to read as follows:

§ 605-h. 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 correction officer, correction supervisor, deputy sheriff patrol or deputy sheriff patrol supervisor who is a member of the New York state and local employees' retirement system and contracts any condition of impairment of health caused by diseases of the lung, resulting in disability or death to such correction officer, correction supervisor, deputy sheriff patrol or deputy sheriff patrol supervisor, 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 correction officer, correction supervisor, deputy sheriff patrol or deputy sheriff patrol supervisor successfully passed a physical examination which failed to disclose evidence of any disease or other impairment of the lung.

§ 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 any non-seasonally appointed sworn member or officer of the division of law enforcement, police officer, or forest ranger in the department of environmental conservation; any regional state park police officer; or any university police officer to become covered by the provisions of a special 20-year retirement plan, which will provide a benefit of one-half of final average salary upon retirement and an additional benefit of one-sixtieth of final average salary for each year of creditable service in excess of 20 years, not to exceed 12 years.

If this bill is enacted during the 2024 Legislative Session, we anticipate that there will be an increase of approximately $6.6 million in the annual contributions of the State of New York for the fiscal year ending March 31, 2025. In future years this cost will vary but is expected to average 3.9% of salary annually.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately $70.3 million which will be borne by the State of New York as a one-time payment. This estimate assumes that payment will be made on March 1, 2025. If the State of New York elects to amortize this cost over a 10-year period, the cost for each year including interest would be $8.98 million.

These estimated costs are based on 1,228 affected members employed by the State of New York, with annual salary of approximately $131 million as of March 31, 2023.

Summary of relevant resources:

Membership data as of March 31, 2023 was used in measuring the impact of the proposed change, the same data used in the April 1, 2023 actuarial valuation. Distributions and other statistics can be found in the 2023 Report of the Actuary and the 2023 Annual Comprehensive Financial Report.

The actuarial assumptions and methods used are described in the 2023 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, 2023 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 22, 2024, and intended for use only during the 2024 Legislative Session, is Fiscal Note No. 2024-90, prepared by the Actuary for the New York State and Local Retirement System.