STATE OF NEW YORK

6861--A

2023-2024 Regular Sessions

IN ASSEMBLY

May 8, 2023

Introduced by M. of A. PHEFFER AMATO -- 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 disability retirement benefits for the presumption of post-traumatic stress disorder for certain titles

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 605-h to read as follows:

§ 605-h. Disability retirement for certain dispatchers. 1. A member employed as a communications technician, communications specialist, communications operator, radio dispatcher, or emergency dispatcher by any state agency, department, or division, a county 911 dispatcher, a county 911 dispatcher supervisor, a New York city fire alarm dispatcher, a New York city supervising fire alarm dispatcher level one or a New York city supervising fire alarm dispatcher level two shall be entitled to disability retirement allowance, if, at the time application therefor is filed, such member is physically or mentally incapacitated for performance of duty as a result of contracting post-traumatic stress disorder while so employed and as a result of their employment.

2. Notwithstanding any provision of this chapter or of any general, special or local law to the contrary, any member who is a communications technician, communications specialist, communications operator, radio dispatcher, or emergency dispatcher by any state agency, department, or division, a county 911 dispatcher, a county 911 dispatcher supervisor, a New York city fire alarm dispatcher, a New York city supervising fire alarm dispatcher level one or a New York city supervising fire alarm dispatcher level two who is diagnosed as suffering from post-traumatic

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

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stress disorder resulting in disability to such fire alarm dispatcher, presently employed, and who shall have sustained such disability while so employed, shall have such diagnosis be presumptive evidence that such disability was incurred in the performance and discharge of duty, unless the contrary be proven by competent evidence.

3. The annual retirement allowance payable shall be equal to the three-quarters of their final average salary, subject to the provisions of section sixty-four of this chapter.

§ 2. This act shall take effect immediately.

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

This bill would grant improved disability eligibility to any Tier 3, 4, 5 or 6 member of the New York State and Local Employees' Retirement System (NYSLERS) employed in the title of

1. Communication technician, specialist, or operator,
2. Radio dispatcher or Emergency dispatcher, or
3. County 911 dispatcher or supervisor.

For any member so employed who is diagnosed with post-traumatic stress disorder, resulting in disability, such diagnosis shall be considered as presumptive evidence that the disability was incurred in the performance of the member's duties, unless the contrary be proven by competent evidence. The annual accidental disability benefit for these members would be 75% of final average salary (FAS), minus workers' compensation. Current disability benefits vary by employer.

Insofar as this bill affects the New York State and Local Employees' Retirement System (NYSLERS), pursuant to Section 25 of the Retirement and Social Security Law, the increased costs would be borne entirely by the State of New York and would require an itemized appropriation sufficient to pay the cost of the provision. If this bill were enacted during the 2024 Legislative Session, the increase in the present value of benefits would be approximately $1.4 billion.

In the NYSLERS, this benefit improvement will be funded by (1) billing a past service cost to cover retrospective benefit increases and (2) increasing the billing rates charged annually to cover prospective benefit increases, as follows:

(1) To fund retrospective costs, the State of New York will be required to pay $445 million as of March 1, 2025.

(2) To fund prospective costs, the annual contribution required of the State of New York and local participating employers will increase by 2.0% of affected member salary, or approximately $42 million to the State of New York and 49.5 million to the local participating employers, beginning in fiscal year ending March 31, 2025. This **permanent annual cost** will vary in subsequent billing cycles with changes in the billing rate and salary of the affected members.

Further, this proposal will require many of the 3,000 participating employers to modify their reporting to the NYSLERS to identify the affected members. As a result, we anticipate additional administrative costs to implement the provisions of this legislation.

The exact number of current members as well as future members who could be affected by this legislation cannot be readily determined.

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 April 12, 2024, and intended for use only during the 2024 Legislative Session, is Fiscal Note No. 2024-6, prepared by the Actuary for the New York State and Local Retirement System.