STATE OF NEW YORK

9113

IN ASSEMBLY

February 7, 2024

Introduced by M. of A. WEPRIN -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the retirement and social security law, in relation to making certain participants in World Trade Center rescue, recovery, or cleanup operations eligible for disability benefits

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

Section 1. Paragraph 4 of subdivision d of section 605 of the retirement and social security law, as added by chapter 252 of the laws of 2019, is amended to read as follows:

4. Notwithstanding any other law, rule or regulation to the contrary, any member who had an active membership in the New York state and local employees' retirement system or the New York state teachers' retirement system, when such member participated in World Trade Center rescue, recovery, or cleanup operations, as such participation is defined in section two of this chapter, **or any active member with at least ten years of service credit who did not have an active membership in the New York state and local employees' retirement system or the New York state teachers' retirement system at the time such individual participated in such World Trade Center rescue, recovery, or cleanup operations, but who is now an active member with a participating employer in the New York state and local employees' retirement system or the New York state teachers' retirement system, and** who incurred a qualifying World Trade Center condition, as defined in section two of this chapter, that is determined to have been incurred in the performance and discharge of duty and is the natural and proximate result of an accident not caused by such member's own willful negligence, shall be paid a performance of duty disability retirement allowance equal to three-quarters of final average salary. The payment of such pension shall be subject to the provisions of section sixty-four of this chapter.

§ 2. Subdivision h-1 of section 507 of the retirement and social security law, as added by chapter 252 of the laws of 2019, is amended to read as follows:

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

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h-1. Notwithstanding any other law, rule or regulation to the contrary, any member who had an active membership in the New York state and local employees' retirement system or the New York state teachers' retirement system, when such member participated in World Trade Center rescue, recovery, or cleanup operations, as such participation is defined in section two of this chapter, **or any active member with at least ten years of service credit who did not have an active membership in the New York state and local employees' retirement system or the New York state teachers' retirement system at the time such individual participated in such World Trade Center rescue, recovery, or cleanup operations, but who is now an active member with a participating employer in the New York state and local employees' retirement system or the New York state teachers' retirement system, and** who incurred a qualifying World Trade Center condition, as defined in section two of this chapter, that is determined to have been incurred in the performance and discharge of duty and is the natural and proximate result of an accident not caused by such member's own willful negligence, shall be paid a performance of duty disability retirement allowance equal to three-quarters of final average salary. The payment of such pension shall be subject to the provisions of section sixty-four of this chapter.

§ 3. This act shall take effect immediately.

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

This bill would amend the benefits of certain members of the New York State and Local Employees' Retirement System (NYSLERS) who are currently subject to the provisions of Article 14 or Article 15 of the Retirement and Social Security Law, who contract any form of disease or disability related to exposure to any elements in connection with the World Trade Center (WTC) rescue, recovery or cleanup operations, **and who were not members of such public retirement systems at the time of participation in said operations**. The annual accidental disability benefit would be 75 percent of a member's final average salary less workers' compensation, regardless of plan coverage. Currently, eligible members receive the accidental disability benefit specified in the plan under which they are covered, which for most Article 14 and 15 members is 1/3 of final average salary. This improved benefit would be payable only to current members with at least ten years of credited service. Current retirees and their beneficiaries would not be affected by this bill.

Insofar as this bill would affect NYSLERS, the cost will depend upon the applicant's age, service, salary, plan, and any benefit type otherwise payable, but is expected to cost up to 4 times final average salary per applicant.

Approximately 50 active NYSLERS members, with a combined salary of approximately $4.5 million as of March 31, 2023, have filed an Application for WTC Notice and been rejected on the grounds that they were not members at the time of their participation in certain WTC rescue, recovery or cleanup operations. However, the actual number of members who could be affected by this legislation cannot be readily determined. Pursuant to Section 25 of the Retirement and Social Security Law, those costs arising in the NYSLERS would be borne by the State of New York.

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 February 1, 2024, and intended for use only during the 2024 Legislative Session, is Fiscal Note No. 2024-10, prepared by the Actuary for the New York State and Local Retirement System.