STATE OF NEW YORK

9542

IN ASSEMBLY

March 20, 2024

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

AN ACT to amend the retirement and social security law, in relation to providing a heart 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 heart, 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 heart.

§ 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

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

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and contracts any condition of impairment of health caused by diseases of the heart, 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 heart.

§ 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 certain members of the New York State and Local Employees' Retirement System (NYSLERS) employed as correction officers, correction supervisors, deputy sheriff patrol, or deputy sheriff patrol supervisors to receive an accidental disability benefit if the member is impaired due to a condition of the heart as a result of an accident, in the performance of their duties, unless the contrary be proven by competent evidence. For members in Tiers 1 and 2, the annual benefit would be 3/4 of final average salary (FAS) less workers' compensation. For members in Tiers 3-6 who are covered under the provisions of Article 14-B of the Retirement and Social Security Law (RSSL), the annual benefit would be 2/3 of FAS less workers' compensation. For all other affected members in Tiers 3-6, the annual benefit would be 1/3 of FAS.

The provisions of Section 25 of the RSSL shall not apply.

If this legislation is enacted during the 2024 Legislative Session, it would likely lead to more disabilities and deaths being classified as "accidental."

We anticipate that there will be a total increase of approximately $2.84 million in the annual contributions made by the counties employing the affected members for the fiscal year ending March 31, 2025. In future years this cost will vary as the billing rates and salary of the affected members change, but is expected to average:

Current Plan	Increase to Employer Billing Rate
Article 14-B	0.3% of salary
89-series, 25-Year Plans	0.2% of salary

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately $7.42 million which will be shared by the State of New York and the local participating employers in the NYSLERS. This estimate assumes that payment will be made on February 1, 2025.

Further, we anticipate that there will be some administrative costs to implement the provisions of this legislation.

The number of members and retirees who could be affected by this legislation cannot be readily determined, but this cost was developed based on the 10,930 affected members covered under RSSL Article 14-B and the Section 89 series 25-Year Plans, with annual salary of approximately $1.0 billion 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 March 8, 2024, and intended for use only during the 2024 Legislative Session, is Fiscal Note No. 2024-83, prepared by the Actuary for the New York State and Local Retirement System.