STATE OF NEW YORK

6387--B

2023-2024 Regular Sessions

IN SENATE

April 18, 2023

Introduced by Sen. GOUNARDES -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- recommitted to the Committee on Civil Service and Pensions in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- 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

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

LBD01365-13-4

alarm dispatcher level one or a New York city supervising fire alarm dispatcher level two who is diagnosed as suffering from post-traumatic 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 for members of the New York state and local employees' retirement system or section 13-176 of the administrative code of the city of New York for members of the New York city employees' retirement system.

§ 2. This act shall take effect immediately.

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

SUMMARY: This proposed legislation would provide a rebuttable statutory presumption to Fire Alarm Dispatchers, whose disability results from post-traumatic stress disorder (PTSD) and provide a performance of duty disability retirement benefit equivalent to 75% of the member's Final Average Salary (FAS) offset by an explicit Workers' Compensation benefit.

ILLUSTRATION - INCREASE (DECREASE) IN EMPLOYER CONTRIBUTIONS
by Fiscal Year for the first 25 years ($ in Thousands)

Year	One Incident	One Incident Per Year
2025	56	56
2026	56	114
2027	56	174
2028	56	236
2029	56	299
2030	56	365
2031	56	432
2032	56	501
2033	56	573
2034	56	646
2035	56	722
2036	56	800
2037	56	881
2038	56	964
2039	0	992
2040	0	1,022
2041	0	1,053
2042	0	1,084
2043	0	1,117
2044	0	1,151
2045	0	1,185
2046	0	1,221
2047	0	1,257
2048	0	1,295
2049	0	1,334

Employer contribution impact beyond Fiscal Year 2049 is not shown.

The potential increases in employer contributions will be allocated to New York City.

EXPECTED INCREASE (DECREASE) IN ACTUARIAL LIABILITIES
as of June 30, 2023 ($ in Thousands)

Present Value (PV)	Per Disability
PV of Benefits:	443
PV of Employee Contributions:	(33)
PV of Employer Contributions:	477
Unfunded Accrued Liabilities:	477

AMORTIZATION OF UNFUNDED ACCRUED LIABILITY

Recognized as Ongoing Gain/Loss	Per Disability
Number of Payments:	14
Amortization Payment:	56 K

CENSUS DATA: The number of members who will benefit in the future from this fiscal note is unknown. The estimates presented herein are based on preliminary census data collected as of June 30, 2023. The census data for the potentially impacted population used to develop the average costs is summarized below.

	NYCERS
Active Members	
- Number Count:	187
- Average Age:	41.0
- Average Service:	12.2
- Average Salary:	82,900

IMPACT ON MEMBER BENEFITS: Currently, an active member of NYCERS who is employed as a Fire Alarm Dispatcher and becomes disabled due to PTSD, is eligible for an ordinary disability retirement, generally a lifetime payment of 1/60th of Final Average Salary (FAS) times service not less than 1/3 of FAS.

Under the proposed legislation, the performance of duty disability benefit would be equal to:

* 75% of Final Average Salary (FAS), where
* FAS is defined as 3-Year FAS for Tier 4 and 5-Year FAS for Tier 6, with
* an explicit Workers' Compensation offset.

ASSUMPTIONS AND METHODS: The estimates presented herein have been calculated based on the Revised 2021 Actuarial Assumptions and Methods of NYCERS.

The number of additional members and eligible retirees who will benefit in the future from this fiscal note is unknown and included as per incident disability costs. The cost of this proposed legislation could vary greatly depending on the number of future members who benefit and on their length of service, age, and salary history.

The estimated per incident financial impact for disabled members has been calculated assuming 50% would retire under the current ordinary disability benefit, and 50% would continue working if the proposed legislation were not passed.

RISK AND UNCERTAINTY: The costs presented in this Fiscal Note depend highly on the actuarial assumptions, methods, and models used, demographics of the impacted population, and other factors such as investment, contribution, and other risks. If actual experience deviates from actuarial assumptions, the actual costs could differ from those presented herein. Quantifying these risks is beyond the scope of this Fiscal Note.

This Fiscal Note is intended to measure pension-related impacts and does not include other potential costs (e.g., administrative and Other Postemployment Benefits).

STATEMENT OF ACTUARIAL OPINION: Marek Tyszkiewicz and Gregory Zelikovsky are members of the Society of Actuaries and the American Academy of Actuaries. We are members of NYCERS but do not believe it impairs our objectivity and we meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein. To the best of our knowledge, the results contained herein have been prepared in accordance with generally accepted actuarial principles and procedures and with the Actuarial Standards of Practice issued by the Actuarial Standards Board.

FISCAL NOTE IDENTIFICATION: This Fiscal Note 2024-48 dated May 3, 2024 was prepared by the Chief Actuary for the New York City Retirement Systems and Pension Funds. This estimate is intended for use only during the 2024 Legislative Session.

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 May 15, 2024, and intended for use only during the 2024 Legislative Session, is Fiscal Note No. 2024-183, prepared by the Actuary for the New York State and Local Retirement System.