STATE OF NEW YORK

5205--B

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 -- again reported from said committee with amendments, 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

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

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physical examination which failed to disclose evidence of any disease or other impairment of the lung.

§ 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 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 lung 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 will not apply.

Insofar as this bill affects the NYSLERS, if this legislation is enacted during the 2024 Legislative Session, it would likely lead to more disabilities being classified as "accidental." The cost of the revised benefit will depend upon the applicant's age, service, salary, plan, and any benefit type otherwise payable but would average:

Benefit prior to enactment:	None	Ordinary Disability	Performance of Duty	Service Retirement
NYSLERS cost for proposed benefit:	10 times salary	5.5 times salary	3 times salary	2 times salary

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

All costs arising from this bill would be shared by the State of New York and all the participating employers in the NYSLERS.

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 31, 2024, and intended for use only during the 2024 Legislative Session, is Fiscal Note No. 2024-31, prepared by the Actuary for the New York State and Local Retirement System.