STATE OF NEW YORK

6861

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

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-g to read as follows:

§ 605-g. 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 his or her 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 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

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

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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 his or her final average salary.

§ 2. This act shall take effect immediately.

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

SUMMARY OF BILL: This proposed legislation would amend the Retirement and Social Security Law (RSSL) to add a new Section 605-g to provide a rebuttable statutory presumption to Tier 4 and Tier 6 members of the New York City Employees' Retirement System (NYCERS) who are Fire Alarm Dispatchers and Supervising Fire Alarm Dispatchers, and who become physically or mentally incapacitated for performance of duty due to 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).

In determining whether disabling PTSD was caused by employment as a Dispatcher, the diagnosis of PTSD would be presumptive evidence that such disability was incurred in the performance and discharge of duty, unless the contrary is proven by competent evidence.

Effective Date: Upon enactment.

IMPACT ON BENEFITS: Currently, an active member of NYCERS who is employed as a Fire Alarm Dispatcher and becomes disabled due to PTSD would be eligible for an applicable ordinary disability retirement, generally a lifetime payment equal to the greatest of 1/3 of FAS, 1/60th of FAS for each year of service, or the service retirement benefit, if eligible.

Under the proposed legislation, the benefits for active members of NYCERS working as Fire Alarm Dispatchers who become physically or mentally incapacitated for performance of duty due to PTSD would be revised to equal a retirement allowance of 75% multiplied by FAS.

FINANCIAL IMPACT - OVERVIEW: There is no data available to estimate the number of members who might develop and become disabled by PTSD, and potentially benefit from this proposed legislation. Therefore, the estimated financial impact has been calculated on a per event basis equal to the increase in the present value of future employer contributions for an average member who could potentially be diagnosed with PTSD and who would benefit from the proposed legislation.

In determining the increase in the present value for members who could benefit from the presumption provided by the proposed legislation, it has been assumed that 50% of the members would have retired under an Ordinary Disability Retirement (ODR) benefit, and the remaining 50% of members would have continued working and eventually retired for service if the proposed legislation were not passed.

With respect to an individual member, the additional cost of this proposed legislation could vary greatly depending on the member's length of service, age, and salary history. In particular, the increase due to the proposed legislation would be greater for a member who is not yet eligible for an ODR benefit when PTSD is diagnosed.

FINANCIAL IMPACT - PRESENT VALUES: Based on the census data and the actuarial assumptions and methods described herein, the enactment of this proposed legislation would increase the present value of future employer contributions by approximately $460,400, on average, for each occurrence of performance of duty disability due to PTSD.

FINANCIAL IMPACT - ANNUAL EMPLOYER CONTRIBUTIONS: Enactment of this proposed legislation would increase employer contributions, where such amount would depend on the number of members affected as well as other

characteristics including the age, years of service, and salary history of the member.

Based on the actuarial assumptions and methods described herein, the enactment of this proposed legislation is estimated to increase annual employer contributions by approximately $54,500, on average, for each performance of duty retirement due to PTSD.

As there is no data currently available to estimate the number of members who might be diagnosed with disabling PTSD, the financial impact would be recognized at the time of event. Consequently, changes in employer contributions have been estimated assuming that the increase in the present value of future employer contributions will be financed over a closed 15-year period (14 payments under the One-Year Lag Methodology) using level dollar payments.

With respect to the timing, increases in employer contributions would depend upon when members would retire due to PTSD but, generally, increased employer contributions will first occur the second fiscal year following approval of the performance of duty retirement benefit.

CENSUS DATA: The estimates presented herein are based on the census data used in the June 30, 2022 actuarial valuation of NYCERS to determine the Preliminary Fiscal Year 2024 employer contributions.

The 186 Fire Alarm Dispatchers and Supervising Fire Alarm Dispatchers who participate in NYCERS as of June 30, 2022 had an average age of approximately 40.5 years, average service of approximately 12.0 years, and an average salary of approximately $81,800. This group consisted of 113 Tier 4 active members and 73 Tier 6 active members.

ACTUARIAL ASSUMPTIONS AND METHODS: The estimates presented herein have been calculated based on the actuarial assumptions and methods used for the Preliminary Fiscal Year 2024 employer contributions of NYCERS.

RISK AND UNCERTAINTY: The costs presented in this Fiscal Note depend highly on the realization of the actuarial assumptions 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.

Costs are also dependent on the actuarial methods used, and therefore different actuarial methods could produce different results. Quantifying these risks is beyond the scope of this Fiscal Note.

Not measured in this Fiscal Note are the following:

* The initial additional administrative costs of NYCERS and other New York City agencies to implement the proposed legislation.

* The impact of this proposed legislation on Other Postemployment Benefit (OPEB) costs.

STATEMENT OF ACTUARIAL OPINION: I, Marek Tyszkiewicz, am the Chief Actuary for, and independent of, the New York City Retirement Systems and Pension Funds. I am an Associate of the Society of Actuaries and a Member of the American Academy of Actuaries. I am a member of NYCERS but do not believe it impairs my objectivity and I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein. To the best of my 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 2023-31 dated April 14, 2023 was prepared by the Chief Actuary for the New York City Employees' Retirement System. This estimate is intended for use only during the 2023 Legislative Session.