STATE OF NEW YORK

7389--A

2023-2024 Regular Sessions

IN ASSEMBLY

May 19, 2023

Introduced by M. of A. PHEFFER AMATO, CUNNINGHAM, WEPRIN, ZACCARO, EACHUS, SILLITTI -- 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

AN ACT to amend the retirement and social security law, in relation to the eligibility of New York city transit authority employees for performance of duty disability retirement

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

Section 1. Section 607-b of the retirement and social security law is amended by adding a new subdivision a-1 to read as follows:

a-1. Any member of the New York city employees' retirement system who is employed by the New York city transit authority and who participated in World Trade Center rescue, recovery or cleanup operations, as defined in section two of this chapter, who, on or after September eleventh, two thousand one, becomes physically or mentally incapacitated for the performance of duties as the natural and proximate result of an injury sustained in the performance or discharge of his or her duties as a result of such participation in World Trade Center rescue, recovery or cleanup operations shall be paid a performance of duty disability retirement allowance equal to three-quarters of final average salary, subject to section 13-176 of the administrative code of the city of New York. Any member who has made application or who, after the effective date of this subdivision, makes application for such performance of duty pension shall be entitled to invoke the medical review procedure provided for in subdivision e of section six hundred five of this article, subject to the terms and conditions set forth in such subdivision.

§ 2. This act shall take effect immediately.

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

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

LBD08375-04-4

SUMMARY: This proposed legislation would grant New York City Transit Authority (NYCTA) active and retired members of NYCERS who have incurred a World Trade Center (WTC) Qualifying Condition, a performance of duty disability retirement equivalent to 75% of the member's Final Average Salary (FAS) prospectively as of the effective date.

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

Year	Current WTC Retirees	Future Incidents (Illustration) One Incident	One Incident Per Year
2025	12,200	31	31
2026	0	31	62
2027	0	31	95
2028	0	31	128
2029	0	31	162
2030	0	31	198
2031	0	31	234
2032	0	31	272
2033	0	31	311
2034	0	31	351
2035	0	31	392
2036	0	31	434
2037	0	31	478
2038	0	31	523
2039	0	0	539
2040	0	0	555
2041	0	0	571
2042	0	0	588
2043	0	0	606
2044	0	0	624
2045	0	0	643
2046	0	0	662
2047	0	0	682
2048	0	0	703
2049	0	0	724

Employer contribution impact beyond Fiscal Year 2049 is not shown.

The potential increases in employer contributions will be allocated to the NYCTA.

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

Present Value (PV)	Current WTC Retirees	Future WTC Per Disability
PV of Benefits:	11.0	0.3
PV of Employee Contributions:	0.0	0.0
PV of Employer Contributions:	11.0	0.3
Unfunded Accrued Liabilities:	11.0	0.3

AMORTIZATION OF UNFUNDED ACCRUED LIABILITY

Recognized as Ongoing Gain/Loss	WTC Retirees	Per WTC Disability
Number of Payments:	1	14
Amortization Payment:	12.2 M	0.03 M

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 members who have been approved for WTC benefits and the potentially impacted population used to develop the average costs is summarized below.

	NYCERS
Active Members (Potentially Eligible)	
- Number Count:	7,919
- Average Age:	57.4
- Average Service:	24.4
- Average Salary:	103,300
Receiving Members (Current WTC)	
- Number Count:	52
- Average Age:	65.4

IMPACT ON MEMBER BENEFITS: Currently, a NYCTA member who incurs a WTC Qualifying Condition, is eligible for a performance of duty 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 for a NYCTA member who incur a World Trade Center (WTC) Qualifying Condition would be equal to:

* 75% of FAS, where
* FAS is defined as 3-Year FAS for Tier 4 and 5-Year FAS for Tier 6, less
* any applicable Workers' Compensation benefit.

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

There are currently 52 members who have been approved for WTC benefits. The cost for these members is recognized in the first-year cost. 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 WTC 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 an Accidental Disability benefit, and 50% would continue working if the proposed legislation were not passed.

The bill appears to grant eligible NYCTA members and retirees the ability to utilize the presumptions for infectious diseases pursuant to subsection b of RSSL Section 607-b. Costs associated with granting these presumptions have not been included in this Fiscal Note.

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 2024-23 dated March 11, 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.