STATE OF NEW YORK

7871

2023-2024 Regular Sessions

IN ASSEMBLY

July 7, 2023

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

AN ACT to amend the retirement and social security law, the education law and the volunteer firefighters' benefit law, in relation to disability retirement benefits for the presumption of Parkinson's Disease for volunteer firefighters

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 65 to read as follows:

§ 65. Volunteer firefighter certain impairments of health; presumption. Notwithstanding any other provisions of this chapter to the contrary, any condition of impairment of health caused by Parkinson's Disease, resulting in total or partial disability or death to a member who outside his or her retirement system membership is also a volunteer firefighter in this state and has been for a minimum of five years, where such volunteer firefighter successfully passed a physical examination on entry into service as a volunteer firefighter or subsequent thereto, which examination failed to reveal any evidence of such condition, shall be presumptive evidence that, unless the contrary be proven by competent evidence, such disability or death of the member (a) was caused by the natural and proximate result of an accident, not caused by such member's own willful negligence, and (b) was incurred in the performance and discharge of the member's duty. The member shall submit documentation verifying that they meet the eligibility requirements of this section.

§ 2. The retirement and social security law is amended by adding a new section 363-g to read as follows:

§ 363-g. Volunteer firefighter certain impairments of health; presumption. Notwithstanding any other provisions of this chapter to the contrary, any condition of impairment of health caused by Parkinson's

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

LBD03391-04-3

Disease, resulting in total or partial disability or death to a member who outside his or her retirement system membership is also a volunteer firefighter in this state and has been for a minimum of five years, where such volunteer firefighter successfully passed a physical examination on entry into service as a volunteer firefighter or subsequent thereto, which examination failed to reveal any evidence of such condition, shall be presumptive evidence that, unless the contrary be proven by competent evidence, such disability or death of the member (a) was caused by the natural and proximate result of an accident, not caused by such member's own willful negligence, and (b) was incurred in the performance and discharge of the member's duty. The member shall submit documentation verifying that they meet the eligibility requirements of this section.

§ 3. The education law is amended by adding a new section 511-b to read as follows:

§ 511-b. Volunteer firefighter certain impairments of health; presumption. Notwithstanding any other provisions of this chapter to the contrary, any condition of impairment of health caused by Parkinson's Disease, resulting in total or partial disability or death to a member who outside his or her retirement system membership is also a volunteer firefighter in this state and has been for a minimum of five years, where such volunteer firefighter successfully passed a physical examination on entry into service as a volunteer firefighter or subsequent thereto, which examination failed to reveal any evidence of such condition, shall be presumptive evidence that, unless the contrary be proven by competent evidence, such disability or death of the member (a) was caused by the natural and proximate result of an accident, not caused by such member's own willful negligence, and (b) was incurred in the performance and discharge of the member's duty. The member shall submit documentation verifying that they meet the eligibility requirements of this section.

§ 4. The volunteer firefighters' benefit law is amended by adding a new section 11-d to read as follows:

§ 11-d. Volunteer firefighters; presumption of Parkinson's Disease. Notwithstanding any other provisions of this chapter to the contrary, any condition of impairment of health caused by Parkinson's Disease resulting in total or partial disability or death to a volunteer firefighter, or any retired volunteer firefighter who has been retired for two or less years, where such volunteer firefighter successfully passed a physical examination on entry into service or subsequent thereto, which examination failed to reveal any evidence of such condition, and who has been a volunteer firefighter in this state for a minimum of five years, shall be presumptive evidence that such disability or death (a) was caused by the natural and proximate result of an accident, not caused by such firefighter's own negligence, and (b) was incurred in the performance and discharge of duty, unless the contrary be proven by competent evidence.

§ 5. This act shall take effect immediately.

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

This bill would amend the Retirement and Social Security Law to provide Tier 1 and Tier 2 members of the New York State and Local Employees' Retirement System (NYSLERS) and all members of the New York State and Local Police and Fire Retirement System (NYSLPFRS) with a presumption that any disability or death resulting from impairments of health related to Parkinson's Disease are the result of an accident sustained in the performance of duty unless the contrary can be proven

by competent evidence. To be eligible, the member must (1) be a volunteer firefighter in New York State and have been for at least 5 years, (2) have passed a physical examination, and (3) submit documentation verifying these eligibility requirements are satisfied.

Insofar as it will affect the New York State and Local Retirement System, if this bill is enacted it would lead to more disabilities and deaths being classified as "accidental". The cost of the revised benefit will depend upon the applicant's age, service, salary, plan and benefit type otherwise payable.

Benefit without enactment:	None	Ordinary Disability	POD Disability	Service	Death
Cost for revised benefit:	10 times salary	5.5 times salary	3 times salary	2 times salary	13 times salary

The exact number of current members as well as future members who could be affected by this legislation cannot be readily determined. Those costs arising in the NYSLERS and NYSLPFRS will be shared by the State of New York and the participating employers of each system, respectively.

Summary of relevant resources:

Membership data as of March 31, 2022 was used in measuring the impact of the proposed change, the same data used in the April 1, 2022 actuarial valuation. Distributions and other statistics can be found in the 2022 Report of the Actuary and the 2022 Annual Comprehensive Financial Report.

The actuarial assumptions and methods used are described in the 2020, 2021, and 2022 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, 2022 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 31, 2023, and intended for use only during the 2023 Legislative Session, is Fiscal Note No. 2023-56, prepared by the Actuary for the New York State and Local Retirement System.

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

This bill would amend various sections of the Education Law and the Retirement and Social Security Law to provide an accidental disability benefit to an eligible active member or an accidental death benefit to the beneficiary of an eligible deceased member of the New York State Teachers' Retirement System who has been a volunteer firefighter in New York State for a minimum of five years and develops any condition of impairment of health caused by Parkinson's Disease resulting in total or partial disability or death. Such impairment of health due to Parkinson's Disease will be considered caused by an accident, not caused by such member's own willful negligence, and will be considered to have been incurred in the performance of duty.

Under current law a disability benefit is generally equal to one-third of final average salary. Ten years of service are required to be eligi-

ble for a disability benefit, although this ten-year requirement is waived in the case of an accidental disability incurred during the performance of duty. The amount of the accidental disability benefit is the same as that of the ordinary disability benefit.

Under current law the death benefit for an active member who dies prior to retirement is generally equal to three times the member's last year's salary, payable as a lump sum. The death benefit for an active member who dies prior to retirement as the result of an accident sustained during the performance of duty is equal to a lifetime benefit equal to 50% of the regular salary earned during the member's last year of service.

The overall cost of this bill cannot be readily determined as the ultimate number of volunteer firefighter disability retirements or accidental deaths caused by Parkinson's Disease cannot be determined at this time.

The average cost per individual member impacted is estimated as follows:

Member Age	Disability Benefit	Accidental Death Benefit
30	$250,000 (4.3 times salary)	$240,000 (4.2 times salary)
40	$320,000 (4.0 times salary)	$310,000 (3.9 times salary)
50	$350,000 (3.6 times salary)	$340,000 (3.4 times salary)

The actual cost per member would be dependent on the member and beneficiary's age, tier, years of service and salary. The costs above are determined based on averages, so the actual cost for a member could be higher or lower.

Member data is from the System's most recent actuarial valuation files, consisting of data provided by the employers to the Retirement System. Data distributions and statistics can be found in the System's Annual Report. System assets are as reported in the System's financial statements and can also be found in the System's Annual Report. Actuarial assumptions and methods are provided in the System's Actuarial Valuation Report.

The source of this estimate is Fiscal Note 2023-17 dated June 9, 2023 prepared by the Office of the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2023 Legislative Session. I, Richard A. Young, am the Chief Actuary for the New York State Teachers' Retirement System. I am a member of the American Academy of Actuaries and I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.