STATE OF NEW YORK

5831--A

2023-2024 Regular Sessions

IN SENATE

March 17, 2023

Introduced by Sen. JACKSON -- 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

AN ACT to amend the retirement and social security law, in relation to the disability retirement for safety and security officers

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

Section 1. Section 607-a of the retirement and social security law, as added by chapter 722 of the laws of 1996, subdivision b as amended by chapter 322 of the laws of 2021, and subdivision c as added by chapter 653 of the laws of 1999, is amended to read as follows:

§ 607-a. Performance of duty disability retirement. a. Any security hospital treatment assistant, as that term is defined in subdivision i of section eighty-nine of this chapter, **or any qualifying member, as such term is defined in paragraph one of subdivision a of section eighty-nine-t of this chapter, as amended by chapter four hundred seventy-six of the laws of two thousand eighteen,** who 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 by, or as the natural and proximate result of, an act of any person confined in an institution under the jurisdiction of the office of mental health, or by any person who has been committed to such institution by any court shall be paid a performance of duty disability retirement allowance equal to that which is provided in section sixty-three of this chapter, subject to the provisions of section sixty-four of this chapter.

b. Notwithstanding any provision of this chapter or of any general or special law to the contrary, a member covered by this section who

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

LBD08429-04-4

contracts HIV (where there may have been an exposure to a bodily fluid of an incarcerated individual or a person described in subdivision a of this section as a natural and proximate result of an act of any incarcerated individual or person described in such subdivision a that may have involved transmission of a specified transmissible disease from an incarcerated individual or such person described in such subdivision a to the retirement system member), tuberculosis or hepatitis will be presumed to have contracted such disease in the performance or discharge of his or her duties, and will be presumed to be disabled from the performance of his or her duties, unless the contrary be proved by competent evidence.

c. Notwithstanding any provision of this chapter or of any general or special law to the contrary, any condition of impairment of health caused by diseases of the heart, resulting in disability or death to a member covered by this section, presently employed and who shall have sustained such disability while so employed, who successfully passed a physical examination on entry into service as a security hospital treatment assistant **or a qualifying member as set forth in this section**, which examination failed to disclose evidence of any disease or other impairment of the heart, shall be presumptive evidence that it was incurred in the performance and discharge of duty, unless the contrary be proved by competent evidence.

§ 2. This act shall take effect immediately.

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

This bill would allow members of the New York State and Local Employees' Retirement System employed as safety officers to be eligible for a performance of duty (POD) disability benefit if they become disabled as a result of an injury inflicted by any person confined in an institution under the jurisdiction of the New York State Office of Mental Health. The benefit will be 75 percent of final average salary, less workers' compensation. Currently, these affected members do not have a POD disability benefit.

If this bill is enacted during the 2024 Legislative Session, we anticipate that there will be an increase of approximately $1.10 million in the annual contributions of the State of New York for the fiscal year ending March 31, 2025. In future years this cost will vary but is expected to average 1.7% of salary annually.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately $5.78 million which will be borne by the State of New York as a one-time payment. This estimate assumes that payment will be made on March 1, 2025.

These estimated costs are based on 611 affected members employed by the State of New York, with annual salary of approximately $54 million as of March 31, 2023.

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 22, 2024, and intended for use only during the 2024 Legislative Session, is Fiscal Note No. 2024-39, prepared by the Actuary for the New York State and Local Retirement System.