

STATE OF NEW YORK

7565

2007-2008 Regular Sessions

IN ASSEMBLY

April 20, 2007

Introduced by M. of A. JAFFEE -- Multi-Sponsored by -- M. of A. MARKEY
-- read once and referred to the Committee on Governmental Employees

AN ACT to amend the retirement and social security law, in relation to certain medical presumptions applicable to members of the New York state and local employees' retirement system

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

1 Section 1. Subdivision 2 of section 363-a of the retirement and social
2 security law, as amended by chapter 967 of the laws of 1974, is amended
3 to read as follows:

4 2. Notwithstanding any provision of this chapter or of any general,
5 special or local law to the contrary, any condition of impairment of
6 health caused by diseases of the heart, resulting in disability or death
7 to a policeman, presently employed, and who shall have sustained such
8 disability while so employed, shall be presumptive evidence that ~~is~~ it
9 was incurred in the performance and discharge of duty and the natural
10 and proximate result of an accident, unless the contrary be proved by
11 competent evidence.

12 § 2. The retirement and social security law is amended by adding a new
13 section 808 to read as follows:

14 § 808. Effect and rebuttal of certain medical presumptions pertaining
15 to diseases of the heart. a. This section shall apply to certain appli-
16 cations for disability retirement allowances made by or on behalf of a
17 member of the New York state and local employees' retirement system or
18 the New York state and local police and fire retirement system and to
19 certain applications for death benefits made on account of the death of
20 a member of the New York state and local employees' retirement system or
21 the New York state and local police and fire retirement system. It shall
22 apply only to applications that are subject under this chapter to a
23 provision that any condition of impairment of health caused by a disease
24 of the heart, resulting in disability or death, shall be presumptive

EXPLANATION--Matter in italics (underscored) is new; matter in brackets

[] is old law to be omitted.

LBD06716-04-7

A. 7565

2

1 evidence that such disability or death was incurred in the performance
2 and discharge of duty and the natural and proximate result of an acci-
3 dent.

4 b. Notwithstanding any other provision of law to the contrary, an
5 application for an accidental disability retirement allowance that is
6 based on a permanent incapacity caused by a disease of the heart, or an
7 application for an accidental death benefit that is based on a disease
8 of the heart shall not be required to allege or establish:

9 (1) that the member sustained an accident or other incident related to
10 the performance and discharge of duty; or

11 (2) that notice was provided thereof.

12 c. Notwithstanding any other provision of law to the contrary, the
13 presumptions referred to in subdivision a of this section may be
14 rebutted only by competent evidence that the disability or death is not
15 the natural and proximate result of the performance and discharge of
16 duty.

17 § 3. This act shall take effect immediately.

FISCAL NOTE.--This bill would amend the Retirement and Social Security Law in relation to heart disease related disabilities and deaths for members in the New York State and Local Employees' Retirement System (ERS) who currently have "heart provisions" and all members in the New York State and Local Police and Fire Retirement System (PFRS). It would grant accidental disability and accidental death benefits for heart cases by deeming such disabilities or deaths to have been sustained in the performance of duty, and the natural and proximate result of an accident, unless the contrary be proven by competent evidence.

If this bill is enacted, more accidental disabilities and accidental death benefits would be granted. The estimated increase in the annual contributions to the State of New York would be approximately \$8.0 million for its PFRS members, State Correction Officers and Unified Court Officers. The increases in annual contributions for the participating employers in the PFRS would be approximately \$8.6 million. The increases in annual contributions for ERS counties that have elected the provisions of Article 14-B for their sheriffs would be approximately 0.4% of salary. The increases in annual contributions for ERS counties that have elected the provisions of Section 607-d for their sheriffs not of covered under Article 14-B and correction officers would be approximately 0.3% of salary. The increase in annual contributions for the Town of Tonawanda would be approximately 0.3% of the salary of its paramedics.

This estimate, dated December 1, 2006, and intended for use only during the 2007 Legislative Session, is Fiscal Note No. 2007-26 prepared by the Actuary for the NYS&LERS and NYS&LPFRS.