

# STATE OF NEW YORK

7250

2023-2024 Regular Sessions

## IN ASSEMBLY

May 16, 2023

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

AN ACT to amend the general municipal law, in relation to disabilities  
of fire alarm dispatchers in certain cities

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

1 Section 1. The general municipal law is amended by adding a new  
2 section 207-r to read as follows:

3 § 207-r. Disabilities of fire alarm dispatchers in certain cities.  
4 Notwithstanding the provisions of any general, special or local law or  
5 administrative code to the contrary, except for the purposes of the  
6 workers' compensation law and the labor law, any condition of impairment  
7 of health caused by diseases of the heart, resulting in total or partial  
8 disability or death to a fire alarm dispatcher, a supervising fire alarm  
9 dispatcher level one or a supervising fire alarm dispatcher level two of  
10 a fire department in a city with a population of one million or more, or  
11 any retired member of such department who has been retired for five or  
12 less years, who successfully passed a physical examination on entry into  
13 the service of such department, which examination failed to reveal any  
14 evidence of such condition, shall be presumptive evidence that it was  
15 incurred in the performance and discharge of duty, unless the contrary  
16 be proved by competent evidence.

17 § 2. All past service costs associated with implementing the  
18 provisions of this act shall be borne by the city of New York.

19 § 3. Notwithstanding any other provision of law to the contrary, none  
20 of the provisions of this act shall be subject to the appropriation  
21 requirement of section 25 of the retirement and social security law.

22 § 4. This act shall take effect immediately.

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

SUMMARY OF BILL: This proposed legislation, as it relates to the New  
York City Retirement Systems and Pension Funds (NYCRS), would add a new

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

LBD10279-02-3

General Municipal Law (GML) Section 207-r to provide certain Fire Alarm Dispatchers of the New York City Employees' Retirement System (NYCERS) a rebuttable statutory presumption that a qualifying partial or total disability or death related to a heart disease was incurred in the performance of duty.

The presumption of causation could be rebutted by competent evidence to the contrary.

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 heart disease would be eligible for an applicable ordinary disability retirement benefit, after attaining 10 years of credited service. This benefit is generally a lifetime payment equal to the greatest of 1/3 of Final Average Salary (FAS), 1/60th of FAS for each year of service, or the service retirement benefit, if eligible.

The ordinary death benefit for Tier 4 and Tier 6 NYCERS Fire Alarm Dispatchers is a lump sum payment equal to three times the member's salary multiplied by the member's years of service, up to a maximum of three years. The performance of duty death benefit is generally equal to a lifetime benefit of 50% of a member's wages earned during the last year of service, payable to certain beneficiaries.

Under the proposed legislation, an active member of NYCERS who is employed as a Fire Alarm Dispatcher and becomes disabled due to heart disease would be eligible for a performance of duty disability benefit if the presumption is not rebutted by competent evidence. A member who dies due to heart disease would be eligible for a performance of duty death benefit if the presumption is not rebutted by competent evidence.

FINANCIAL IMPACT - OVERVIEW: There is no data available to estimate the number of members who might develop and become disabled or die due to heart disease 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 disabling heart disease 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 upon disability, it has been assumed that members would terminate employment if the proposed legislation were not passed.

In determining the increase in the present value for beneficiaries who could benefit from the presumption provided by the proposed legislation upon death, it has been assumed that 100% of such members would be eligible for an Ordinary Death Benefit 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 Ordinary Disability benefit when the disabling heart disease 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 \$233,300, on average, for each occurrence of Performance of Duty Disability Retirement due to heart

disease and \$304,200, on average, for each occurrence of Performance of Duty Death due to heart disease.

**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 each 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 \$27,600 for each Performance of Duty Disability Retirement due to heart disease and by approximately \$36,000 for each Performance of Duty Death due to heart disease.

As there is no data currently available to estimate the number of members who might be diagnosed with heart disease, 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 or die due to heart disease but, generally, increased employer contributions will first occur the second fiscal year following approval of the performance of duty disability or death 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 as of June 30, 2022, who could potentially benefit from the change in the death benefit presumption, 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.

The 77 Fire Alarm Dispatchers and Supervising Fire Alarm Dispatchers as of June 30, 2022, who could potentially benefit from the change in the disability benefit presumption, had an average age of approximately 33.8 years, average service of approximately 5.1 years, and an average salary of approximately \$69,400. This group consisted of four 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 to implement the proposed legislation.

- \* The impact of this proposed legislation on Other Postemployment Benefit 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 2023-44 dated May 9, 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.