

# STATE OF NEW YORK

7289--A

2023-2024 Regular Sessions

## IN SENATE

May 19, 2023

Introduced by Sen. GOUNARDES -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general municipal law, in relation to including thyroid cancer in the list of cancers presumed to be incurred in the performance of duty for purposes of disability retirement

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

1 Section 1. Section 207-kk of the general municipal law, as amended by  
2 chapter 250 of the laws of 2019, is amended to read as follows:

3 § 207-kk. Disabilities of firefighters in certain cities caused by  
4 cancer. Notwithstanding any other provisions of this chapter to the  
5 contrary, any condition of impairment of health caused by (i) any condi-  
6 tion of cancer affecting the lymphatic, digestive, hematological,  
7 urinary, neurological, breast, reproductive, endocrine/thyroid or  
8 prostate systems or (ii) melanoma resulting in total or partial disabil-  
9 ity or death to a paid member of a fire department in a city with a  
10 population of one million or more, or any retired member of such depart-  
11 ment who has been retired for five or less years, who successfully  
12 passed a physical examination on entry into the service of such depart-  
13 ment, which examination failed to reveal any evidence of such condition,  
14 shall be presumptive evidence that it was incurred in the performance  
15 and discharge of duty unless the contrary be proved by competent  
16 evidence. The provisions of this section shall remain in full force and  
17 effect pursuant to section four hundred eighty of the retirement and  
18 social security law.

19 § 2. This act shall take effect immediately.

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

SUMMARY OF BILL: This proposed legislation would amend Section 207-kk of the General Municipal Law (GML) to provide a rebuttable statutory

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

LBD11564-02-3

presumption to City firefighters, or City firefighter retirees who have been retired for five years or less, who develop any condition of impairment of health caused by thyroid cancer or other cancers of the endocrine system, that such condition was incurred in the performance and discharge of duty, unless the contrary is proven by competent evidence, entitling such member or retiree to the applicable accident disability retirement or accidental death benefit.

Effective Date: Upon enactment.

IMPACT ON BENEFITS: Currently, an active member of the New York City Fire Pension Fund (FIRE) who becomes disabled due to thyroid cancer or other cancers of the endocrine system would be eligible for an applicable ordinary disability retirement, generally a lifetime payment based on the greater of 1/2 of FAS or the service retirement benefit, if eligible for Tier 2 members, or generally based on the greatest of 1/3 of FAS, 2% of FAS for each year of service, or the service retirement benefit, if eligible for Tier 3 members.

Under the proposed legislation, the benefits for active members of FIRE or retired members of FIRE who have been retired for five or less years, who become disabled due to thyroid cancer or other cancers of the endocrine system would be eligible for a Performance of Duty Disability Retirement Benefit, generally a lifetime payment equal to the greater of 75% of FAS, or the service retirement benefit, if eligible.

In the event of a death in active service, the current Ordinary Death Benefit is generally equal to three times a member's last salary. In the event of a death of a retired employee, an optional benefit may be payable. Under the proposed legislation, the beneficiaries of a deceased member or eligible retiree would be entitled to a lifetime Accidental Death Benefit equal to 50% of a member's wages earned during the last year of service plus, if applicable, the Special Accidental Death Benefit payable under GML section 208-f.

FINANCIAL IMPACT - OVERVIEW: There is no data available to estimate the number of members who might develop thyroid cancer or other cancers of the endocrine system, 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 thyroid cancer or other cancers of the endocrine system 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 50% of the members would have retired under an Ordinary Disability Retirement (ODR) benefit, and the remaining 50% of members would have continued working and eventually retired for service 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 ODR benefit when thyroid cancer or other cancers of the endocrine system are 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 \$468,300, on average, for each occurrence of performance of duty disability due to endocrine or thyroid cancers, and by approximately \$2.3 million, on average, for each occurrence of performance of duty death due to endocrine or thyroid cancers.

**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 the 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 \$55,400, on average, for each performance of duty disability retirement due to endocrine or thyroid cancers, and by approximately \$267,100, on average, for each performance of duty death due to endocrine or thyroid cancers.

As there is no data currently available to estimate the number of members who might be diagnosed with thyroid cancer or other cancers of the endocrine system, 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 thyroid cancer or other cancers of the endocrine system 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 FIRE to determine the Preliminary Fiscal Year 2024 employer contributions.

The 10,685 active members of FIRE as of June 30, 2022 who could potentially benefit from the proposed legislation had an average age of approximately 41.0 years, average service of approximately 14.2 years, and an average salary of approximately \$134,700. This group consisted of 6,216 Tier 2 active members and 4,469 Tier 3 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 FIRE.

**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 2023-61 dated May 30, 2023 was prepared by the Chief Actuary for the New York City Fire Pension Fund. This estimate is intended for use only during the 2023 Legislative Session.