

STATE OF NEW YORK

5711

2023-2024 Regular Sessions

IN ASSEMBLY

March 22, 2023

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

AN ACT to amend the retirement and social security law, in relation to mandatory retirement age

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

1 Section 1. Subparagraph (f) of paragraph 1 and the opening paragraph
2 of subparagraph (g) of paragraph 2 of subdivision e and subdivisions h
3 and k of section 384 of the retirement and social security law, as
4 amended by chapter 1043 of the laws of 1968, are amended to read as
5 follows:

6 (f) Upon completion of twenty-five years service, an additional
7 pension, if required, of such amount as shall be necessary to increase
8 the total amount of the benefits provided herein to one-half of his
9 final average salary. The pension provided by this ~~[sub-paragraph]~~
10 subparagraph shall be payable only if a member retires from service on
11 or before the last day of the calendar month next succeeding the calen-
12 dar month in which he attains age ~~[sixty-two]~~ sixty-five. Provided,
13 however, that in the case of any member who attained the age of ~~[sixty-~~
14 ~~two]~~ sixty-five on or before July first, nineteen hundred sixty-six, to
15 be eligible for additional pension credit under this ~~[sub-paragraph]~~
16 subparagraph, his service shall be terminated and he shall retire on or
17 before December thirty-first, nineteen hundred sixty-seven. For the
18 purpose only of determining the amount of the pension provided in this
19 paragraph, the annuity shall be computed as it would be if it were not
20 reduced by the actuarial equivalent of any outstanding loan, and if it
21 were not increased by the actuarial equivalent of any additional
22 contributions, and if it were not reduced by reason of the member's
23 election to decrease his annuity contributions to the retirement system
24 in order to apply the amount of such reduction in payment of his
25 contributions for old-age and survivors insurance coverage.

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

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1 Upon completion of twenty-five years service, an additional pension,
2 if required, of such amount as shall be necessary to increase the total
3 amount of the benefits provided herein to one-half of his final average
4 salary. The pension provided by this ~~[sub-paragraph]~~ subparagraph shall
5 be payable only if a member retires from service on or before the last
6 day of the calendar month next succeeding the calendar month in which he
7 attains age ~~[sixty-two]~~ sixty-five. Provided, however, that in the case
8 of any member who attained the age of ~~[sixty-two]~~ sixty-five before or
9 within one month after his employer first elected to assume all or part
10 of the additional cost of service as provided by paragraph two of subdivi-
11 sion d of this section, to be eligible for additional pension credit
12 under this ~~[sub-paragraph]~~ subparagraph, his service shall be terminated
13 and he shall retire within three months after his employer so elects or
14 on or before December thirty-first, nineteen hundred sixty-eight, which-
15 ever shall last occur.

16 h. Any officer or member of such organized fire department or organ-
17 ized police force or department, may, within one year after he becomes
18 such officer or member or within one year after his employer assumes the
19 additional cost therefor, whichever shall last occur, elect to receive
20 the additional benefits provided for by subdivision f ~~[hereof]~~ of this
21 section. Any officer or member who elects to receive such benefits shall
22 be separated from service on the first day of the calendar month next
23 succeeding his attainment of age ~~[sixty-two]~~ sixty-five and the
24 completion of twenty-five years of service, provided, however, that in
25 the case of any officer or member who attained the age of ~~[sixty-two]~~
26 sixty-five before his employer assumed the additional cost therefor, or
27 who attains the age of ~~[sixty-two]~~ sixty-five within one month after his
28 employer assumes the additional cost therefor, to be eligible for addi-
29 tional pension credit under subdivision f of this section, his service
30 shall be terminated and he shall be retired within three months after
31 his employer assumes the additional cost therefor or on or before Decem-
32 ber thirty-first, nineteen hundred sixty-eight, whichever shall last
33 occur, and provided further that a member who is a chief or commanding
34 officer of a police department or police force shall retire on the first
35 day of the calendar month next succeeding his attainment of age sixty-
36 five; a member who is a chief or commanding officer of a police depart-
37 ment or police force, who attained age sixty-five before his employer
38 elected to provide this added benefit and has rendered twenty-five years
39 of total creditable service, shall retire on or before December thirty-
40 first, nineteen hundred sixty-eight, or within one year after his
41 employer assumes the additional cost therefor, whichever shall last
42 occur.

43 k. Any officer or member of such organized fire department or organ-
44 ized police force or department, may, within one year after he becomes
45 such officer or member or within one year after his employer assumes the
46 additional cost therefor, whichever shall last occur, elect to receive
47 the additional benefits provided for by subdivision i ~~[hereof]~~ of this
48 section. Any officer or member who elects to receive such benefits shall
49 be separated from service on the first day of the calendar month next
50 succeeding his attainment of age ~~[sixty-two]~~ sixty-five and the
51 completion of twenty-five years of service, provided, however, that in
52 the case of any officer or member who attained the age of ~~[sixty-two]~~
53 sixty-five before his employer assumed the additional cost therefor, or
54 who attains the age of ~~[sixty-two]~~ sixty-five within one month after his
55 employer assumes the additional cost therefor, to be eligible for addi-
56 tional pension credit under subdivision i of this section, his service

1 shall be terminated and he shall be retired within three months after
2 his employer assumes the additional cost therefor, or on or before
3 December thirty-first, nineteen hundred sixty-eight, whichever shall
4 last occur, and provided further that a member who is a chief or
5 commanding officer of a police department or police force shall retire
6 on the first day of the calendar month next succeeding his attainment of
7 age sixty-five; a member who is a chief or commanding officer of a
8 police department or police force, who attained age sixty-five before
9 his employer elected to provide this added benefit and has rendered
10 twenty-five years of total creditable service, shall retire on or before
11 December thirty-first, nineteen hundred sixty-eight, or within one year
12 after his employer assumes the additional cost therefor, whichever shall
13 last occur.

14 § 2. This act shall take effect immediately.

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

This bill would increase the mandatory retirement age from 62 to 65 for members of the New York State and Local Police and Fire Retirement System (NYSLPRS) covered under the provisions of section 384 of the Retirement and Social Security Law.

If this bill is enacted during the 2023 legislative session, there would be additional benefits for certain members who remain employed beyond age 62 which would be funded by the normal employer contributions. If members delay retirement due to the enactment of this bill, we do not anticipate any increases in the annual contribution rates for any of the participating employers in the NYSLPRS.

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 March 14, 2023, and intended for use only during the 2023 Legislative Session, is Fiscal Note No. 2023-94, prepared by the Actuary for the New York State and Local Retirement System.