STATE OF NEW YORK

5372--A

2019-2020 Regular Sessions

IN ASSEMBLY

February 11, 2019

Introduced by M. of A. B. MILLER, MORINELLO, DeSTEFANO -- read once and referred to the Committee on Governmental Employees -- 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 granting members or officers of the state police credit for service as a deputy sheriff, county corrections officer, or state corrections officer

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

Section 1. Paragraph 1 of subdivision c of section 381-b of the retirement and social security law, as amended by chapter 581 of the laws of 2001, is amended and a new paragraph 3 is added to read as follows:

(1) Police service. In computing the years of total creditable service in such division, full credit shall be given and full allowance shall be made for service rendered as a police officer or member of a police force or department of a state park authority or commission or an organized police force or department of a county, city, town, village, police district, authority or other participating employer or member of the capital police force in the office of general services while a member of the New York state and local police and fire retirement system, of the New York state and local employees' retirement system or of the New York city police pension fund and for all service for which full credit has been given and full allowance made pursuant to the provisions of section three hundred seventy-five-h of this [~~chapter~~] **article** provided, however, that full credit pursuant to the provisions of such section shall mean only such service as would be creditable service pursuant to the provisions of section three hundred eighty-three or section three hundred eighty-three-a or three hundred eighty-three-b enacted by chapter six hundred seventy-seven of the laws of nineteen hundred eighty-six

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

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of this [~~chapter~~] title or pursuant to the provisions of title thirteen of the administrative code of the city of New York for any member contributing pursuant to this section who transferred to the division of state police.

(3) (a) Deputy sheriff, county corrections, or state corrections service. Upon completion of more than seventeen years of service, each such member who was previously credited with service credit in the New York state and local employees' retirement system as a deputy sheriff, county corrections officer, or member in the uniformed personnel in institutions under the jurisdiction of the department of corrections and community supervision as defined in subdivision i of section eighty-nine of this chapter and who was engaged directly in law enforcement activities while performing such services shall receive one year of service credit for each such year of previous service, up to a total of no greater than two years of previous service credit.

(b) To obtain such credit, a member shall pay such retirement system, for deposit in the fund used to accumulate employer contributions, a sum equal to the product of the number of years of police service being claimed and three percent of such member's compensation earned during the twelve months of credited service immediately preceding the date that the member made application for credit pursuant to this section. If permitted by rule or regulation of the retirement system, the member may pay such member costs by payroll deduction for a period which shall not exceed the time period of police service to be credited pursuant to this section. In the event the member leaves the employer payroll prior to completion of payment, he or she shall forward all remaining required payments to the appropriate retirement system prior to the effective date of retirement. If the full amount of such member costs is not paid to the appropriate retirement system prior to the member's retirement, the amount of service credited shall be proportional to the total amount of the payments made prior to retirement.

(c) In no event shall the credit granted pursuant to this paragraph, when added to credit granted for police service with any retirement system of this state pursuant to this or any other provision of law, exceed a total of two years.

(d) To be eligible to receive credit for police service under this paragraph, a member must make application for such credit before the effective date of retirement.

(e) All costs for service credited to a member pursuant to this paragraph, other than the member costs set forth in subparagraph (b) of this paragraph, shall be paid by the state.

(f) Notwithstanding any other provision of law, in the event of death prior to retirement, amounts paid by the member for the purchase of police service credit pursuant to this paragraph shall be refunded, with interest, to the extent the police service purchased with such amounts does not produce a greater death benefit than would have been payable had the member not purchased such credit.

(g) Notwithstanding any other provision of law, in the event of retirement, amounts paid by the member for the purchase of police service credit pursuant to this section shall be refunded, with interest, to the extent the police service purchased with such amounts does not produce a greater retirement allowance than would have been payable had the member not purchased such credit.

(h) In the event the service credit granted pursuant to this paragraph, when added to a member's current service credit, renders him or her eligible for service retirement, such member shall be deemed eligi-

ble for such service retirement and may elect to retire under the rules set forth by the retirement system.

§ 2. This act shall take effect immediately.

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

This bill would allow up to two (2) years of service credit for service rendered as a deputy sheriff, county corrections officer or state corrections officer to be creditable to State Police officers. Such officers must have at least seventeen years of credited service and would be required to make a payment of three percent of their most recent compensation per year of additional service credit being purchased under the provisions of this bill.

If this bill is enacted during the 2019 legislative session, it is estimated that the past service cost will average approximately 19% of an affected officers' compensation for each year of additional service credit that is purchased. This cost will be borne entirely by the State of New York.

Internal Revenue Service (IRS) plan qualification issues: granting service credit towards retirement in a 20 year plan in the New York State and Local Police and Fire Retirement System (PFRS) for employment that was not rendered in the PFRS could jeopardize the Retirement System's governmental plan status and its exemption from ERISA. This could result in the loss of qualified status, which would mean the loss of tax benefits and would substantially impair the System's value to our more than one million participants.

Prior to the enactment of this legislation, we recommend that a favorable ruling be obtained from the IRS stating that these provisions would not harm the qualification status of the System. It is estimated that the costs to obtain such a ruling would be $28,000 for the services of the IRS, and $800 per hour for legal consultants.

Summary of relevant resources:

The membership data used in measuring the impact of the proposed change was the same as that used in the March 31, 2018 actuarial valuation. Distributions and other statistics can be found in the 2018 Report of the Actuary and the 2018 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2015, 2016, 2017 and 2018 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, 2018 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 June 11, 2019, and intended for use only during the 2019 Legislative Session, is Fiscal Note No. 2019-142, prepared by the Actuary for the New York State and Local Retirement System.