STATE OF NEW YORK

4459--A

2021-2022 Regular Sessions

IN ASSEMBLY

February 4, 2021

Introduced by M. of A. ABBATE -- read once and referred to the Committee on Governmental Employees -- recommitted to the Committee on Governmental Employees in accordance with Assembly Rule 3, sec. 2 -- 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 mandatory retirement age

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

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

(f) Upon completion of twenty-five years service, an additional pension, if required, of such amount as shall be necessary to increase the total amount of the benefits provided herein to one-half of his final average salary. The pension provided by this [~~sub-paragraph~~] **subparagraph** shall be payable only if a member retires from service on or before the last day of the calendar month next succeeding the calendar month in which he attains age [~~sixty-two~~] **sixty-five**. Provided, however, that in the case of any member who attained the age of [~~sixty-two~~] **sixty-five** on or before July first, nineteen hundred sixty-six, to be eligible for additional pension credit under this [~~sub-paragraph~~] **subparagraph**, his service shall be terminated and he shall retire on or before December thirty-first, nineteen hundred sixty-seven. For the purpose only of determining the amount of the pension provided in this paragraph, the annuity shall be computed as it would be if it were not reduced by the actuarial equivalent of any outstanding loan, and if it were not increased by the actuarial equivalent of any additional contributions, and if it were not reduced by reason of the member's

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

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election to decrease his annuity contributions to the retirement system in order to apply the amount of such reduction in payment of his contributions for old-age and survivors insurance coverage.

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

h. Any officer or member of such organized fire department or organized police force or department, may, within one year after he becomes such officer or member or within one year after his employer assumes the additional cost therefor, whichever shall last occur, elect to receive the additional benefits provided for by subdivision f [~~hereof~~] **of this section**. Any officer or member who elects to receive such benefits shall be separated from service on the first day of the calendar month next succeeding his attainment of age [~~sixty-two~~] **sixty-five** and the completion of twenty-five years of service, provided, however, that in the case of any officer or member who attained the age of [~~sixty-two~~] **sixty-five** before his employer assumed the additional cost therefor, or who attains the age of [~~sixty-two~~] **sixty-five** within one month after his employer assumes the additional cost therefor, to be eligible for additional pension credit under subdivision f of this section, his service shall be terminated and he shall be retired within three months after his employer assumes the additional cost therefor or on or before December thirty-first, nineteen hundred sixty-eight, whichever shall last occur, and provided further that a member who is a chief or commanding officer of a police department or police force shall retire on the first day of the calendar month next succeeding his attainment of age sixty-five; a member who is a chief or commanding officer of a police department or police force, who attained age sixty-five before his employer elected to provide this added benefit and has rendered twenty-five years of total creditable service, shall retire on or before December thirty-first, nineteen hundred sixty-eight, or within one year after his employer assumes the additional cost therefor, whichever shall last occur.

k. Any officer or member of such organized fire department or organized police force or department, may, within one year after he becomes such officer or member or within one year after his employer assumes the additional cost therefor, whichever shall last occur, elect to receive the additional benefits provided for by subdivision i [~~hereof~~] **of this section**. Any officer or member who elects to receive such benefits shall be separated from service on the first day of the calendar month next succeeding his attainment of age [~~sixty-two~~] **sixty-five** and the completion of twenty-five years of service, provided, however, that in the case of any officer or member who attained the age of [~~sixty-two~~] **sixty-five** before his employer assumed the additional cost therefor, or

who attains the age of [~~sixty-two~~] sixty-five within one month after his employer assumes the additional cost therefor, to be eligible for additional pension credit under subdivision i of this section, his service shall be terminated and he shall be retired within three months after his employer assumes the additional cost therefor, or on or before December thirty-first, nineteen hundred sixty-eight, whichever shall last occur, and provided further that a member who is a chief or commanding officer of a police department or police force shall retire on the first day of the calendar month next succeeding his attainment of age sixty-five; a member who is a chief or commanding officer of a police department or police force, who attained age sixty-five before his employer elected to provide this added benefit and has rendered twenty-five years of total creditable service, shall retire on or before December thirty-first, nineteen hundred sixty-eight, or within one year after his employer assumes the additional cost therefor, whichever shall last occur.

§ 2. This act shall take effect immediately.

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 (NYSLPFRS) who are covered under the provisions of Section 384 of the Retirement and Social Security Law.

If this bill is enacted, there would be additional benefits for certain members who remain employed beyond age 62. However, if some members delay retirement due to the enactment of this bill, it is not anticipated that there would be an increase in the annual contributions of the participating employers in the NYSLPFRS.

Summary of relevant resources:

Membership data as of March 31, 2021 was used in measuring the impact of the proposed change, the same data used in the April 1, 2021 actuarial valuation. Distributions and other statistics can be found in the 2021 Report of the Actuary and the 2021 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2020 and 2021 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, 2021 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 December 23, 2022, and intended for use only during the 2022 Legislative Session, is Fiscal Note No. 2022-48, prepared by the Actuary for the New York State and Local Retirement System.