STATE OF NEW YORK

4675

2021-2022 Regular Sessions

IN ASSEMBLY

February 4, 2021

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

AN ACT to authorize the county of Columbia to offer an optional twenty year retirement plan to Theodore Blank, a deputy sheriff employed by such county

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

Section 1. Notwithstanding any other provision of law to the contrary, Theodore Blank, a member of the optional twenty-five year retirement plan for certain sheriffs, undersheriffs, deputy sheriffs and correction officers pursuant to section 89-p of the retirement and social security law, who was employed as Columbia county sheriff in 2014, and who through no fault of his own, failed to file a timely application to participate in the special twenty year retirement plan contained in section 553 of the retirement and social security law resulting in the crediting of his service with the county of Columbia in the retirement plan contained in section 89-p of such law, shall be given full credit in the section 553 twenty year retirement plan for such service upon the election of the county of Columbia to assume the additional cost of such service and his election to participate in such plan. The county of Columbia may so elect within one year of the effective date of this act, by filing with the state comptroller a resolution of its local legislative body together with certification that such member did not bar himself from participation in such retirement plan as a result of his own negligence.

§ 2. Such deputy sheriff may elect to be covered by the provisions of section 553 of the retirement and social security law and shall be entitled to the full rights and benefits associated with coverage under such section by filing a request to that effect with the state comptroller within eighteen months of the effective date of this act.

§ 3. All employer past service costs associated with the implementation of this act shall be borne by Columbia county, and may be amortized over a period of five years.

§ 4. This act shall take effect immediately.

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

LBD03543-02-1

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

This bill would allow Theodore Blank, a current member of the New York State and Local Employees' Retirement System employed as a deputy sheriff by Columbia County and covered under the 25 year retirement plan of section 89-p of the Retirement and Social Security Law (RSSL), to elect to be covered under the 20 year plan of section 553 of the RSSL. Upon such election, all of his service currently creditable under 89-p will become creditable under 553. This includes service that he earned in a title other than deputy sheriff, which is not currently allowed under the provisions of Article 14-B.

If this bill is enacted during the 2021 legislative session, we anticipate that there will be an increase of approximately $9,300 in the annual contributions of Columbia County for the fiscal year ending March 31, 2022. In future years, this cost will vary as the billing rates and salary of Theodore Blank change.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately $98,800 which will be borne by Columbia County as a one-time payment. This estimate is based on the assumption that payment will be made on February 1, 2022. If Columbia County elects to amortize this cost over a 5-year period, the cost for the first year including interest would be $22,400.

Internal Revenue Service (IRS) plan qualification issues: granting service credit towards retirement in the 20 year plan of section 553 of the RSSL for employment that was not rendered as a deputy sheriff 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:

Membership data as of March 31, 2020 was used in measuring the impact of the proposed change, the same data used in the April 1, 2020 actuarial valuation. Distributions and other statistics can be found in the 2020 Report of the Actuary and the 2020 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2020 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, 2020 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 21, 2020, and intended for use only during the 2021 Legislative Session, is Fiscal Note No. 2021-4, prepared by the Actuary for the New York State and Local Retirement System.