# STATE OF NEW YORK

9440

# IN ASSEMBLY

March 7, 2022

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

AN ACT to amend the retirement and social security law, in relation to the retirement of deputy sheriffs-civil in the county of Monroe

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

Section 1. The retirement and social security law is amended by adding a new section 89-x to read as follows:

**§ 89-x. Retirement of deputy sheriffs-civil in Monroe county. a. A member employed in Monroe county shall be eligible to retire pursuant to the provisions of section eighty-nine-p of this article if the county of Monroe elects to make the benefits provided in section eighty-nine-p of this article available to the sheriff, undersheriffs, deputy sheriffs and correction officers of such county and if he or she is a deputy sheriff-civil of such county. Such eligibility shall be an alternative to the eligibility provisions available under any other plan of this article to which such member is subject.**

**b. The term "creditable service" shall include any and all services performed as a deputy sheriff-civil of Monroe county and other creditable service as defined in subdivisions d and e of section eighty-nine-p of this article.**

**c. Monroe county is authorized to adopt a resolution on or before December thirty-first, two thousand twenty-three to extend the provisions of this section to those members defined in subdivision a of this section. A certified copy of such resolution must be filed with the comptroller and may contain an election that any past service cost be paid over either a five-year or ten-year period. Such resolution shall be accompanied by the affidavit of the chief executive officer of Monroe county that the county has received an estimate from the retirement system of the cost of the benefit provided by this section.**

**d. The sheriff shall certify to the comptroller, periodically and at such intervals of time as may be required of him or her and in such fashion as may be prescribed, the identity of the deputy sheriffs-civil of Monroe county.**

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

LBD13416-03-2

**e. Unless otherwise indicated in this section, the provisions of section eighty-nine-p of this article shall be controlling.**

§ 2. Subdivision a of section 445 of the retirement and social security law, as amended by chapter 245 of the laws of 2021, is amended to read as follows:

a. No member of a retirement system who is subject to the provisions of this article shall retire without regard to age, exclusive of retirement for disability, unless he or she is a police officer, an investigator member of the New York city employees' retirement system, firefighter, correction officer, a qualifying member as defined in section eighty-nine-t, as added by chapter six hundred fifty-seven of the laws of nineteen hundred ninety-eight, of this chapter, sanitation worker, a special officer (including persons employed by the city of New York in the title urban park ranger or associate urban park ranger), school safety agent, campus peace officer or a taxi and limousine commission inspector member of the New York city employees' retirement system or the New York city board of education retirement system, a dispatcher member of the New York city employees' retirement system, a police communications member of the New York city employees' retirement system, an EMT member of the New York city employees' retirement system, a deputy sheriff member of the New York city employees' retirement system, a correction officer of the Westchester county correction department as defined in section eighty-nine-e of this chapter or employed in Suffolk county as a peace officer, as defined in section eighty-nine-s, as added by chapter five hundred eighty-eight of the laws of nineteen hundred ninety-seven, of this chapter, employed in Suffolk county as a correction officer, as defined in section eighty-nine-f of this chapter, or employed in Nassau county as a correction officer, uniformed correction division personnel, sheriff, undersheriff or deputy sheriff, as defined in section eighty-nine-g of this chapter, or employed in Nassau county as an ambulance medical technician, an ambulance medical technician/supervisor or a member who performs ambulance medical technician related services, or a police medic, police medic supervisor or a member who performs police medic related services, as defined in section eighty-nine-s, as amended by chapter five hundred seventy-eight of the laws of nineteen hundred ninety-eight, of this chapter, or employed in Nassau county as a peace officer, as defined in section eighty-nine-s, as added by chapter five hundred ninety-five of the laws of nineteen hundred ninety-seven, of this chapter, or employed in Albany county as a sheriff, undersheriff, deputy sheriff, correction officer or identification officer, as defined in section eighty-nine-h of this chapter or is employed in St. Lawrence county as a sheriff, undersheriff, deputy sheriff or correction officer, as defined in section eighty-nine-i of this chapter or is employed in Orleans county as a sheriff, undersheriff, deputy sheriff or correction officer, as defined in section eighty-nine-l of this chapter or is employed in Jefferson county as a sheriff, undersheriff, deputy sheriff or correction officer, as defined in section eighty-nine-j of this chapter or is employed in Onondaga county as a deputy sheriff-jail division competitively appointed or as a correction officer, as defined in section eighty-nine-k of this chapter or is employed in a county which makes an election under subdivision j of section eighty-nine-p of this chapter as a sheriff, undersheriff, deputy sheriff or correction officer as defined in such section eighty-nine-p or is employed in Broome County as a sheriff, undersheriff, deputy sheriff or correction officer, as defined in section eighty-nine-m of this chapter or is a Monroe county deputy sheriff-court security, or

deputy sheriff-jailor as defined in section eighty-nine-n, as added by chapter five hundred ninety-seven of the laws of nineteen hundred ninety-one, of this chapter or is employed in Greene county as a sheriff, undersheriff, deputy sheriff or correction officer, as defined in section eighty-nine-o of this chapter or is a traffic officer with the town of Elmira as defined in section eighty-nine-q of this chapter or is employed by Suffolk county as a park police officer, as defined in section eighty-nine-r of this chapter or is a peace officer employed by a county probation department as defined in section eighty-nine-t, as added by chapter six hundred three of the laws of nineteen hundred ninety-eight, of this chapter or is employed in Rockland county as a deputy sheriff-civil as defined in section eighty-nine-v of this chapter as added by chapter four hundred forty-one of the laws of two thousand one, or is employed in Rockland county as a superior correction officer as defined in section eighty-nine-v of this chapter as added by chapter five hundred fifty-six of the laws of two thousand one or is a paramedic employed by the police department in the town of Tonawanda and retires under the provisions of section eighty-nine-v of this chapter, as added by chapter four hundred seventy-two of the laws of two thousand one, or is a county fire marshal, supervising fire marshal, fire marshal, assistant fire marshal, assistant chief fire marshal or chief fire marshal employed by the county of Nassau as defined in section eighty-nine-w of this chapter **or is employed in Monroe county as a deputy sheriff-civil as defined in section eighty-nine-x of this chapter** and is in a plan which permits immediate retirement upon completion of a specified period of service without regard to age. Except as provided in subdivision c of section four hundred forty-five-a of this article, subdivision c of section four hundred forty-five-b of this article, subdivision c of section four hundred forty-five-c of this article, subdivision c of section four hundred forty-five-d of this article, subdivision c of section four hundred forty-five-e of this article, subdivision c of section four hundred forty-five-f of this article and subdivision c of section four hundred forty-five-h of this article, a member in such a plan and such an occupation, other than a police officer or investigator member of the New York city employees' retirement system or a firefighter, shall not be permitted to retire prior to the completion of twenty-five years of credited service; provided, however, if such a member in such an occupation is in a plan which permits retirement upon completion of twenty years of service regardless of age, he or she may retire upon completion of twenty years of credited service and prior to the completion of twenty-five years of service, but in such event the benefit provided from funds other than those based on such a member's own contributions shall not exceed two per centum of final average salary per each year of credited service.

§ 3. Section 603 of the retirement and social security law is amended by adding a new subdivision u to read as follows:

**u. The service retirement benefit specified in section six hundred four of this article shall be payable to members with twenty-five or more years of creditable service, without regard to age, who are employed as deputy sheriffs-civil in Monroe county, as defined in section eighty-nine-x of this chapter if: (i) such members have met the minimum service requirements upon retirement, and (ii) in the case of a member subject to the provisions of article fourteen of this chapter, such member files an election therefor which provides that he or she will be subject to the provisions of this article and to none of the provisions of such article fourteen. Such election, which shall be irre-**

**vocable, shall be in writing, duly executed and shall be filed with the comptroller on or before December thirty-first, two thousand twenty-three or within one year of entering into service as a deputy sheriff-civil in Monroe county. The term "creditable service" shall have the meaning as so defined in section eighty-nine-x and subdivision c of section six hundred one of this chapter.**

§ 4. Section 604 of the retirement and social security law is amended by adding a new subdivision u to read as follows:

**u. The early service retirement for a member who is employed as a deputy sheriff-civil as defined in section eighty-nine-x of this chapter, shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five years of service as such deputy sheriff-civil, but not exceeding one-half of his or her final average salary.**

§ 5. All past service costs associated with implementing the provisions of this act shall be borne by Monroe County.

§ 6. This act shall take effect immediately.

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

This bill would permit members of the New York State and Local Employees' Retirement System (ERS) who are employed by Monroe County in the title of deputy sheriff-civil, as certified by the sheriff, to retire upon completion of twenty-five (25) years of creditable service with a benefit of one-half (50%) final average salary, provided Monroe County has filed a resolution with the New York State Comptroller to provide such benefits on or before December 31, 2022. Additionally, for those members covered under the provisions of Article 14, this bill would permit an irrevocable election to forfeit the benefits of Article 14 in favor of the 25-year plan benefit, when elected on or before December 31, 2023 or within one year of entering service as a deputy sheriff-civil with Monroe County.

If this bill is enacted during the 2022 legislative session, we anticipate that there will be an increase of approximately $26,000 in the annual contributions of Monroe County for the fiscal year ending March 31, 2023. In future years, this cost will vary as the billing rates and salary of the affected members change.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately $199,000 which will be borne by Monroe County as a one-time payment. This estimate is based on the assumption that payment will be made on February 1, 2023.

These estimated costs are based on 9 affected members employed by Monroe County, with annual salary of approximately $693,000 as of March 31, 2021. The affected members were identified using information provided by the office of Assemblyman Josh Jensen.

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 February 18, 2022, and intended for use only during the 2022 Legislative Session, is Fiscal Note No. 2022-3, prepared by the Actuary for the New York State and Local Retirement System.