

# STATE OF NEW YORK

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5378--A

2021-2022 Regular Sessions

## IN SENATE

March 3, 2021

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Introduced by Sen. AKSHAR -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- recommitted to the Committee on Civil Service and Pensions in accordance with Senate Rule 6, sec. 8 -- 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:

1 Section 1. Paragraph 1 of subdivision c of section 381-b of the  
2 retirement and social security law, as amended by chapter 581 of the  
3 laws of 2001, is amended and a new paragraph 3 is added to read as  
4 follows:  
5 (1) Police service. In computing the years of total creditable service  
6 in such division, full credit shall be given and full allowance shall be  
7 made for service rendered as a police officer or member of a police  
8 force or department of a state park authority or commission or an organ-  
9 ized police force or department of a county, city, town, village, police  
10 district, authority or other participating employer or member of the  
11 capital police force in the office of general services while a member of  
12 the New York state and local police and fire retirement system, of the  
13 New York state and local employees' retirement system or of the New York  
14 city police pension fund and for all service for which full credit has  
15 been given and full allowance made pursuant to the provisions of section  
16 three hundred seventy-five-h of this [~~chapter~~] article provided, howev-  
17 er, that full credit pursuant to the provisions of such section shall  
18 mean only such service as would be creditable service pursuant to the  
19 provisions of section three hundred eighty-three or section three

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

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1 hundred eighty-three-a or three hundred eighty-three-b enacted by chap-  
2 ter six hundred seventy-seven of the laws of nineteen hundred eighty-six  
3 of this [~~chapter~~] title or pursuant to the provisions of title thirteen  
4 of the administrative code of the city of New York for any member  
5 contributing pursuant to this section who transferred to the division of  
6 state police.

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

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

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

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

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

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

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

1 (h) In the event the service credit granted pursuant to this para-  
2 graph, when added to a member's current service credit, renders him or  
3 her eligible for service retirement, such member shall be deemed eligi-  
4 ble for such service retirement and may elect to retire under the rules  
5 set forth by the retirement system.

6 § 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 2022 legislative session, it is estimated that the past service cost will average approximately 22% of an affected officer's 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:

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 January 25, 2022, and intended for use only during the 2022 Legislative Session, is Fiscal Note No. 2022-59, prepared by the Actuary for the New York State and Local Retirement System.