STATE OF NEW YORK

8565

IN SENATE

March 14, 2022

Introduced by Sen. O'MARA -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to authorize John Hawley to receive certain credit under section 384-d of the retirement and social security law

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, John Hawley, currently a Village of Bath police officer and member of the New York state and local police and fire retirement system covered by section 384-d of the retirement and social security law, who between July 9, 1997 and September 9, 2005 was employed by the Steuben County Sheriff's Department where he was a member of the New York state and local employees' retirement system, and who, for reasons not ascribable to his own negligence, was not granted service credit under section 384-d of the retirement and social security law for his period of employment with the Steuben County Sheriff's Department, shall be granted such service credit under section 384-d of the retirement and social security law and shall be entitled to the full rights and benefits associated with coverage under such section, provided a request to that effect is filed with the state comptroller within one year from the effective date of this act.

§ 2. All past service costs incurred in implementing the provisions of this act shall be borne by the Village of Bath.

§ 3. This act shall take effect immediately.

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

This bill would grant service credit under section 384-d of the Retirement and Social Security Law to John Hawley, a current member of the New York State and Local Police and Fire Retirement System (NYSLPFRS) employed by the Village of Bath, for the period of July 9, 1997 through September 9, 2005, during which he was employed as a deputy sheriff in Steuben County. Currently, deputy sheriff service is not creditable in a NYSLPFRS twenty-year police retirement plan.

If this bill is enacted during the 2022 legislative session and John Hawley transfers his deputy sheriff service credit to the NYSLPFRS,

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

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there will be an immediate past service cost of approximately $308,000 which will be borne by the Village of Bath as a one-time payment. This estimate is based on the assumption that payment will be made on February 1, 2023.

There will be no increase in the annual contributions of the Village of Bath.

Internal Revenue Service (IRS) plan qualification issues: granting service credit towards retirement in a twenty-year plan in the NYSLPFRS for employment that was not rendered in the NYSLPFRS could jeopardize the Retirement System's governmental plan status and its exemption from the Employees Retirement Income Security Act. This development could result in the loss of qualified status, which would mean the loss of tax benefits. This result 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 March 10, 2022, and intended for use only during the 2022 Legislative Session, is Fiscal Note No. 2022-86, prepared by the Actuary for the New York State and Local Retirement System.