

# STATE OF NEW YORK

9240

## IN SENATE

May 12, 2022

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

AN ACT to amend the retirement and social security law, in relation to enacting the "police and fire employees retention act"

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

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "police and fire employees retention act".

3 § 2. Legislative findings. Over the past several years, increased  
4 workloads on our police and fire employees throughout the state has  
5 resulted in a large reduction in personnel resources due to retirement  
6 and separation from service. The loss of talented and experienced  
7 personnel in these important job titles further results in a structural  
8 deficit of experienced trainers for our next generation of dedicated  
9 police and fire personnel actively entering their public service lives.  
10 This legislation seeks to induce talented and experienced personnel to  
11 remain in service to the public while allowing their pension payments to  
12 be deferred during a specific period of time while they continue employ-  
13 ment.

14 § 3. The retirement and social security law is amended by adding a new  
15 section 381-c to read as follows:

16 § 381-c. Deferred retirement option plan payable to members of  
17 optional twenty-year retirement plan. A participating employer which has  
18 elected or which elects, pursuant to section three hundred eighty-one  
19 and any sections under this article, who participates in a twenty-year  
20 retirement plan shall provide for a deferred retirement option plan.

21 a. Deferred retirement option plan, (hereinafter referred to as  
22 "DROP"), is a retirement plan under which an eligible member may elect  
23 to participate, deferring receipt of retirement benefits while continu-  
24 ing employment. For the purposes of this section, an "eligible member"  
25 is any member or officer employed by the state, local, municipal, coun-  
26 ty, village, authority or division within the state. During the period  
27 of continued employment, the eligible member's monthly retirement bene-  
28 fit shall be deferred and held by the retirement system on behalf of the

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

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1 member plus interest at an effective rate of one and one-half percent  
2 for the specific period of participation in DROP as provided in subdivi-  
3 sion c of this section. Upon completion of the DROP period, the eligible  
4 member shall receive the total amount of retirement benefits deferred  
5 under DROP without optional modification as permitted by subdivisions d  
6 and e of this section and shall begin to receive the previously deter-  
7 mined normal service retirement benefit with optional modification as  
8 further provided in subdivision d of this section.

9 b. Any eligible member who is currently employed pursuant to section  
10 three hundred eighty-one and any or all subdivisions thereunder and  
11 qualifies to retire pursuant to section three hundred eighty-one of this  
12 title by reason of completing twenty years of creditable service may  
13 elect to participate in DROP.

14 c. Such election must be on a form supplied by the retirement system  
15 and may be for any period of time not less than twelve months or more  
16 than sixty months duration. Any member who elects to participate in DROP  
17 is considered retired on the day following the expiration of the DROP  
18 period. Provided, however, that all loans and excess contributions must  
19 be resolved by the date of entry into DROP and no additional loans or  
20 excess contributions shall be permitted after the date of entry into  
21 DROP. Upon expiration of the time period selected by the eligible  
22 member, such member's participation in DROP shall terminate.

23 d. (1) Effective with the date of participation in DROP, the eligible  
24 member's normal service retirement benefit shall be calculated, using  
25 creditable service and final average salary as if the effective date of  
26 retirement was the date of entry into DROP. The amount deferred pursuant  
27 to DROP shall be calculated based upon the eligible member's zero option  
28 retirement allowance until such member has obtained the applicable maxi-  
29 mum service retirement limit based upon years of service. Any additional  
30 participation in DROP after a member has obtained the maximum service  
31 retirement limit based upon years of service shall be calculated based  
32 upon sixty percent of the member's full annual retirement allowance. In  
33 addition, for the purposes of this section, the annual retirement allow-  
34 ance for any member electing DROP shall be calculated using a three-year  
35 final average salary as defined elsewhere in this article. The eligible  
36 member shall, however, elect his or her optional retirement benefit at  
37 the completion of the DROP period.

38 (2) If the eligible member dies prior to completion of the period of  
39 participation in DROP, the eligible member shall be treated as if such  
40 DROP election did not exist. In lieu of the DROP payment, a death bene-  
41 fit shall be payable consistent with the terms of this chapter and all  
42 salary and service reported for such eligible member during the DROP  
43 period shall be considered in calculating the eligible member's death  
44 benefit.

45 (3) If the eligible member is approved for disability benefits  
46 provided in this chapter during the DROP period, the eligible member  
47 shall be treated as if the DROP election did not exist. In lieu of the  
48 DROP payment, a disability retirement benefit shall be payable consist-  
49 ent with the terms of this chapter and all salary and service reported  
50 for such eligible member during the DROP period shall be considered in  
51 calculating the eligible member's disability retirement benefit.

52 (4) If an eligible member otherwise fails to complete his or her peri-  
53 od of service as elected pursuant to subdivision c of this section, the  
54 eligible member shall be treated as if such DROP election did not exist.  
55 In lieu of the DROP payment, the normal service retirement benefit shall  
56 be payable consistent with the terms of this chapter and all salary and

1 service reported for such eligible member during the DROP period shall  
2 be considered in calculating the eligible member's service retirement  
3 benefit.

4 (5) If an eligible member remains employed after his or her partic-  
5 ipation in DROP is terminated, such member shall forfeit all DROP bene-  
6 fits and continue employment as if such DROP election did not exist.  
7 Such member shall then be eligible to elect DROP consistent with the  
8 terms of this section.

9 (6) If an eligible member is approved for disability benefits after  
10 benefits payable pursuant to DROP have been paid, the eligible member  
11 may elect to receive the disability benefits in lieu of DROP benefits,  
12 but such disability benefits must be actuarially adjusted for any bene-  
13 fits paid under DROP.

14 e. At the conclusion of the member's participation in DROP, the  
15 retirement system shall pay the deferred service retirement benefits in  
16 one of the following methods as elected by the member:

17 (1) All accrued DROP benefits, plus interest, less withholding as  
18 required by the internal revenue service, shall be paid to the DROP  
19 participant or eligible beneficiary or as otherwise determined by opera-  
20 tion of law;

21 (2) All accrued DROP benefits, plus interest, shall be paid from the  
22 retirement system to a custodian of the eligible retirement plan or  
23 other eligible plan or account as provided pursuant to the internal  
24 revenue code as directed by the member or eligible beneficiary;

25 (3) A portion of the DROP benefits shall be paid to the DROP partic-  
26 ipant or eligible beneficiary, less withholding required by the internal  
27 revenue service and the remaining DROP benefits may be rolled over as  
28 otherwise permitted by the internal revenue code. For purposes of this  
29 subdivision, the term "eligible beneficiary" is one who qualifies to  
30 rollover benefits from a qualified benefit plan or account as provided  
31 by the internal revenue code.

32 The forms of payment provided by this subdivision must comply with the  
33 minimum distribution requirements of the internal revenue code.

34 f. The comptroller shall prescribe such regulations as may be required  
35 for the effective administration and implementation of the provisions of  
36 this section.

37 § 4. This act shall take effect immediately.