

# STATE OF NEW YORK

6062

2021-2022 Regular Sessions

## IN ASSEMBLY

March 8, 2021

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

AN ACT to amend the retirement and social security law, in relation to establishing a twenty-five year retirement plan for firefighters employed by the division of military and naval affairs

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

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

3 § 89-x. Twenty-five year retirement plan for firefighters employed by  
4 the division of military and naval affairs firefighters. a. A member who  
5 serves as an airport firefighter apprentice, airport firefighter I,  
6 airport firefighter II, airport firefighter III, or training and safety  
7 officer and is employed by the division of military and naval affairs  
8 shall be eligible to retire pursuant to the provisions of this section.  
9 Such eligibility shall be an alternative to the eligibility provisions  
10 available under any other plan of this article to which such member is  
11 subject.

12 b. Such member shall be entitled to retire upon the completion of  
13 twenty-five years of total creditable service by filing an application  
14 therefor in the manner provided for in section seventy of this article.

15 c. Upon completion of twenty-five years of such service and upon  
16 retirement, each such member shall receive a pension which, together  
17 with an annuity which shall be the actuarial equivalent of his or her  
18 accumulated contributions at the time of his or her retirement and an  
19 additional pension which is the actuarial equivalent of the reserved-  
20 for-increased-take-home-pay to which he or she may then be entitled  
21 shall be sufficient to provide him or her with a retirement allowance  
22 equal to one-half of his or her final average salary.

23 d. As used in this section, "creditable service" shall include any and  
24 all services performed as a firefighter apprentice, airport firefighter

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

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1 I, airport firefighter II, airport firefighter III, or training and  
2 safety officer employed by the division of military and naval affairs.

3 e. Credit for service as a paid firefighter or officer of any organ-  
4 ized fire department shall also be deemed to be creditable service and  
5 shall be included in computing years of total service for retirement  
6 pursuant to this section.

7 f. A member contributing on the basis of this section at the time of  
8 retirement, may retire after the completion of twenty-five years of  
9 total creditable service. Application therefor may be filed in a manner  
10 similar to that provided in section seventy of this article. Upon  
11 completion of twenty-five years of such service and upon retirement,  
12 each such member shall receive a pension which, together with an annuity  
13 which shall be the actuarial equivalent of his or her accumulated  
14 contributions at the time of his or her retirement and an additional  
15 pension which is the actuarial equivalent of the reserved-for-in-  
16 creased-take-home-pay to which he or she may then be entitled shall be  
17 sufficient to provide him or her with a retirement allowance equal to  
18 one-half of his or her final average salary; for service beyond twenty-  
19 five years and for non-firefighter service the benefit is increased by  
20 one-sixtieth of final average salary for each year of additional service  
21 credit.

22 g. In computing the twenty-five years of total service of a member  
23 pursuant to this section full credit shall be given and full allowance  
24 shall be made for service of such member in time of war after World War  
25 I as defined in section two of this chapter, provided such member at the  
26 time of his or her entrance into the armed forces was in the service of  
27 the state.

28 h. Nothing in this section shall be construed to prevent a member, who  
29 does not retire pursuant to the provisions of this section, from utiliz-  
30 ing service which is creditable service pursuant to the provisions of  
31 this section for service credit pursuant to the provisions of any other  
32 plan of this article to which such member is subject.

33 i. The provisions of this section shall be controlling notwithstanding  
34 any other provision in this article to the contrary.

35 j. Any member who, on or before the effective date of this section, is  
36 a firefighter apprentice, airport firefighter I, airport firefighter II,  
37 airport firefighter III, or training and safety officer employed by the  
38 division of military and naval affairs may, by filing an election within  
39 one year after the effective date of this section, elect to be subject  
40 to the provisions of this section. Such election shall be in writing,  
41 shall be duly executed and filed with the comptroller and shall be irre-  
42 vocable.

43 § 2. Subdivision a of section 445 of the retirement and social securi-  
44 ty law, as amended by chapter 476 of the laws of 2018, is amended to  
45 read as follows:

46 a. No member of a retirement system who is subject to the provisions  
47 of this article shall retire without regard to age, exclusive of retire-  
48 ment for disability, unless he or she is a police officer, an investi-  
49 gator member of the New York city employees' retirement system, fire-  
50 fighter, correction officer, a qualifying member as defined in section  
51 eighty-nine-t, as added by chapter six hundred fifty-seven of the laws  
52 of nineteen hundred ninety-eight, of this chapter, sanitation worker, a  
53 special officer (including persons employed by the city of New York in  
54 the title urban park ranger or associate urban park ranger), school  
55 safety agent, campus peace officer or a taxi and limousine commission  
56 inspector member of the New York city employees' retirement system or

1 the New York city board of education retirement system, a dispatcher  
2 member of the New York city employees' retirement system, a police  
3 communications member of the New York city employees' retirement system,  
4 an EMT member of the New York city employees' retirement system, a depu-  
5 ty sheriff member of the New York city employees' retirement system, a  
6 correction officer of the Westchester county correction department as  
7 defined in section eighty-nine-e of this chapter or employed in Suffolk  
8 county as a peace officer, as defined in section eighty-nine-s, as added  
9 by chapter five hundred eighty-eight of the laws of nineteen hundred  
10 ninety-seven, of this chapter, employed in Suffolk county as a  
11 correction officer, as defined in section eighty-nine-f of this chapter,  
12 or employed in Nassau county as a correction officer, uniformed  
13 correction division personnel, sheriff, undersheriff or deputy sheriff,  
14 as defined in section eighty-nine-g of this chapter, or employed in  
15 Nassau county as an ambulance medical technician, an ambulance medical  
16 technician/supervisor or a member who performs ambulance medical techni-  
17 cian related services, as defined in section eighty-nine-s, as amended  
18 by chapter five hundred seventy-eight of the laws of nineteen hundred  
19 ninety-eight, of this chapter, or employed in Nassau county as a peace  
20 officer, as defined in section eighty-nine-s, as added by chapter five  
21 hundred ninety-five of the laws of nineteen hundred ninety-seven, of  
22 this chapter, or employed in Albany county as a sheriff, undersheriff,  
23 deputy sheriff, correction officer or identification officer, as defined  
24 in section eighty-nine-h of this chapter or is employed in St. Lawrence  
25 county as a sheriff, undersheriff, deputy sheriff or correction officer,  
26 as defined in section eighty-nine-i of this chapter or is employed in  
27 Orleans county as a sheriff, undersheriff, deputy sheriff or correction  
28 officer, as defined in section eighty-nine-l of this chapter or is  
29 employed in Jefferson county as a sheriff, undersheriff, deputy sheriff  
30 or correction officer, as defined in section eighty-nine-j of this chap-  
31 ter or is employed in Onondaga county as a deputy sheriff-jail division  
32 competitively appointed or as a correction officer, as defined in  
33 section eighty-nine-k of this chapter or is employed in a county which  
34 makes an election under subdivision j of section eighty-nine-p of this  
35 chapter as a sheriff, undersheriff, deputy sheriff or correction officer  
36 as defined in such section eighty-nine-p or is employed in Broome County  
37 as a sheriff, undersheriff, deputy sheriff or correction officer, as  
38 defined in section eighty-nine-m of this chapter or is a Monroe county  
39 deputy sheriff-court security, or deputy sheriff-jailor as defined in  
40 section eighty-nine-n, as added by chapter five hundred ninety-seven of  
41 the laws of nineteen hundred ninety-one, of this chapter or is employed  
42 in Greene county as a sheriff, undersheriff, deputy sheriff or  
43 correction officer, as defined in section eighty-nine-o of this chapter  
44 or is a traffic officer with the town of Elmira as defined in section  
45 eighty-nine-q of this chapter or is employed by Suffolk county as a park  
46 police officer, as defined in section eighty-nine-r of this chapter or  
47 is a peace officer employed by a county probation department as defined  
48 in section eighty-nine-t, as added by chapter six hundred three of the  
49 laws of nineteen hundred ninety-eight, of this chapter or is employed in  
50 Rockland county as a deputy sheriff-civil as defined in section eighty-  
51 nine-v of this chapter as added by chapter four hundred forty-one of the  
52 laws of two thousand one, or is employed in Rockland county as a superi-  
53 or correction officer as defined in section eighty-nine-v of this chap-  
54 ter as added by chapter five hundred fifty-six of the laws of two thou-  
55 sand one or is a paramedic employed by the police department in the town  
56 of Tonawanda and retires under the provisions of section eighty-nine-v

1 of this chapter, as added by chapter four hundred seventy-two of the  
2 laws of two thousand one, or is a county fire marshal, supervising fire  
3 marshal, fire marshal, assistant fire marshal, assistant chief fire  
4 marshal or chief fire marshal employed by the county of Nassau as  
5 defined in section eighty-nine-w of this chapter, or is a firefighter  
6 apprentice, airport firefighter I, airport firefighter II, airport fire-  
7 fighter III, or training and safety officer employed by the division of  
8 military and naval affairs as defined in section eighty-nine-x of this  
9 chapter and is in a plan which permits immediate retirement upon  
10 completion of a specified period of service without regard to age.  
11 Except as provided in subdivision c of section four hundred forty-five-a  
12 of this article, subdivision c of section four hundred forty-five-b of  
13 this article, subdivision c of section four hundred forty-five-c of this  
14 article, subdivision c of section four hundred forty-five-d of this  
15 article, subdivision c of section four hundred forty-five-e of this  
16 article, subdivision c of section four hundred forty-five-f of this  
17 article and subdivision c of section four hundred forty-five-h of this  
18 article, a member in such a plan and such an occupation, other than a  
19 police officer or investigator member of the New York city employees'  
20 retirement system or a firefighter, shall not be permitted to retire  
21 prior to the completion of twenty-five years of credited service;  
22 provided, however, if such a member in such an occupation is in a plan  
23 which permits retirement upon completion of twenty years of service  
24 regardless of age, he or she may retire upon completion of twenty years  
25 of credited service and prior to the completion of twenty-five years of  
26 service, but in such event the benefit provided from funds other than  
27 those based on such a member's own contributions shall not exceed two  
28 per centum of final average salary per each year of credited service.

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

31 u. The service retirement benefit specified in section six hundred  
32 four of this article shall be payable to members with twenty-five years  
33 of creditable service, without regard to age, who are employed by the  
34 division of military and naval affairs as a firefighter apprentice,  
35 airport firefighter I, airport firefighter II, airport firefighter III,  
36 or training and safety officer as defined in section eighty-nine-x of  
37 this chapter if: (i) such members have met the minimum service require-  
38 ments upon retirement; and (ii) in the case of a member subject to the  
39 provisions of article fourteen of this chapter, such member files an  
40 election therefor which provides that he or she will be subject to the  
41 provisions of this article and to none of the provisions of such article  
42 fourteen. Such election, which shall be irrevocable, shall be in writ-  
43 ing, duly executed and shall be filed with the comptroller within one  
44 year of the effective date of this subdivision or within one year after  
45 entering the employment with the division of military and naval affairs  
46 upon which eligibility is based, whichever comes later. For the purposes  
47 of this subdivision, the term "creditable service" shall have the mean-  
48 ing as so defined in both sections eighty-nine-x and six hundred one of  
49 this chapter.

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

52 u. The early service retirement benefit for a member who is employed  
53 in the division of military and naval affairs as a firefighter appren-  
54 tice, airport firefighter I, airport firefighter II, airport firefighter  
55 III, or training and safety officer employed as defined in section  
56 eighty-nine-x of this chapter shall be a pension equal to one-fiftieth

1 of final average salary times years of credited service at the  
2 completion of twenty-five years of service as such division of military  
3 and naval affairs firefighter apprentice, airport firefighter I, airport  
4 firefighter II, airport firefighter III, or training and safety officer,  
5 but not exceeding one-half of his or her final average salary.

6 § 5. This act shall take effect January 1, 2022.

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

This bill will allow airport firefighters employed by the division of military and naval affairs to retire to become covered by the provisions of a special 25 year retirement plan, which will provide a benefit of one-half of final average salary upon retirement for all tiers and an additional benefit of one-sixtieth of final average salary for each year of service, including non-firefighter service in excess of 25 years for tiers 1 and 2 only.

If this bill is enacted during the 2020 legislative session there will be an increase of approximately \$240,000 in the annual contributions of the State of New York for the fiscal year ending March 31, 2021. In future years, this cost will vary as the billing rates and salaries of the affected firefighters change.

In addition to the annual contributions discussed above, there will be an immediate past service cost of \$2.13 million which will be borne by the State of New York as a one-time payment. This estimate is based on the assumption that payment will be made on March 1, 2021.

This estimate is based on 65 airport firefighters employed by the division of military and naval affairs with an annual salary of approximately \$4.9 million for the fiscal year ending March 31, 2020.

Summary of relevant resources:

The identities of the members who are affected by this legislation are not obtainable from our database. Job title code data provided by the Civil Service Employees Association was relied upon to identify affected members.

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 February 9, 2021, and intended for use only during the 2021 Legislative Session, is Fiscal Note No. 2021-46, prepared by the Actuary for the New York State and Local Retirement System.