STATE OF NEW YORK

4018

2023-2024 Regular Sessions

IN ASSEMBLY

February 9, 2023

Introduced by M. of A. PHEFFER AMATO, JONES, WALLACE, BURDICK, ROZIC, TAPIA, LAVINE, WOERNER, ZEBROWSKI, SILLITTI, GUNTHER, STERN, THIELE, FAHY, LUPARDO, CLARK, CONRAD, AUBRY, RAMOS, FALL, COLTON, BARRETT, DeSTEFANO, DURSO, DARLING, JEAN-PIERRE, J. A. GIGLIO, BUTTENSCHON, SAYEGH, WALSH -- 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 year retirement plan for members or officers of law enforcement

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 383-e to read as follows:

§ 383-e. Retirement of officers of state law enforcement; twenty year retirement plan. a. Membership. Every non-seasonally appointed sworn member or officer of the division of law enforcement in the department of environmental conservation, a forest ranger in the service of the department of environmental conservation, which shall mean a person who serves on a full-time basis in the title of forest ranger I, forest ranger II, forest ranger III, assistant superintendent of forest fire control, superintendent of forest fire control or any successor titles or new titles in the forest ranger title series in the department of environmental conservation, a police officer in the department of environmental conservation, the regional state park police, and university police officers who enter or re-enter service in any such title shall be covered by the provisions of this section, and every member described in this subdivision in such service on or before one year prior to the effective date of this section may elect to be covered by the provisions of this section by filing an election therefor with the comptroller. To be effective, such election must be duly executed and acknowledged on a form prepared by the comptroller for that purpose.

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

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b. Retirement allowance. A member, covered by the provisions of this section at the time of retirement, shall be entitled to retire upon completion of twenty years of total creditable service in such titles, and shall retire upon the attainment of the mandatory retirement age prescribed by this section, by filing an application therefor in a manner similar to that provided in section three hundred seventy of this article.

1. Upon completion of twenty years of such service and upon retirement, each such member shall receive a pension which, together with an annuity for such years of service as provided in paragraph four of this subdivision, shall be sufficient to provide him or her with a retirement allowance of one-half of his or her final average salary.

2. Upon completion of more than twenty years of such service and upon retirement, each such member shall receive, for each year of service in excess of twenty, an additional pension which, together with an annuity for each such year as provided in paragraph four of this subdivision, shall be equal to one-sixtieth of his or her final average salary, provided, however, that the pension payable pursuant to this section shall not exceed three-quarters of final average salary.

3. Upon attainment of the mandatory retirement age without completion of twenty years of such service, each such member shall receive a pension which, together with an annuity for such years of service as provided in paragraph four of this subdivision, shall be equal to one-fortieth of his or her final average salary for each year of creditable service in such titles. Every such member shall also be entitled to an additional pension equal to the pension for any creditable service rendered while not an employee in such titles as provided under paragraphs three and four of subdivision a of section three hundred seventy-five of this article. This latter pension shall not increase the total allowance to more than one-half of his or her final average salary.

4. The annuity provided under paragraphs one, two and three of this subdivision shall be the actuarial equivalent, at the time of retirement, of the member's accumulated contributions based upon the rate of contribution fixed under section three hundred eighty-three of this title and upon the salaries earned while in such service. Such annuity shall be computed as it would be if it were not reduced by the actuarial equivalent of any outstanding loan nor by reason of the member's election to decrease his or her contributions toward retirement in order to apply the resulting amount toward payment of contributions for old age and survivor's insurance. Any accumulated contributions in excess of the amount required to provide the annuity computed pursuant to this paragraph shall be used to increase the member's retirement allowance.

c. Credit for previous service. In computing the years of total creditable service for each member described herein, full credit shall be given and full allowance shall be made for service rendered as a police officer or state university peace officer or member of a police force or department of a state park authority or commission or an organized police force or department of a county, city, town, village, police district, authority or other participating employer or member of the capital police force in the office of general services while a member of the New York state and local police and fire retirement system, of the New York state and local employees' retirement system or of the New York city police pension fund and for all service for which full credit has been given and full allowance made pursuant to the provisions of section three hundred seventy-five-h of this article provided, however, that

full credit pursuant to the provisions of such section shall mean only such service as would be creditable service pursuant to the provisions of section three hundred eighty-three, three hundred eighty-three-a, three hundred eighty-three-b, as added by chapter six hundred seventy-four of the laws of nineteen hundred eighty-six, three hundred eighty-three-b, as added by chapter six hundred seventy-seven of the laws of nineteen hundred eighty-six, three hundred eighty-three-c or three hundred eighty-three-d of this title or pursuant to the provisions of title thirteen of the administrative code of the city of New York for any member contributing pursuant to this section who transferred to the jurisdiction of the department of environmental conservation including but not limited to environmental conservation officers and forest rangers, regional state park police or state university of New York peace officers.

d. Retirement for cause. Upon receipt of a certificate from the head of the entity where such member is employed or his or her designee, a member as described in subdivision a of this section, who has accrued twenty-five or more years of service credit under this section shall be retired on the first day of the second month next succeeding the date such certificate was filed with the comptroller.

e. Credit for military service. In computing the years of total creditable service full credit shall be given and full allowance shall be made for service of such member in war after world war I as defined in section three hundred two of this article, provided such member at the time of his or her entrance into the armed forces was in police service as defined in subdivision eleven of section three hundred two of this article.

f. Transfer of membership to employees' retirement system. Any member currently enrolled pursuant to this section and who previously transferred service credit from the New York state and local employees' retirement system to the New York state and local police and fire retirement system, may elect to transfer such previously transferred service credit back to the New York state and local employees' retirement system, and such member shall have the option to retroactively transfer his or her membership into such employees' retirement system.

g. The provisions of this section shall be controlling, notwithstanding any provision of this article to the contrary.

§ 2. All past service costs associated with implementing the provisions of this act shall be borne by the state of New York and may be amortized over a period of ten years.

§ 3. This act shall take effect on the sixtieth day after it shall have become a law.

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

This bill would allow any non-seasonally appointed sworn member or officer of the division of law enforcement, a police officer, or forest ranger in the department of environmental conservation, a regional state park police officer, or a university police officer to become covered by the provisions of a special 20-year retirement plan, which will provide a benefit of one-half of final average salary upon retirement and an additional benefit of one-sixtieth of final average salary for each year of creditable service in excess of 20 years, not to exceed 12 years.

If this bill is enacted during the 2023 legislative session, we anticipate that there will be an increase of approximately $6.0 million in the annual contributions of the State of New York for the fiscal year ending March 31, 2024. 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 $66.7 million which will be borne by the State of New York as a one-time payment. This estimate assumes that payment will be made on March 1, 2024. If the State of New York elects to amortize this cost over a 10-year period, the cost for the first year including interest would be $8.51 million.

These estimated costs are based on 1,167 affected members employed by the State of New York, with annual salary of approximately $133 million as of March 31, 2022.

Summary of relevant resources:

Membership data as of March 31, 2022 was used in measuring the impact of the proposed change, the same data used in the April 1, 2022 actuarial valuation. Distributions and other statistics can be found in the 2022 Report of the Actuary and the 2022 Annual Comprehensive Financial Report.

The actuarial assumptions and methods used are described in the 2020, 2021, and 2022 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, 2022 New York State and Local Retirement System Financial Statements and Supplementary Information.

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 13, 2023, and intended for use only during the 2023 Legislative Session, is Fiscal Note No. 2023-22, prepared by the Actuary for the New York State and Local Retirement System.