

# STATE OF NEW YORK

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5711--A

2023-2024 Regular Sessions

## IN ASSEMBLY

March 22, 2023

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Introduced by M. of A. PHEFFER AMATO -- read once and referred to the Committee on Governmental Employees -- recommitted to the Committee on Governmental Employees in accordance with Assembly Rule 3, sec. 2 -- 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 mandatory retirement age

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

1 Section 1. Subparagraph (f) of paragraph 1 and the opening paragraph  
2 of subparagraph (g) of paragraph 2 of subdivision e and subdivisions h  
3 and k of section 384 of the retirement and social security law, as  
4 amended by chapter 1043 of the laws of 1968, are amended to read as  
5 follows:

6 (f) Upon completion of twenty-five years service, an additional  
7 pension, if required, of such amount as shall be necessary to increase  
8 the total amount of the benefits provided herein to one-half of his  
9 final average salary. The pension provided by this [~~sub-paragraph~~  
10 subparagraph] shall be payable only if a member retires from service on  
11 or before the last day of the calendar month next succeeding the calen-  
12 dar month in which he attains age [~~sixty-two~~] sixty-five. Provided,  
13 however, that in the case of any member who attained the age of [~~sixty-~~  
14 ~~two~~] sixty-five on or before July first, nineteen hundred sixty-six, to  
15 be eligible for additional pension credit under this [~~sub-paragraph~~  
16 subparagraph], his service shall be terminated and he shall retire on or  
17 before December thirty-first, nineteen hundred sixty-seven. For the  
18 purpose only of determining the amount of the pension provided in this  
19 paragraph, the annuity shall be computed as it would be if it were not  
20 reduced by the actuarial equivalent of any outstanding loan, and if it  
21 were not increased by the actuarial equivalent of any additional  
22 contributions, and if it were not reduced by reason of the member's

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

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1 election to decrease his annuity contributions to the retirement system  
2 in order to apply the amount of such reduction in payment of his  
3 contributions for old-age and survivors insurance coverage.

4 Upon completion of twenty-five years service, an additional pension,  
5 if required, of such amount as shall be necessary to increase the total  
6 amount of the benefits provided herein to one-half of his final average  
7 salary. The pension provided by this ~~[sub-paragraph]~~ subparagraph shall  
8 be payable only if a member retires from service on or before the last  
9 day of the calendar month next succeeding the calendar month in which he  
10 attains age ~~[sixty-two]~~ sixty-five. Provided, however, that in the case  
11 of any member who attained the age of ~~[sixty-two]~~ sixty-five before or  
12 within one month after his employer first elected to assume all or part  
13 of the additional cost of service as provided by paragraph two of subdi-  
14 vision d of this section, to be eligible for additional pension credit  
15 under this ~~[sub-paragraph]~~ subparagraph, his service shall be terminated  
16 and he shall retire within three months after his employer so elects or  
17 on or before December thirty-first, nineteen hundred sixty-eight, which-  
18 ever shall last occur.

19 h. Any officer or member of such organized fire department or organ-  
20 ized police force or department, may, within one year after he becomes  
21 such officer or member or within one year after his employer assumes the  
22 additional cost therefor, whichever shall last occur, elect to receive  
23 the additional benefits provided for by subdivision f ~~[hereof]~~ of this  
24 section. Any officer or member who elects to receive such benefits shall  
25 be separated from service on the first day of the calendar month next  
26 succeeding his attainment of age ~~[sixty-two]~~ sixty-five and the  
27 completion of twenty-five years of service, provided, however, that in  
28 the case of any officer or member who attained the age of ~~[sixty-two]~~  
29 sixty-five before his employer assumed the additional cost therefor, or  
30 who attains the age of ~~[sixty-two]~~ sixty-five within one month after his  
31 employer assumes the additional cost therefor, to be eligible for addi-  
32 tional pension credit under subdivision f of this section, his service  
33 shall be terminated and he shall be retired within three months after  
34 his employer assumes the additional cost therefor or on or before Decem-  
35 ber thirty-first, nineteen hundred sixty-eight, whichever shall last  
36 occur, and provided further that a member who is a chief or commanding  
37 officer of a police department or police force shall retire on the first  
38 day of the calendar month next succeeding his attainment of age sixty-  
39 five; a member who is a chief or commanding officer of a police depart-  
40 ment or police force, who attained age sixty-five before his employer  
41 elected to provide this added benefit and has rendered twenty-five years  
42 of total creditable service, shall retire on or before December thirty-  
43 first, nineteen hundred sixty-eight, or within one year after his  
44 employer assumes the additional cost therefor, whichever shall last  
45 occur.

46 k. Any officer or member of such organized fire department or organ-  
47 ized police force or department, may, within one year after he becomes  
48 such officer or member or within one year after his employer assumes the  
49 additional cost therefor, whichever shall last occur, elect to receive  
50 the additional benefits provided for by subdivision i ~~[hereof]~~ of this  
51 section. Any officer or member who elects to receive such benefits shall  
52 be separated from service on the first day of the calendar month next  
53 succeeding his attainment of age ~~[sixty-two]~~ sixty-five and the  
54 completion of twenty-five years of service, provided, however, that in  
55 the case of any officer or member who attained the age of ~~[sixty-two]~~  
56 sixty-five before his employer assumed the additional cost therefor, or

1 who attains the age of [~~sixty-two~~ **sixty-five**] within one month after his  
2 employer assumes the additional cost therefor, to be eligible for addi-  
3 tional pension credit under subdivision i of this section, his service  
4 shall be terminated and he shall be retired within three months after  
5 his employer assumes the additional cost therefor, or on or before  
6 December thirty-first, nineteen hundred sixty-eight, whichever shall  
7 last occur, and provided further that a member who is a chief or  
8 commanding officer of a police department or police force shall retire  
9 on the first day of the calendar month next succeeding his attainment of  
10 age sixty-five; a member who is a chief or commanding officer of a  
11 police department or police force, who attained age sixty-five before  
12 his employer elected to provide this added benefit and has rendered  
13 twenty-five years of total creditable service, shall retire on or before  
14 December thirty-first, nineteen hundred sixty-eight, or within one year  
15 after his employer assumes the additional cost therefor, whichever shall  
16 last occur.

17 § 2. This act shall take effect immediately.

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

This bill would increase the mandatory retirement age from 62 to 65 for members of the New York State and Local Police and Fire Retirement System (NYSLPFRS) covered under the provisions of section 384 of the Retirement and Social Security Law.

If this bill is enacted during the 2024 Legislative Session, there would be additional benefits for certain members who remain employed beyond age 62 which would be funded by the normal employer contributions. If members delay retirement due to the enactment of this bill, we do not anticipate any increases in the annual contribution rates for any of the participating employers in the NYSLPFRS.

Summary of relevant resources:

Membership data as of March 31, 2023 was used in measuring the impact of the proposed change, the same data used in the April 1, 2023 actuarial valuation. Distributions and other statistics can be found in the 2023 Report of the Actuary and the 2023 Annual Comprehensive Financial Report.

The actuarial assumptions and methods used are described in the 2023 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, 2023 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 10, 2024, and intended for use only during the 2024 Legislative Session, is Fiscal Note No. 2024-34, prepared by the Actuary for the New York State and Local Retirement System.