

STATE OF NEW YORK

9395

IN ASSEMBLY

March 6, 2024

Introduced by M. of A. PHEFFER AMATO -- 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-y to read as follows:

3 § 89-y. Twenty-five year retirement plan for firefighters employed by
4 the division of military and naval affairs. a. A member who serves as an
5 airport firefighter apprentice, airport firefighter I, airport fire-
6 fighter II, airport firefighter III, or training and safety officer and
7 is employed by the division of military and naval affairs shall be
8 eligible to retire pursuant to the provisions of this section. Such
9 eligibility shall be an alternative to the eligibility provisions avail-
10 able 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
25 I, airport firefighter II, airport firefighter III, or training and
26 safety officer employed by the division of military and naval affairs.

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

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

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

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

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

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

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

41 § 2. Subdivision a of section 445 of the retirement and social securi-
42 ty law, as amended by chapter 714 of the laws of 2023, is amended to
43 read as follows:

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

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

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

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

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

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

w. The early service retirement benefit for a member who is employed in the division of military and naval affairs as a firefighter apprentice, airport firefighter I, airport firefighter II, airport firefighter III, or training and safety officer employed as defined in section eighty-nine-y of this chapter shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five years of service as such division of military and naval affairs firefighter apprentice, airport firefighter I, airport firefighter II, airport firefighter III, or training and safety officer, but not exceeding one-half of his or her final average salary.

§ 5. This act shall take effect January 1, 2025.

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

This bill would permit members of the New York State and Local Employees' Retirement System employed by the Division of Military and Naval Affairs in certain airport firefighter titles to retire upon completion of twenty-five years of creditable service with a benefit of one-half final average salary. Affected members in Tiers 1 or 2 would be awarded additional sixtieths for all service, including non-firefighter service, in excess of twenty-five years. Additionally, for those members covered under the provisions of Article 14 of the Retirement and Social Security Law, this bill would permit an irrevocable election to forfeit the benefits of Article 14 in favor of the twenty-five-year plan benefit. Such election must be made within one year of the effective date of this bill or within one year of entering employment with the Division of Military and Naval Affairs, whichever comes later.

If this bill is enacted during the 2024 Legislative Session, we anticipate that there will be an increase of approximately \$260,000 in the annual contributions of the State of New York for the fiscal year ending March 31, 2025. In future years this cost will vary but is expected to average 4.2% of salary annually.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately \$2.14 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, 2025.

These estimated costs are based on 63 affected members employed by the Division of Military and Naval Affairs, with annual salary of approximately \$5.3 million as of March 31, 2023.

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 February 20, 2024, and intended for use only during the 2024 Legislative Session, is Fiscal Note No. 2024-84, prepared by the Actuary for the New York State and Local Retirement System.