STATE OF NEW YORK

9590

IN ASSEMBLY

March 26, 2024

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

AN ACT to amend the retirement and social security law, in relation to the optional twenty-five year retirement of constables employed by the village of Westhampton Dunes

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 89-y to read as follows:

§ 89-y. Optional retirement of constables employed by the village of Westhampton Dunes. a. Any member who is employed by the village of Westhampton Dunes in the county of Suffolk who is a constable shall be eligible to retire pursuant to the provisions of this section. Such eligibility shall be an alternative to the eligibility provisions available under any other plan of this article to which such member is subject.

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

c. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of such member's accumulated contributions at the time of retirement and an additional pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which such member may be entitled, if any, shall be sufficient to provide a retirement allowance equal to one-half of such member's final average salary.

d. As used in this section, "creditable service" shall include any and all service which a member has credited as a member or officer of the state police or as a paid firefighter, police officer or officer of any organized fire department or police force or department of any county, city, village, town, fire district or police district, as a constable with the village of Westhampton Dunes, or as a criminal investigator in the office of a district attorney, provided that service as such inves-

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

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tigator shall have been rendered prior to January first, nineteen hundred sixty and that credit therefor shall not exceed five years, shall also be deemed to be creditable service and shall be included in computing years of total service for retirement pursuant to this section, provided such service was performed by the member while contributing to the retirement system pursuant to the provisions of this article or article eight of this chapter.

e. A member contributing on the basis of this section at the time of retirement may retire after the completion of twenty-five years of total creditable service. Application therefor may be filed in a manner similar to that provided in section seventy of this article. Upon completion of twenty-five years of such service and upon retirement, each such member shall receive a pension which, together with an annuity which shall be the actuarial equivalent of such member's accumulated contributions at the time of retirement and an additional pension which is the actuarial equivalent of the reserve-for-increased-take-home-pay to which such member may then be entitled, shall be sufficient to provide a retirement allowance equal to one-half of such member's final average salary. For service beyond twenty-five years, a member shall receive an additional retirement allowance equal to one-fiftieth of such member's final average salary for each year of creditable service in excess of twenty-five years but not in excess of thirty years.

f. Nothing in this section shall be construed to prevent a member, who does not retire pursuant to the provisions of this section, from utilizing service which is creditable service pursuant to the provisions of this section for service credit pursuant to the provisions of any other plan of this article to which such member is subject.

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

h. Notwithstanding any provision of this section or of any other provision of law to the contrary, constables must have at least ten years of creditable service with the village of Westhampton Dunes before such constables are eligible to retire under the provisions of the twenty-five year retirement plan.

i. The village shall certify to the comptroller, periodically and at such intervals of time as may be required and in such fashion as may be prescribed, the identity of the constables in the village's employ.

§ 2. Subdivision a of section 445 of the retirement and social security law, as amended by chapter 714 of the laws of 2023, is amended to read as follows:

a. No member of a retirement system who is subject to the provisions of this article shall retire without regard to age, exclusive of retirement for disability, unless [~~he or she~~] such member is a police officer, an investigator member of the New York city employees' retirement system, firefighter, correction officer, a qualifying member as defined in section eighty-nine-t, as added by chapter six hundred fifty-seven of the laws of nineteen hundred ninety-eight, of this chapter, sanitation worker, a special officer (including persons employed by the city of New York in the title urban park ranger or associate urban park ranger), school safety agent, campus peace officer or a taxi and limousine commission inspector member of the New York city employees' retirement system or the New York city board of education retirement system, a dispatcher member of the New York city employees' retirement system, a police communications member of the New York city employees' retirement system, an EMT member of the New York city employees' retirement system, a deputy sheriff member of the New York city employees' retirement

system, a correction officer of the Westchester county correction department as defined in section eighty-nine-e of this chapter or employed in Suffolk county as a peace officer, as defined in section eighty-nine-s, as added by chapter five hundred eighty-eight of the laws of nineteen hundred ninety-seven, of this chapter, employed in Suffolk county as a correction officer, as defined in section eighty-nine-f of this chapter, or employed in Nassau county as a correction officer, uniformed correction division personnel, sheriff, undersheriff or deputy sheriff, as defined in section eighty-nine-g of this chapter, or employed in Nassau county as an ambulance medical technician, an ambulance medical technician/supervisor or a member who performs ambulance medical technician related services, or a police medic, police medic supervisor or a member who performs police medic related services, as defined in section eighty-nine-s, as amended by chapter five hundred seventy-eight of the laws of nineteen hundred ninety-eight, of this chapter, or employed in Nassau county as a peace officer, as defined in section eighty-nine-s, as added by chapter five hundred ninety-five of the laws of nineteen hundred ninety-seven, of this chapter, or employed in Albany county as a sheriff, undersheriff, deputy sheriff, correction officer or identification officer, as defined in section eighty-nine-h of this chapter or is employed in St. Lawrence county as a sheriff, undersheriff, deputy sheriff or correction officer, as defined in section eighty-nine-i of this chapter or is employed in Orleans county as a sheriff, undersheriff, deputy sheriff or correction officer, as defined in section eighty-nine-l of this chapter or is employed in Jefferson county as a sheriff, undersheriff, deputy sheriff or correction officer, as defined in section eighty-nine-j of this chapter or is employed in Onondaga county as a deputy sheriff-jail division competitively appointed or as a correction officer, as defined in section eighty-nine-k of this chapter or is employed in a county which makes an election under subdivision j of section eighty-nine-p of this chapter as a sheriff, undersheriff, deputy sheriff or correction officer as defined in such section eighty-nine-p or is employed in Broome County as a sheriff, undersheriff, deputy sheriff or correction officer, as defined in section eighty-nine-m of this chapter or is a Monroe county deputy sheriff-court security, or deputy sheriff-jailor as defined in section eighty-nine-n, as added by chapter five hundred ninety-seven of the laws of nineteen hundred ninety-one, of this chapter or is employed in Greene county as a sheriff, undersheriff, deputy sheriff or correction officer, as defined in section eighty-nine-o of this chapter or is a traffic officer with the town of Elmira as defined in section eighty-nine-q of this chapter or is employed by Suffolk county as a park police officer, as defined in section eighty-nine-r of this chapter or is a peace officer employed by a county probation department as defined in section eighty-nine-t, as added by chapter six hundred three of the laws of nineteen hundred ninety-eight, of this chapter or is employed in Rockland county as a deputy sheriff-civil as defined in section eighty-nine-v of this chapter as added by chapter four hundred forty-one of the laws of two thousand one, or is employed in Rockland county as a superior correction officer as defined in section eighty-nine-v of this chapter as added by chapter five hundred fifty-six of the laws of two thousand one or is a paramedic employed by the police department in the town of Tonawanda and retires under the provisions of section eighty-nine-v of this chapter, as added by chapter four hundred seventy-two of the laws of two thousand one, or is a county fire marshal, supervising fire marshal, fire marshal, assistant fire marshal, assistant chief fire

marshal, chief fire marshal, division supervising fire marshal or fire marshal trainee employed by the county of Nassau as defined in section eighty-nine-w of this chapter or is employed in Monroe county as a deputy sheriff-civil as defined in section eighty-nine-x of this chapter, employed as an emergency medical technician, critical care technician, advanced emergency medical technician, paramedic or supervisor of such titles in a participating Suffolk county fire district as defined in section eighty-nine-ss of this chapter, **or is employed as a constable by the village of Westhampton Dunes as defined in section eighty-nine-y of this chapter,** and is in a plan which permits immediate retirement upon completion of a specified period of service without regard to age. Except as provided in subdivision c of section four hundred forty-five-a of this article, subdivision c of section four hundred forty-five-b of this article, subdivision c of section four hundred forty-five-c of this article, subdivision c of section four hundred forty-five-d of this article, subdivision c of section four hundred forty-five-e of this article, subdivision c of section four hundred forty-five-f of this article and subdivision c of section four hundred forty-five-h of this article, a member in such a plan and such an occupation, other than a police officer or investigator member of the New York city employees' retirement system or a firefighter, shall not be permitted to retire prior to the completion of twenty-five years of credited service; provided, however, if such a member in such an occupation is in a plan which permits retirement upon completion of twenty years of service regardless of age, [~~he or she~~] **such member** may retire upon completion of twenty years of credited service and prior to the completion of twenty-five years of service, but in such event the benefit provided from funds other than those based on such a member's own contributions shall not exceed two per centum of final average salary per each year of credited service.

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

w. The service retirement benefit specified in section six hundred four of this article shall be payable to members with twenty-five or more years of creditable service, without regard to age, who are employed as constables by the village of Westhampton Dunes, as defined in section eighty-nine-y of this chapter, if: (i) such members have met the minimum service requirement upon retirement, and (ii) in the case of a member subject to the provisions of article fourteen of this chapter, such member files an election therefor which provides that such member will be subject to the provisions of this article and to none of the provisions of such article fourteen. Such election, which shall be irrevocable, shall be in writing, duly executed and shall be filed with the comptroller on or before December thirty-first, two thousand twenty-five or within one year of entering into service as a constable in Westhampton Dunes. For the purposes of this subdivision, the term "creditable service" shall have the same meaning as so defined in both sections eighty-nine-y and six hundred one of 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 by the village of Westhampton Dunes as a constable as defined in section eighty-nine-y of this chapter shall be a pension equal to one-fiftieth of such member's final average salary times years of credited service at the completion of twenty-five years of service as such constable, but not exceeding one-half of such member's final average salary. For

service beyond twenty-five years, a member shall receive an additional retirement allowance equal to one-fiftieth of such member's final average salary for each year of creditable service in excess of twenty-five years but not in excess of thirty years.

§ 5. All past service costs associated with implementing the provisions of this act shall be borne by the village of Westhampton Dunes.

§ 6. This act shall take effect immediately.

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

This bill would create a new service-based retirement plan for members of the New York State and Local Employees' Retirement System employed as a constable with the Village of Westhampton Dunes. Provided the constable has accrued at least ten years of creditable service while employed by the Village of Westhampton Dunes, they would have the option to retire upon completion of twenty-five years of creditable service with a benefit of one-half of final average salary (FAS) and an additional benefit of one-fiftieth of FAS for each year of creditable service in excess of twenty-five years, limited to five years of additional one-fiftieths. Currently, these members are covered under an age-based plan.

Additionally, for those members covered under the provisions of Article 14, this bill would permit an irrevocable election to forfeit the benefits of Article 14 in favor of the 25-year plan benefit established by this legislation. The election must be made on or before December 31, 2025 or within one year of entering service as a constable with the Village of Westhampton Dunes, whichever comes later.

If this bill is enacted during the 2024 Legislative Session, we anticipate that there will be an increase of approximately $25,000 in the annual contributions of the Village of Westhampton Dunes for the fiscal year ending March 31, 2025. In future years this cost will vary but is expected to average 4.9% of salary annually.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately $239,000 which will be borne by the Village of Westhampton Dunes as a one-time payment. This estimate assumes that payment will be made on February 1, 2025.

These estimated costs are based on nine affected members employed by the Village of Westhampton Dunes, with annual salary of approximately $462,000 as of March 31, 2023. The affected members were identified using a roster provided by Lisa M. Lombardo from the office of Representative Fred W. Thiele, Jr.

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 March 8, 2024, and intended for use only during the 2024 Legislative Session, is Fiscal Note No. 2024-26, prepared by the Actuary for the New York State and Local Retirement System.