

# STATE OF NEW YORK

8840

## IN SENATE

March 19, 2024

Introduced by Sen. PALUMBO -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

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:

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. Optional retirement of constables employed by the village of  
4 Westhampton Dunes. a. Any member who is employed by the village of  
5 Westhampton Dunes in the county of Suffolk who is a constable shall be  
6 eligible to retire pursuant to the provisions of this section. Such  
7 eligibility shall be an alternative to the eligibility provisions avail-  
8 able under any other plan of this article to which such member is  
9 subject.

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

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

21 d. As used in this section, "creditable service" shall include any and  
22 all service which a member has credited as a member or officer of the  
23 state police or as a paid firefighter, police officer or officer of any  
24 organized fire department or police force or department of any county,  
25 city, village, town, fire district or police district, as a constable  
26 with the village of Westhampton Dunes, or as a criminal investigator in  
27 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.

LBD11642-07-4

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

8 e. A member contributing on the basis of this section at the time of  
9 retirement may retire after the completion of twenty-five years of total  
10 creditable service. Application therefor may be filed in a manner simi-  
11 lar to that provided in section seventy of this article. Upon completion  
12 of twenty-five years of such service and upon retirement, each such  
13 member shall receive a pension which, together with an annuity which  
14 shall be the actuarial equivalent of such member's accumulated contrib-  
15 utions at the time of retirement and an additional pension which is the  
16 actuarial equivalent of the reserve-for-increased-take-home-pay to which  
17 such member may then be entitled, shall be sufficient to provide a  
18 retirement allowance equal to one-half of such member's final average  
19 salary. For service beyond twenty-five years, a member shall receive an  
20 additional retirement allowance equal to one-fiftieth of such member's  
21 final average salary for each year of creditable service in excess of  
22 twenty-five years but not in excess of thirty years.

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

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

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

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

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

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

1 system, a correction officer of the Westchester county correction  
2 department as defined in section eighty-nine-e of this chapter or  
3 employed in Suffolk county as a peace officer, as defined in section  
4 eighty-nine-s, as added by chapter five hundred eighty-eight of the laws  
5 of nineteen hundred ninety-seven, of this chapter, employed in Suffolk  
6 county as a correction officer, as defined in section eighty-nine-f of  
7 this chapter, or employed in Nassau county as a correction officer,  
8 uniformed correction division personnel, sheriff, undersheriff or deputy  
9 sheriff, as defined in section eighty-nine-g of this chapter, or  
10 employed in Nassau county as an ambulance medical technician, an ambu-  
11 lance medical technician/supervisor or a member who performs ambulance  
12 medical technician related services, or a police medic, police medic  
13 supervisor or a member who performs police medic related services, as  
14 defined in section eighty-nine-s, as amended by chapter five hundred  
15 seventy-eight of the laws of nineteen hundred ninety-eight, of this  
16 chapter, or employed in Nassau county as a peace officer, as defined in  
17 section eighty-nine-s, as added by chapter five hundred ninety-five of  
18 the laws of nineteen hundred ninety-seven, of this chapter, or employed  
19 in Albany county as a sheriff, undersheriff, deputy sheriff, correction  
20 officer or identification officer, as defined in section eighty-nine-h  
21 of this chapter or is employed in St. Lawrence county as a sheriff,  
22 undersheriff, deputy sheriff or correction officer, as defined in  
23 section eighty-nine-i of this chapter or is employed in Orleans county  
24 as a sheriff, undersheriff, deputy sheriff or correction officer, as  
25 defined in section eighty-nine-l of this chapter or is employed in  
26 Jefferson county as a sheriff, undersheriff, deputy sheriff or  
27 correction officer, as defined in section eighty-nine-j of this chapter  
28 or is employed in Onondaga county as a deputy sheriff-jail division  
29 competitively appointed or as a correction officer, as defined in  
30 section eighty-nine-k of this chapter or is employed in a county which  
31 makes an election under subdivision j of section eighty-nine-p of this  
32 chapter as a sheriff, undersheriff, deputy sheriff or correction officer  
33 as defined in such section eighty-nine-p or is employed in Broome County  
34 as a sheriff, undersheriff, deputy sheriff or correction officer, as  
35 defined in section eighty-nine-m of this chapter or is a Monroe county  
36 deputy sheriff-court security, or deputy sheriff-jailor as defined in  
37 section eighty-nine-n, as added by chapter five hundred ninety-seven of  
38 the laws of nineteen hundred ninety-one, of this chapter or is employed  
39 in Greene county as a sheriff, undersheriff, deputy sheriff or  
40 correction officer, as defined in section eighty-nine-o of this chapter  
41 or is a traffic officer with the town of Elmira as defined in section  
42 eighty-nine-q of this chapter or is employed by Suffolk county as a park  
43 police officer, as defined in section eighty-nine-r of this chapter or  
44 is a peace officer employed by a county probation department as defined  
45 in section eighty-nine-t, as added by chapter six hundred three of the  
46 laws of nineteen hundred ninety-eight, of this chapter or is employed in  
47 Rockland county as a deputy sheriff-civil as defined in section eighty-  
48 nine-v of this chapter as added by chapter four hundred forty-one of the  
49 laws of two thousand one, or is employed in Rockland county as a superi-  
50 or correction officer as defined in section eighty-nine-v of this chap-  
51 ter as added by chapter five hundred fifty-six of the laws of two thou-  
52 sand one or is a paramedic employed by the police department in the town  
53 of Tonawanda and retires under the provisions of section eighty-nine-v  
54 of this chapter, as added by chapter four hundred seventy-two of the  
55 laws of two thousand one, or is a county fire marshal, supervising fire  
56 marshal, fire marshal, assistant fire marshal, assistant chief fire

1 marshal, chief fire marshal, division supervising fire marshal or fire  
2 marshal trainee employed by the county of Nassau as defined in section  
3 eighty-nine-w of this chapter or is employed in Monroe county as a depu-  
4 ty sheriff-civil as defined in section eighty-nine-x of this chapter,  
5 employed as an emergency medical technician, critical care technician,  
6 advanced emergency medical technician, paramedic or supervisor of such  
7 titles in a participating Suffolk county fire district as defined in  
8 section eighty-nine-ss of this chapter, or is employed as a constable by  
9 the village of Westhampton Dunes as defined in section eighty-nine-y of  
10 this chapter, and is in a plan which permits immediate retirement upon  
11 completion of a specified period of service without regard to age.  
12 Except as provided in subdivision c of section four hundred forty-five-a  
13 of this article, subdivision c of section four hundred forty-five-b of  
14 this article, subdivision c of section four hundred forty-five-c of this  
15 article, subdivision c of section four hundred forty-five-d of this  
16 article, subdivision c of section four hundred forty-five-e of this  
17 article, subdivision c of section four hundred forty-five-f of this  
18 article and subdivision c of section four hundred forty-five-h of this  
19 article, a member in such a plan and such an occupation, other than a  
20 police officer or investigator member of the New York city employees'  
21 retirement system or a firefighter, shall not be permitted to retire  
22 prior to the completion of twenty-five years of credited service;  
23 provided, however, if such a member in such an occupation is in a plan  
24 which permits retirement upon completion of twenty years of service  
25 regardless of age, [~~he or she~~] such member may retire upon completion of  
26 twenty years of credited service and prior to the completion of twenty-  
27 five years of service, but in such event the benefit provided from funds  
28 other than those based on such a member's own contributions shall not  
29 exceed two per centum of final average salary per each year of credited  
30 service.

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

33 w. The service retirement benefit specified in section six hundred  
34 four of this article shall be payable to members with twenty-five or  
35 more years of creditable service, without regard to age, who are  
36 employed as constables by the village of Westhampton Dunes, as defined  
37 in section eighty-nine-y of this chapter, if: (i) such members have met  
38 the minimum service requirement upon retirement, and (ii) in the case of  
39 a member subject to the provisions of article fourteen of this chapter,  
40 such member files an election therefor which provides that such member  
41 will be subject to the provisions of this article and to none of the  
42 provisions of such article fourteen. Such election, which shall be irre-  
43 vocable, shall be in writing, duly executed and shall be filed with the  
44 comptroller on or before December thirty-first, two thousand twenty-five  
45 or within one year of entering into service as a constable in Westhamp-  
46 ton Dunes. For the purposes of this subdivision, the term "creditable  
47 service" shall have the same meaning as so defined in both sections  
48 eighty-nine-y and six hundred one of this chapter.

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

51 w. The early service retirement benefit for a member who is employed  
52 by the village of Westhampton Dunes as a constable as defined in section  
53 eighty-nine-y of this chapter shall be a pension equal to one-fiftieth  
54 of such member's final average salary times years of credited service at  
55 the completion of twenty-five years of service as such constable, but  
56 not exceeding one-half of such member's final average salary. For

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

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

8 § 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.