STATE OF NEW YORK

5716

2023-2024 Regular Sessions

IN ASSEMBLY

March 22, 2023

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:

Section 1. The retirement and social security law is amended by adding a new section 89-x to read as follows:

§ 89-x. Twenty-five year retirement plan for firefighters employed by the division of military and naval affairs firefighters. a. A member who serves as an airport firefighter apprentice, airport firefighter I, airport firefighter II, airport firefighter III, or training and safety officer and is employed by the division of military and naval affairs 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 his or her accumulated contributions at the time of his or her retirement and an additional pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which he or she may then be entitled shall be sufficient to provide him or her with a retirement allowance equal to one-half of his or her final average salary.

d. As used in this section, "creditable service" shall include any and all services performed as a firefighter apprentice, airport firefighter

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

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I, airport firefighter II, airport firefighter III, or training and safety officer employed by the division of military and naval affairs.

e. Credit for service as a paid firefighter or officer of any organized fire department shall also be deemed to be creditable service and shall be included in computing years of total service for retirement pursuant to this section.

f. 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 his or her accumulated contributions at the time of his or her retirement and an additional pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which he or she may then be entitled shall be sufficient to provide him or her with a retirement allowance equal to one-half of his or her final average salary; for service beyond twenty-five years and for non-firefighter service the benefit is increased by one-sixtieth of final average salary for each year of additional service credit.

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

h. 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.

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

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

§ 2. Subdivision a of section 445 of the retirement and social security law, as amended by chapter 245 of the laws of 2021, 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 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 or chief fire marshal employed by the county of Nassau as defined in section eighty-nine-w of this chapter**, or is a firefighter apprentice, airport firefighter I, airport firefighter II, airport firefighter III, or training and safety officer employed by the division of military and naval affairs as defined in section eighty-nine-x 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 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 u to read as follows:

u. The service retirement benefit specified in section six hundred four of this article shall be payable to members with twenty-five years of creditable service, without regard to age, who are employed by 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 as defined in section eighty-nine-x of this chapter if: (i) such members have met the minimum service requirements 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 he or she 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 within one year of the effective date of this subdivision or within one year after entering the employment with the division of military and naval affairs upon which eligibility is based, whichever comes later. For the purposes of this subdivision, the term "creditable service" shall have the meaning as so defined in both sections eighty-nine-x and six hundred one of this chapter.

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

u. 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-x 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, 2024.

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

This bill would allow members of the New York State and Local Employees' Retirement System employed as airport firefighters by the Division of Military and Naval Affairs to become covered by the provisions of a special 25-year retirement plan. This plan would provide a benefit of one-half of final average salary upon retirement for all tiers and an additional benefit of one-sixtieth of final average salary for each year of service, including non-firefighter service, in excess of 25 years for Tiers 1 and 2 only.

If this bill is enacted during the 2023 legislative session, we anticipate that there will be an increase of approximately $180,000 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 salaries of the affected members change.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately $1.98 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.

These estimated costs are based on 63 affected members employed by the Division of Military and Naval Affairs, with annual salary of approximately $5.0 million as of March 31, 2022. The affected members were identified using job title codes provided by the Civil Service Employees Association.

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.

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 27, 2023, and intended for use only during the 2023 Legislative Session, is Fiscal Note No. 2023-62, prepared by the Actuary for the New York State and Local Retirement System.