

STATE OF NEW YORK

7601--B

2023-2024 Regular Sessions

IN ASSEMBLY

May 25, 2023

Introduced by M. of A. PHEFFER AMATO, SANTABARBARA -- 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 -- reported and referred to the Committee on Ways and Means -- 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 providing county correction officers with a special optional twenty year retirement plan

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 article 14-C to read as follows:

ARTICLE 14-C

OPTIONAL RETIREMENT PLAN FOR COUNTY CORRECTION OFFICERS OR DEPUTY SHERIFFS PERFORMING AS CORRECTION OFFICERS

Section 561. Definitions.

7 562. Optional twenty year retirement plan for certain members
8 whose employer elects to provide same.

9 563. Additional pension benefit for members of optional twenty
10 year retirement plan.

11 564. Consistent provisions.

§ 561. Definitions. For purposes of this article:

13 (a) "Member" shall mean a person who is employed as a county
14 correction officer or a deputy sheriff who is engaged directly in
15 correction officer duties that aggregate fifty per centum of their
16 service by a county which elects by resolution or local law, duly
17 adopted, to provide the benefits as authorized by this article.

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

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1 (b) "Retirement system" shall mean the New York state and local
2 employees' retirement system.

3 (c) "Creditable service" shall include any and all services performed
4 as a sheriff, undersheriff or deputy sheriff, or correction officer.
5 Credit for service as a member or officer of the state police or as a
6 paid fireman, policeman or officer of any organized fire department or
7 police force or department of any county, city, village, town, fire
8 district or police district, shall also be deemed to be creditable
9 service and shall be included in computing years of total service for
10 retirement pursuant to this section, provided such service was performed
11 by the member while contributing to the retirement system pursuant to
12 the provisions of this article or article eight of this chapter.

13 § 562. Optional twenty year retirement plan for certain members whose
14 employer elects to provide same. (a) Any member of the retirement system
15 may elect to become a member pursuant to the provisions of this section
16 within one year after such person becomes a member, if such member's
17 employer has elected to make the benefits provided by this section
18 available to members, or within one year after such member's employer
19 elects to make the benefits provided by this section available to its
20 members.

21 (b) Elections made pursuant to this section shall be in writing and
22 shall be duly acknowledged and filed with the comptroller. Any member
23 who files such an election pursuant to this section may withdraw it
24 after it has been filed for at least a year. Such withdrawal shall be by
25 written notice duly acknowledged and filed with the comptroller.

26 (c) A member participating on the basis of this section at the time of
27 retirement shall be entitled to retire after the completion of twenty
28 years of total creditable service or upon the attainment of age sixty-
29 two, by filing an application therefor in a manner similar to that
30 provided in this chapter.

31 (i) Upon completion of twenty years of such service and upon retire-
32 ment, each such member shall receive a pension sufficient to provide
33 such member with a retirement allowance equal to one-fortieth of such
34 member's final average salary for each year of total creditable services
35 for which such member is otherwise entitled but not exceeding in the
36 aggregate one-half of such member's final average salary.

37 (ii) Upon attainment of age sixty-two and upon retirement without
38 completion of twenty years of such service, each such member shall
39 receive a pension sufficient to provide such member with a retirement
40 allowance equal to one-fortieth of such member's final average salary
41 for each year of creditable service. Every such member shall also be
42 entitled to an additional pension equal to the pension for any other
43 creditable service rendered as otherwise provided for in this chapter.
44 This latter pension shall not increase the total allowance to more than
45 one-half of such member's final average salary.

46 (d) The increased pensions to such members, as provided by this
47 section, shall be paid from additional contributions made by the partic-
48 ipating employer on account of such members. The actuary of the retire-
49 ment system shall compute the additional contribution required for each
50 member who elects to receive the special benefits provided under this
51 section. Such additional contributions shall be computed on the basis of
52 contributions during the prospective service of such member which will
53 cover the liability of the retirement system for such extra pensions.
54 Upon approval of the comptroller, such additional contributions shall be
55 certified by such member to the chief fiscal officer or the participat-
56 ing employer. The amount thereof shall be included in the annual appro-

1 priation of the participating employer. Such amount shall be paid on the
2 warrant of the chief fiscal officer of the participating employer to the
3 pension accumulation fund of the retirement system.

4 (e) In computing the twenty years of completed service of a member,
5 full credit shall be given for military service as defined in subdivi-
6 sions twenty-nine-a and thirty of section three hundred two of this
7 chapter.

8 (f) Every member participating on the basis of this section shall be
9 separated from the service on the last day of the calendar month next
10 succeeding the calendar month in which such member attains age sixty-
11 two, provided, however, that such a member who attained the age of
12 sixty-two before such member's employer elected to make the benefits
13 provided by this section available to such member, or who attains the
14 age of sixty-two within one month after such member's employer makes
15 such benefits available, to be eligible for a pension computed in
16 accordance with the provisions of this section, shall be separated from
17 the service within three months after such member's employer makes such
18 benefits available.

19 (g) The provisions of this section shall be controlling notwithstand-
20 ing any other provision of this article to the contrary.

21 (h) The benefits of this section shall be available only to those
22 members whose employer elects to provide such benefits by adopting a
23 resolution or local law to such effect and filing a certified copy ther-
24 eof with the comptroller.

25 (i) The benefits provided by this section shall be payable to a
26 member, unless at the date of retirement such member would otherwise be
27 entitled to a greater benefit under other provisions of this chapter had
28 such member withdrawn from this section, in which event such greater
29 benefits shall be payable.

30 § 563. Additional pension benefit for members of optional twenty year
31 retirement plan. (a) A participating employer which has elected, or
32 which elects to provide the benefits of the optional twenty year retire-
33 ment plan for its employees as specified in this article may elect to
34 make contributions for the purpose of providing an additional pension
35 pursuant to this section for members in its employ who are entitled to a
36 pension pursuant to section five hundred sixty-two of this article.
37 Every member employed by an employer which has elected the provisions of
38 section five hundred sixty-two of this article and this section may
39 elect to be covered by the provisions of this section by filing with the
40 comptroller, a duly executed and acknowledged form prepared by the comp-
41 troller for that purpose.

42 (b) Upon retirement, each such member shall receive, for each year of
43 service in excess of twenty, an additional pension which shall be equal
44 to one-sixtieth of such member's final average salary; provided, howev-
45 er, that the total allowance payable pursuant to this section shall not
46 exceed three-quarters of such member's final average salary.

47 § 564. Consistent provisions. Nothing contained in this article shall
48 be construed to otherwise affect the applicability of article eleven,
49 fourteen or fifteen of this chapter. Any other provisions of this chap-
50 ter relating to mandatory contribution to the retirement system based
51 upon a member's date of membership in such system shall not be deemed to
52 be affected by the provisions of this article, and any member who on the
53 effective date of this article is not required to contribute shall not
54 be required to make any contributions as a result of this section. For
55 those members required to contribute to the retirement system, such

1 contribution shall be treated in the same manner as specified for such
2 members in article fourteen or fifteen of this chapter.

3 § 2. Any past service payments required of a county as a result of the
4 adoption of the benefits permitted by this act may be amortized over a
5 period of up to ten years at the option of such county.

6 § 3. This act shall take effect immediately.

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

This bill would add Article 14-C to the Retirement and Social Security Law, creating county electable twenty-year plans covering any county correction officers and deputy sheriffs engaged directly in correction officer duties that aggregate at least fifty percent of their service. A county may elect to provide a retirement benefit equal to fifty percent of final average salary after twenty years of service. A county may further elect to provide for additional sixtieths for service in excess of twenty years. All service rendered as a correction officer, sheriff, deputy sheriff or undersheriff, a member or officer of the State Police, a paid firefighter, a police officer, or an officer of any organized fire department or police force will be creditable. The retirement benefit is not to exceed seventy-five percent of final average salary.

If this bill is enacted during the 2024 Legislative Session, there will be an increase in the annual contributions of any electing county for the fiscal year ending March 31, 2025, as approximated in the following table. In future years, these costs will vary as the billing rates of the affected members change.

Current Plan	Article 14-C 20-Year Plan	Article 14-C 20-Year Plan with additional sixtieths
Article 14 or Article 15 89*, 25-Year Plans	9.0%	10.3%
County Law Enforcement	4.9%	6.4%
Article 14-B 25-Year Plan	3.7%	5.2%
Article 14-B 25-Year Plan 25-Year Plan with additional sixtieths	2.1%	3.6%

In addition to the annual contributions discussed above, there will be an immediate past service cost that will depend upon the affected members' service, salary, tier, current retirement plan, and new retirement plan. Once a county elects to provide this coverage, an exact cost will be determined based on a roster of eligible members provided by the county. The past service cost may be amortized over a period of up to ten years.

Further, we anticipate additional administrative costs to implement the provisions of this legislation.

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 16, 2024, and intended for use only during the 2024 Legislative Session, is Fiscal Note No. 2024-50, prepared by the Actuary for the New York State and Local Retirement System.