

# STATE OF NEW YORK

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6483--A

2023-2024 Regular Sessions

## IN SENATE

April 24, 2023

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Introduced by Sens. MANNION, CHU, GALLIVAN, GRIFFO -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- recommitted to the Committee on Civil Service and Pensions in accordance with Senate Rule 6, sec. 8 -- 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 enacting the "State Police Retention act"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "State Police Retention act".

3 § 2. Legislative findings. Front line public employees have faced  
4 unprecedented adverse health effects as the result of employer mandates  
5 to require state police officers to remain on-duty and physically pres-  
6 ent at their work locations during the deadly COVID-19 pandemic. These  
7 crucial public employees mandated to continue conducting crucial  
8 services to the public during the most deadly period of the COVID-19  
9 pandemic displayed exemplary service, while often at a health detriment  
10 to the employee and their family. Prior to the state mandating worker  
11 quarantines, state police officers were already on the front lines of  
12 the pandemic transporting crucial medical supplies, test kits as well as  
13 COVID-19 samples throughout the state to laboratories established to  
14 test suspected COVID-19 submissions in order to gain an early foothold  
15 in statewide treatment protocols. Besides the strenuous work they  
16 already perform, additional duties as part of the early tracking, trans-  
17 porting and testing of COVID-19 samples has resulted in a large contin-  
18 gent of state police officers to retire earlier than expected and thus  
19 reduced overall manpower allotments that does not keep up with mandated  
20 duty requirements. This legislation offers an inducement to retain our

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

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1 most valued senior state police officers while affording more time to  
2 hire, train and deploy replaced public employees.

3 § 3. The retirement and social security law is amended by adding a new  
4 section 381-c to read as follows:

5 § 381-c. Deferred retirement option plan payable to members and offi-  
6 cers of the division of state police. a. Deferred retirement option  
7 plan. Deferred retirement option plan, (hereinafter referred to as  
8 "DROP"), is a retirement plan under which an eligible member may elect  
9 to participate, deferring receipt of retirement benefits while continu-  
10 ing employment with the division of state police. For the purposes of  
11 this section, an "eligible member" is any member or officer employed by  
12 the division of state police. During the period of continued employment,  
13 the eligible member's monthly retirement benefit shall be deferred and  
14 held by the retirement system on behalf of the member plus interest at  
15 an effective rate of one and one-half percent for the specific period of  
16 participation in DROP as provided in subdivision c of this section. Upon  
17 completion of the DROP period, the eligible member shall receive the  
18 total amount of retirement benefits deferred under DROP without optional  
19 modification as permitted by subdivisions d and e of this section and  
20 shall begin to receive the previously determined normal service retire-  
21 ment benefit with optional modification as further provided in subdivi-  
22 sion d of this section.

23 b. Participation in DROP. Any eligible member who is currently  
24 employed by the division of state police and qualifies to retire pursu-  
25 ant to section three hundred eighty-one-b of this title by reason of  
26 completing twenty years of creditable service may elect to participate  
27 in DROP.

28 c. Election in DROP. Such election shall be on a form prepared by the  
29 comptroller and may be for any period of time not less than twelve  
30 months or more than sixty months duration. Any member who elects to  
31 participate in DROP shall be considered retired on the day following the  
32 expiration of the DROP period, provided, however, that all loans and  
33 excess contributions shall be resolved by the date of entry into DROP  
34 and no additional loans or excess contributions shall be permitted after  
35 the date of entry into DROP. Upon expiration of the time period selected  
36 by the eligible member, such member's participation in DROP shall termi-  
37 nate.

38 d. Benefits payable under DROP. (1) Effective with the date of partic-  
39 ipation in DROP, the eligible member's normal service retirement benefit  
40 shall be calculated, using creditable service and final average salary  
41 as if the effective date of retirement was the date of entry into DROP.  
42 The amount deferred pursuant to DROP shall be calculated based upon the  
43 eligible member's zero option retirement allowance until such member has  
44 obtained the applicable maximum service retirement limit based upon  
45 years of service. Any additional participation in DROP after a member  
46 has obtained the maximum service retirement limit based upon years of  
47 service shall be calculated based upon sixty percent of the member's  
48 full annual retirement allowance. In addition, for the purposes of this  
49 section, the annual retirement allowance for any member electing DROP  
50 shall be calculated using a three-year final average salary as defined  
51 elsewhere in this article. The eligible member shall, however, elect his  
52 or her optional retirement benefit at the completion of the DROP period.

53 (2) If the eligible member dies prior to completion of the period of  
54 participation in DROP, the eligible member shall be treated as if such  
55 DROP election did not exist. In lieu of the DROP payment, a death bene-  
56 fit shall be payable consistent with the terms of this chapter and all

1 salary and service reported for such eligible member during the DROP  
2 period shall be considered in calculating the eligible member's death  
3 benefit.

4 (3) If the eligible member is approved for disability benefits  
5 provided in this chapter during the DROP period, the eligible member  
6 shall be treated as if the DROP election did not exist. In lieu of the  
7 DROP payment, a disability retirement benefit shall be payable consist-  
8 ent with the terms of this chapter and all salary and service reported  
9 for such eligible member during the DROP period shall be considered in  
10 calculating the eligible member's disability retirement benefit.

11 (4) If an eligible member otherwise fails to complete his or her peri-  
12 od of service as elected pursuant to subdivision c of this section, the  
13 eligible member shall be treated as if such DROP election did not exist.  
14 In lieu of the DROP payment, the normal service retirement benefit shall  
15 be payable consistent with the terms of this chapter and all salary and  
16 service reported for such eligible member during the DROP period shall  
17 be considered in calculating the eligible member's service retirement  
18 benefit.

19 (5) If an eligible member remains employed after his or her partic-  
20 ipation in DROP is terminated, such member shall forfeit all DROP bene-  
21 fits and continue employment as if such DROP election did not exist.  
22 Such member shall then be eligible to elect DROP consistent with the  
23 terms of this section.

24 (6) If an eligible member is approved for disability benefits after  
25 benefits payable pursuant to DROP have been paid, the eligible member  
26 may elect to receive the disability benefits in lieu of DROP benefits,  
27 but such disability benefits shall be actuarially adjusted for any bene-  
28 fits paid under DROP.

29 e. Method of payment. At the conclusion of the member's participation  
30 in DROP, the retirement system shall pay the deferred service retirement  
31 benefits in one of the following methods as elected by the member:

32 (1) Lump sum: All accrued DROP benefits, plus interest, less withhold-  
33 ing as required by the internal revenue service, shall be paid to the  
34 DROP participant or eligible beneficiary or as otherwise determined by  
35 operation of law;

36 (2) Direct rollover: All accrued DROP benefits, plus interest, shall  
37 be paid from the retirement system to a custodian of the eligible  
38 retirement plan or other eligible plan or account as provided pursuant  
39 to the internal revenue code as directed by the member or eligible bene-  
40 ficiary;

41 (3) Partial lump sum: A portion of the DROP benefits shall be paid to  
42 the DROP participant or eligible beneficiary, less withholding required  
43 by the internal revenue service and the remaining DROP benefits may be  
44 rolled over as otherwise permitted by the internal revenue code.

45 For purposes of this subdivision, the term "eligible beneficiary" is  
46 one who qualifies to rollover benefits from a qualified benefit plan or  
47 account as provided by the internal revenue code. The forms of payment  
48 provided by this subdivision shall comply with the minimum distribution  
49 requirements of the internal revenue code.

50 f. Regulations. The comptroller shall prescribe such rules and regu-  
51 lations as may be necessary for the effective administration and imple-  
52 mentation of the provisions of this section.

53 § 4. This act shall take effect immediately.

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

This bill would allow police officers employed by the New York State Division of State Police to elect to participate in a Deferred Retire-

ment Option Plan (DROP), deferring receipt of retirement benefits while continuing their current employment. The main features of this DROP are:

1. Members may elect to participate in the DROP upon the attainment of retirement eligibility.

2. The service retirement benefit shall be the single life allowance determined based on the service and final average salary at the commencement of DROP participation. However, once a member's total service credit (including service during the DROP period) exceeds 32 years, the monthly payment into the DROP account will be limited to 60% of the single life allowance.

3. The New York State and Local Police and Fire Retirement System (NYSLPFRS) shall consider DROP participants active members, and annual employer contributions shall continue to be made by the State of New York to the NYSLPFRS on behalf of such members. All loans and excess contributions shall be resolved by the date of entry into DROP and no additional loans or excess contributions shall be permitted thereafter.

4. The length of participation in the DROP must be specified at the time of election, and may not be less than one year, nor exceed five years. However, if the affected member should leave employment before or after the scheduled DROP termination date, such member shall forfeit all DROP benefits, and shall be treated as though there were no DROP election.

5. During the DROP period, the monthly pension of such affected members will be deferred and held by the NYSLPFRS on their behalf and shall accrue interest at 1.5%. Such account, with interest accumulation, must be distributed in full at the end of the specified DROP period.

6. If an affected member should die or become disabled during the DROP period, such member would be treated as though there were no DROP election.

7. Upon termination from DROP, such affected members shall receive their deferred payments, and shall also begin to receive their previously determined pensions.

Section 212 of the Retirement and Social Security Law generally prevents service retirees from receiving salaries of more than \$35,000 for public employment before attaining age 65. This proposal would allow members to receive a full salary and retirement benefits simultaneously for up to five years.

The Partial Lump Sum program currently allows NYSLPFRS members to receive lump sums up to 25% of the present value of their pensions. In combination with this proposal, an affected member could potentially receive a lump sum exceeding 65% of the present value of their pension. This significantly reduces the value of ongoing pension payments over the member's remaining lifetime.

If this bill is enacted during the 2024 Legislative Session, we anticipate that there will be an increase of approximately \$17 million 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 2.3% of salary of the affected police officers employed by the New York State Division of State Police.

In addition to the annual contributions discussed above, there will be past service costs which would depend on the current salary, age, and length of service of the affected members. It is estimated that the past service cost per member would average approximately 75% of salary for the affected members. This past service cost of approximately \$519 million will be borne by the State of New York as a one-time payment and assumes that payment will be made on March 1, 2025.

If the anticipated retirement experience of members who are eligible for this benefit changes significantly in the future, there would be additional increases in employer costs.

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

These estimated costs are based on 4,833 affected members employed by the New York State Division of State Police, with annual salary of approximately \$660 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 April 3, 2024, and intended for use only during the 2024 Legislative Session, is Fiscal Note No. 2024-149, prepared by the Actuary for the New York State and Local Retirement System.