

STATE OF NEW YORK

6484--A

2023-2024 Regular Sessions

IN SENATE

April 24, 2023

Introduced by Sens. MANNION, CHU, GALLIVAN, GRIFFO, KENNEDY -- 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 "police and fire employees 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 "police and fire employees retention act".

3 § 2. Legislative findings. Over the past several years, increased
4 workloads on our police and fire employees throughout the state has
5 resulted in a large reduction in personnel resources due to retirement
6 and separation from service. The loss of talented and experienced
7 personnel in these important job titles further results in a structural
8 deficit of experienced trainers for our next generation of dedicated
9 police and fire personnel actively entering their public service lives.
10 This legislation seeks to induce talented and experienced personnel to
11 remain in service to the public while allowing their pension payments to
12 be deferred during a specific period of time while they continue employ-
13 ment.

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

16 § 381-c. Deferred retirement option plan payable to members of
17 optional twenty-year retirement plan. A participating employer which has
18 elected or which elects, pursuant to section three hundred eighty-one or
19 any sections under this article, who participates in a twenty-year
20 retirement plan may provide for a deferred retirement option plan.

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

LBD07326-03-4

1 a. Deferred retirement option plan, (hereinafter referred to as
2 "DROP"), is a retirement plan under which an eligible member of a
3 participating employer may elect to participate, deferring receipt of
4 retirement benefits while continuing employment. For the purposes of
5 this section, an "eligible member" is any member or officer employed by
6 the state, local, municipal, county, village, authority or division
7 within the state electing to provide this option. During the period of
8 continued employment, the eligible member's monthly retirement benefit
9 shall be deferred and held by the retirement system on behalf of the
10 member plus interest at an effective rate of one and one-half percent
11 for the specific period of participation in DROP as provided in subdivi-
12 sion c of this section. Upon completion of the DROP period, the eligible
13 member shall receive the total amount of retirement benefits deferred
14 under DROP without optional modification as permitted by subdivisions d
15 and e of this section and shall begin to receive the previously deter-
16 mined normal service retirement benefit with optional modification as
17 further provided in subdivision d of this section.

18 b. Any eligible member who is currently employed by a participating
19 employer electing to participate under this article and who qualifies to
20 retire pursuant to this title by reason of completing twenty years of
21 creditable service may elect to participate in DROP.

22 c. Such election must be on a form supplied by the retirement system
23 and may be for any period of time not less than twelve months or more
24 than sixty months duration. Any eligible member who elects to partic-
25 ipate in DROP is considered retired on the day following the expiration
26 of the DROP period. Provided, however, that all loans and excess
27 contributions must be resolved by the date of entry into DROP and no
28 additional loans or excess contributions shall be permitted after the
29 date of entry into DROP. Upon expiration of the time period selected by
30 the eligible member, such member's participation in DROP shall termi-
31 nate.

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

47 (2) If the eligible member dies prior to completion of the period of
48 participation in DROP, the eligible member shall be treated as if such
49 DROP election did not exist. In lieu of the DROP payment, a death bene-
50 fit shall be payable consistent with the terms of this chapter and all
51 salary and service reported for such eligible member during the DROP
52 period shall be considered in calculating the eligible member's death
53 benefit.

54 (3) If the eligible member is approved for disability benefits
55 provided in this chapter during the DROP period, the eligible member
56 shall be treated as if the DROP election did not exist. In lieu of the

DROP payment, a disability retirement benefit shall be payable consistent with the terms of this chapter and all salary and service reported for such eligible member during the DROP period shall be considered in calculating the eligible member's disability retirement benefit.

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

(5) If an eligible member remains employed after his or her participation in DROP is terminated, such member shall forfeit all DROP benefits and continue employment as if such DROP election did not exist. Such member shall then be eligible to elect DROP consistent with the terms of this section.

(6) If an eligible member is approved for disability benefits after benefits payable pursuant to DROP have been paid, the eligible member may elect to receive the disability benefits in lieu of DROP benefits, but such disability benefits must be actuarially adjusted for any benefits paid under DROP.

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

(1) All accrued DROP benefits, plus interest, less withholding as required by the internal revenue service, shall be paid to the DROP participant or eligible beneficiary or as otherwise determined by operation of law;

(2) All accrued DROP benefits, plus interest, shall be paid from the retirement system to a custodian of the eligible retirement plan or other eligible plan or account as provided pursuant to the internal revenue code as directed by the member or eligible beneficiary;

(3) A portion of the DROP benefits shall be paid to the DROP participant or eligible beneficiary, less withholding required by the internal revenue service and the remaining DROP benefits may be rolled over as otherwise permitted by the internal revenue code. For purposes of this subdivision, the term "eligible beneficiary" is one who qualifies to rollover benefits from a qualified benefit plan or account as provided by the internal revenue code.

The DROP benefit cost contained in this subdivision shall be paid by any participating employer, for all eligible members specific to such employer, that has elected to provide this benefit.

The forms of payment provided by this subdivision must comply with the minimum distribution requirements of the internal revenue code.

f. The comptroller shall prescribe such regulations as may be required for the effective administration and implementation of the provisions of this section.

§ 4. This act shall take effect immediately.

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

This bill would allow employers in the New York State and Local Police and Fire Retirement System (NYSLPFRS) who participate in twenty-year retirement plans to provide their members with the option to elect to participate in a Deferred Retirement Option Plan (DROP), deferring receipt of retirement benefits while continuing their current employment. The 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 NYSLPFRS shall consider DROP participants active members, and annual employer contributions shall continue to be made by the participating employers on behalf of such members.

4. The length of participation in the DROP must be specified at the time of election and may not be less than 1 year nor exceed 5 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 pensions 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 shall be treated as though there were no DROP election.

7. Upon termination from the 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, it is estimated there would be an increase in the annual contributions of an electing employer in the NYSLPFRS for the fiscal year for the fiscal year ending March 31, 2025 of approximately:

Retirement Plan	Increase in Fiscal Year 2025 Annual Contribution	Estimated Future Increase in Annual Billing Rate
20-year	\$84 million	7.0% of salary
20-year with additional 60ths Non-State	\$76 million	3.4% of salary
20-year with additional 60ths State Police	\$17 million	2.3% of salary

In addition to the annual contributions discussed above, there will be an immediate past service cost which will depend on the current salary, age, and length of service of the affected members. It is estimated that the past service cost per member of an electing employer in the NYSLPFRS, borne as a one-time payment on February 1, 2025 for local employers or March 1, 2025 for the State, would average approximately:

Retirement Plan	Past Service Cost Rate	Total Past Service Cost
20-year	100% of salary	\$1.14 billion
20-year with additional 60ths Non-State	90% of salary	\$1.96 billion
20-year with additional 60ths State Police	75% of salary	\$0.52 billion

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 30,515 affected members covered by twenty-year retirement plans, with annual salary of approximately \$3.81 billion 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 10, 2024, and intended for use only during the 2024 Legislative Session, is Fiscal Note No. 2024-145, prepared by the Actuary for the New York State and Local Retirement System.