STATE OF NEW YORK

9870

IN SENATE

July 3, 2024

Introduced by Sen. MARTINEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the retirement and social security law, in relation to an optional twenty-five year retirement plan for fire marshals I and supervisors of such title in Suffolk county

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

Section 1. Section 604 of the retirement and social security law is amended by adding a new subdivision w to read as follows:

w. The early service retirement benefit for a member who is employed by the county of Suffolk or a participating employer that is a town or village in the county of Suffolk that makes the election provided for in subdivision j of section eighty-nine-y of this chapter as a fire marshal I or supervisor of such title as defined in section eighty-nine-y 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 a fire marshal I or supervisor of such title in the county of Suffolk or a participating employer that is a town or village in the county of Suffolk but not exceeding one-half of such member's final average salary; for service beyond twenty-five years the benefits shall increase by one-sixtieth of final average salary for each year of additional service credit provided, however, that the total allowance payable pursuant to this section shall not exceed three-fourths of such member's final average salary.

§ 2. The retirement and social security law is amended by adding a new section 89-y to read as follows:

§ 89-y. Retirement of members employed as a fire marshal I or supervisor of such title in the county of Suffolk or a participating employer that is a town or village in the county of Suffolk. a. Any member employed on or before the enactment of this section as a fire marshal I or supervisor of such title upon an election by the county of Suffolk or a participating employer that is a town or village in the county of Suffolk shall be eligible to retire pursuant to the provisions of this section. Such eligibility shall be an alternative to the eligibility

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

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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 accumulated contributions at the time of retirement and an additional pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which such member may then be entitled shall be sufficient to provide a retirement allowance equal to one-half of such member's final average salary.

d. As used in this section "creditable service" shall include all services performed as a fire marshal I or supervisor of such title employed by the county of Suffolk or a participating employer that is a town or village in the county of Suffolk that has elected to provide the benefits provided by this section.

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 accumulated contributions at the time of retirement and an additional pension which is the actuarial equivalent of the reserved-for-increased-take-home-pay to which such member may then be entitled shall be sufficient to provide a retirement allowance equal to one-half of such member's final average salary; for service beyond twenty-five years the benefit is increased by one-sixtieth of final average salary for each year of additional service credit provided, however, that the total allowance payable pursuant to this section shall not exceed three-fourths of such member's final average salary.

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 chapter, provided such member at the time of entrance into the armed forces was employed by a participating employer pursuant to this section.

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 of this article to the contrary.

j. Suffolk county, or a town or village in the county of Suffolk that elects pursuant to the provisions of this subdivision shall pay the cost attributable therefor. The benefits of this section shall be available only to those members defined in subdivision a of this section whose employer elects to provide such benefits by adopting a resolution to

such effect and filing a certified copy thereof with the comptroller. Such resolution shall be accompanied by the affidavit of the chief executive officer of the county of Suffolk or a town or village in the county of Suffolk that the county, town or village has received an estimate from the retirement system of the cost of the benefit provided by this section. Such resolution shall apply to all members defined in subdivision a of this section.

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

w. 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 county of Suffolk or a participating employer that is a town or village in the county of Suffolk that makes the election provided for in subdivision j of section eighty-nine-y of this chapter as a fire marshal I or supervisor of such title as defined in section eighty-nine-y 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 such member shall 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 election such member's employer makes pursuant to subdivision j of section eighty-nine-y of this chapter or within one year after entering the employment with the participating Suffolk county employer 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-y and six hundred one of this chapter.

§ 4. Subdivision a of section 445 of the retirement and social security law, as amended by chapter 714 of the laws of 2023, 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~~] such member 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, chief fire marshal, division supervising fire marshal or fire marshal trainee employed by the county of Nassau as defined in section eighty-nine-w of this chapter or is employed in Monroe county as a deputy sheriff-civil as defined in section eighty-nine-x of this chapter, employed as an emergency medical technician, critical care technician, advanced emergency medical technician, paramedic or supervisor of such titles in a participating Suffolk county fire district as defined in

section eighty-nine-ss of this chapter, **employed as a fire marshal I or supervisor of such title in the county of Suffolk or a participating employer that is a town or village in the county of Suffolk as defined in section eighty-nine-y 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~~] **such member** 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.

§ 5. All past service costs associated with implementing the provisions of this act shall be borne by a participating employer that makes the election provided for in subdivision 89-y of the retirement and social security law.

§ 6. This act shall take effect immediately.

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

This bill would permit Suffolk County or any town or village in Suffolk County that participates in the New York State and Local Employees' Retirement System to elect to provide individuals employed in the title of Fire Marshal I or supervisors of such title, 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-sixtieth of FAS for each year of creditable service in excess of twenty-five years, not to exceed three-fourths (75%) of FAS.

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 twenty-five-year plan benefit. Such election must be made within one year of the election of such member's employer to provide these benefits or within one year of entering employment with a participating Suffolk County employer in any of the above titles, whichever comes later.

If this bill is enacted during the 2024 Legislative Session, we anticipate that there will be an increase in the annual contributions of any electing employer of approximately 5% of the salary paid to employees in covered titles for the fiscal year ending March 31, 2025. In future years, this cost will vary as the billing rates of the affected members change.

In addition to the annual contributions discussed above, there will be an immediate past service cost which will be borne by the electing employer as a one-time payment. This cost is expected to average approximately 36% of the salary paid to employees in covered titles. This

estimate assumes that payment will be made on February 1st in the fiscal year following the employer election.

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

The exact number of current members as well as future members who could be affected by this legislation cannot be readily determined. Prior to electing to provide these benefits, an eligible employer would be required to submit a roster of individuals in covered titles to the New York State and Local Retirement System. This roster would be used to develop an exact cost for the individual employer electing to provide these benefits.

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 June 6, 2024, and intended for use only during the 2024 Legislative Session, is Fiscal Note No. 2024-197, prepared by the Actuary for the New York State and Local Retirement System.