

5644

2013-2014 Regular Sessions

I N S E N A T E

May 31, 2013

Introduced by Sen. ROBACH -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to amend the retirement and social security law and the civil service law, in relation to university police officers appointed by the state university of New York

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 11 of section 302 of the retirement and social
2 security law is amended by adding a new paragraph i to read as follows:
3 I. SERVICE AS A UNIVERSITY POLICE OFFICER APPOINTED BY THE STATE
4 UNIVERSITY OF NEW YORK PURSUANT TO PARAGRAPH L OF SUBDIVISION TWO OF
5 SECTION THREE HUNDRED FIFTY-FIVE OF THE EDUCATION LAW.
6 S 2. Subdivision d of section 375-f of the retirement and social secu-
7 rity law, as separately amended by chapters 674 and 677 of the laws of
8 1986, is amended to read as follows:
9 d. In addition to the retirement allowance provided pursuant to the
10 plans set forth in sections three hundred eighty-three, three hundred
11 eighty-three-a [and], three hundred eighty-three-b AND THREE HUNDRED
12 EIGHTY-THREE-D of this [chapter] TITLE, a member of [either] ANY such
13 plan who retires on or after April first, nineteen hundred sixty-nine
14 with more than twenty-five years of total service shall be entitled to
15 receive, in addition to the benefits provided pursuant to [either] ANY
16 such section and notwithstanding the limitations of [either] ANY such
17 section, an additional retirement allowance for such years of service
18 rendered in excess of twenty-five. The additional retirement allowance
19 for such additional years of service shall be computed as if such member
20 had been eligible to have his retirement allowance computed pursuant to
21 the provisions of subdivision b of section three hundred seventy-five-c
22 and of paragraph one of subdivision a of section three hundred seventy-
23 five-d of this [chapter] ARTICLE.

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

LBD11315-01-3

1 S 3. The retirement and social security law is amended by adding a new
2 section 383-d to read as follows:

3 S 383-D. ALTERNATIVE RETIREMENT BENEFITS FOR UNIVERSITY POLICE OFFI-
4 CERS APPOINTED BY THE STATE UNIVERSITY. A. AS USED IN THIS SECTION, THE
5 TERM "UNIVERSITY POLICE OFFICER" SHALL MEAN A PERSON WHO IS SO APPOINTED
6 PURSUANT TO PARAGRAPH L OF SUBDIVISION TWO OF SECTION THREE HUNDRED
7 FIFTY-FIVE OF THE EDUCATION LAW.

8 B. NOTWITHSTANDING ANY OTHER PROVISION OF LAW PROVIDING FOR TRANSFERS
9 BETWEEN RETIREMENT SYSTEMS, ANY UNIVERSITY POLICE OFFICER IN THE SERVICE
10 OF THE STATE UNIVERSITY WHO IS A MEMBER OF THE NEW YORK STATE EMPLOYEES'
11 RETIREMENT SYSTEM MAY TRANSFER TO THE NEW YORK STATE AND LOCAL POLICE
12 AND FIRE RETIREMENT SYSTEM AND SHALL RECEIVE CREDIT PURSUANT TO AND BE
13 ENTITLED TO THE RETIREMENT BENEFITS AFFORDED IN ACCORDANCE WITH THIS
14 SECTION. UPON ANY SUCH TRANSFER THE MEMBER SHALL BE ENTITLED TO THE
15 AMOUNT OF SERVICE WHICH WOULD HAVE BEEN DEEMED CREDITABLE HAD SUCH
16 MEMBER BEEN SUBJECT TO SUCH SYSTEM DURING THE COURSE OF HIS OR HER
17 MEMBERSHIP WITHIN SUCH SYSTEM. CONTRIBUTIONS TO SUCH SYSTEM SHALL BE
18 MADE IN ACCORDANCE WITH APPROPRIATE PROVISIONS OF LAW RELATING THERETO.
19 APPLICATION FOR SUCH TRANSFER MUST BE MADE TO THE STATE COMPTROLLER ON
20 OR BEFORE DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN. THE PROVISIONS
21 OF SECTION THREE HUNDRED FORTY-THREE OF THIS ARTICLE SHALL APPLY TO ANY
22 MEMBER MAKING APPLICATION FOR TRANSFER UNDER THIS SUBDIVISION.

23 C. ANY UNIVERSITY POLICE OFFICER IN THE SERVICE OF THE STATE UNIVERSI-
24 TY WHO ELECTS OR IS REQUIRED TO CONTRIBUTE UNDER THIS SECTION SHALL
25 CONTRIBUTE TO THE NEW YORK STATE AND LOCAL POLICE AND FIRE RETIREMENT
26 SYSTEM ON THE BASIS OF RETIREMENT UPON HIS OR HER:

27 1. COMPLETION OF TWENTY-FIVE YEARS OF TOTAL CREDITABLE SERVICE; OR

28 2. ATTAINMENT OF AGE SIXTY AS A UNIVERSITY POLICE OFFICER IN THE
29 SERVICE OF THE STATE UNIVERSITY, IF PRIOR THERETO, ON AN ALLOWANCE OF
30 ONE-FIFTIETH OF HIS OR HER FINAL AVERAGE SALARY FOR EACH YEAR OF TOTAL
31 CREDITABLE SERVICE NOT IN EXCESS OF TWENTY-FIVE YEARS. SUCH ELECTION
32 SHALL BE IN WRITING AND SHALL BE DULY EXECUTED AND FILED WITH THE COMP-
33 TROLLER.

34 D. EVERY EMPLOYEE ENTERING OR RE-ENTERING SERVICE AS A UNIVERSITY
35 POLICE OFFICER IN THE SERVICE OF THE STATE UNIVERSITY ON OR AFTER THE
36 EFFECTIVE DATE OF THIS SECTION SHALL CONTRIBUTE ON THE BASIS PROVIDED
37 FOR BY THIS SECTION.

38 E. A MEMBER WHO IS REQUIRED TO CONTRIBUTE IN ACCORDANCE WITH THIS
39 SECTION SHALL CONTRIBUTE, IN LIEU OF THE PROPORTION OF COMPENSATION AS
40 PROVIDED IN SECTION THREE HUNDRED TWENTY-ONE OF THIS ARTICLE, A PROPOR-
41 TION OF HIS OR HER COMPENSATION SIMILARLY DETERMINED. SUCH LATTER
42 PROPORTION SHALL BE COMPUTED TO PROVIDE AT THE TIME WHEN HE OR SHE SHALL
43 FIRST BECOME ELIGIBLE FOR RETIREMENT UNDER THIS SECTION, AN ANNUITY
44 EQUAL TO ONE-ONE HUNDREDTH OF HIS OR HER FINAL AVERAGE SALARY FOR EACH
45 YEAR OF SERVICE AS A MEMBER PRIOR TO THE ATTAINMENT OF THE AGE WHEN HE
46 OR SHE SHALL FIRST BECOME ELIGIBLE FOR RETIREMENT. SUCH MEMBER'S RATE OF
47 CONTRIBUTION PURSUANT TO THIS SECTION SHALL BE APPROPRIATELY REDUCED
48 PURSUANT TO SECTION THREE HUNDRED SEVENTY-A OF THIS ARTICLE FOR SUCH
49 PERIOD OF TIME AS HIS OR HER EMPLOYER CONTRIBUTES PURSUANT TO SUCH
50 SECTION TOWARD PENSIONS-PROVIDING-FOR-INCREASED-TAKE-HOME-PAY. NO SUCH
51 MEMBER SHALL BE REQUIRED TO CONTINUE CONTRIBUTIONS AFTER COMPLETING
52 TWENTY-FIVE YEARS OF SUCH SERVICE.

53 F. A MEMBER CONTRIBUTING ON THE BASIS OF THIS SECTION, AT THE TIME OF
54 RETIREMENT, SHALL BE ENTITLED TO RETIRE AFTER THE COMPLETION OF TWENTY-
55 FIVE YEARS OF TOTAL CREDITABLE SERVICE OR UPON THE ATTAINMENT OF AGE
56 SIXTY BY FILING AN APPLICATION THEREFOR IN A MANNER SIMILAR TO THAT

1 PROVIDED IN SECTION THREE HUNDRED SEVENTY OF THIS ARTICLE. HE OR SHE
2 SHALL RECEIVE, ON RETIREMENT, A RETIREMENT ALLOWANCE CONSISTING OF:

3 1. AN ANNUITY WHICH SHALL BE THE ACTUARIAL EQUIVALENT OF HIS OR HER
4 ACCUMULATED CONTRIBUTIONS AT THE TIME OF HIS OR HER RETIREMENT, PLUS

5 2. A PENSION WHICH, TOGETHER WITH SUCH ANNUITY AND A PENSION WHICH IS
6 THE ACTUARIAL EQUIVALENT OF THE RESERVE-FOR-INCREASED-TAKE-HOME-PAY TO
7 WHICH HE OR SHE MAY THEN BE ENTITLED, IF ANY, SHALL EQUAL ONE-FIFTIETH
8 OF HIS OR HER FINAL AVERAGE SALARY FOR EACH YEAR OF CREDITABLE SERVICE
9 IN SUCH SERVICE. THIS PENSION SHALL NOT EXCEED THE AMOUNT NEEDED TO MAKE
10 THE TOTAL AMOUNT OF THE BENEFITS PROVIDED UNDER THIS PARAGRAPH AND PARA-
11 GRAPH ONE OF THIS SUBDIVISION EQUAL TO ONE-HALF OF FINAL AVERAGE SALARY.

12 3. AN ADDITIONAL PENSION EQUAL TO THE PENSION FOR ANY CREDITABLE
13 SERVICE RENDERED WHILE NOT EMPLOYED AS A UNIVERSITY POLICE OFFICER IN
14 THE SERVICE OF THE STATE UNIVERSITY AS PROVIDED UNDER PARAGRAPHS TWO AND
15 THREE OF SUBDIVISION A OF SECTION THREE HUNDRED SEVENTY-FIVE OF THIS
16 ARTICLE. THIS PENSION SHALL:

17 (I) BE PAYABLE ONLY IF SUCH MEMBER HAS ATTAINED AGE SIXTY AT THE TIME
18 OF RETIREMENT AND HAS NOT COMPLETED TWENTY-FIVE YEARS OF SERVICE AS A
19 UNIVERSITY POLICE OFFICER IN THE SERVICE OF THE STATE UNIVERSITY FOR
20 WHICH HE OR SHE RECEIVES CREDIT UNDER THIS ARTICLE, AND

21 (II) NOT INCREASE THE TOTAL ALLOWANCE TO MORE THAN HE OR SHE WOULD
22 HAVE RECEIVED HAD HIS OR HER TOTAL SERVICE BEEN RENDERED AS A UNIVERSITY
23 POLICE OFFICER IN THE SERVICE OF THE STATE UNIVERSITY. FOR THE PURPOSE
24 ONLY OF DETERMINING THE AMOUNT OF THE PENSION PROVIDED HEREIN, THE ANNU-
25 ITY SHALL BE COMPUTED AS IT WOULD BE:

26 (A) IF NOT REDUCED BY THE ACTUARIAL EQUIVALENT OF ANY OUTSTANDING
27 LOAN, AND

28 (B) IF NOT INCREASED BY THE ACTUARIAL EQUIVALENT OF ANY ADDITIONAL
29 CONTRIBUTIONS, AND

30 (C) IF NOT REDUCED BY REASON OF THE MEMBER'S ELECTION TO DECREASE HIS
31 OR HER ANNUITY CONTRIBUTIONS TO THE RETIREMENT SYSTEM IN ORDER TO APPLY
32 THE AMOUNT OF SUCH REDUCTION IN PAYMENT OF HIS OR HER CONTRIBUTIONS FOR
33 OLD-AGE AND SURVIVORS INSURANCE COVERAGE.

34 G. THE INCREASED PENSIONS TO A UNIVERSITY POLICE OFFICER IN THE
35 SERVICE OF THE STATE UNIVERSITY, AS PROVIDED BY THIS SECTION, SHALL BE
36 PAID FROM ADDITIONAL CONTRIBUTIONS MADE BY THE STATE ON ACCOUNT OF SUCH
37 MEMBERS. THE ACTUARY OF THE RETIREMENT SYSTEM SHALL COMPUTE THE ADDI-
38 TIONAL CONTRIBUTION OF EACH MEMBER WHO ELECTS TO RECEIVE THE SPECIAL
39 BENEFITS PROVIDED UNDER THIS SECTION. SUCH ADDITIONAL CONTRIBUTIONS
40 SHALL BE COMPUTED ON THE BASIS OF CONTRIBUTIONS DURING THE PROSPECTIVE
41 SERVICE OF SUCH MEMBER WHICH WILL COVER THE LIABILITY OF THE RETIREMENT
42 SYSTEM FOR SUCH EXTRA PENSIONS. UPON APPROVAL BY THE COMPTROLLER, SUCH
43 ADDITIONAL CONTRIBUTIONS SHALL BE CERTIFIED BY HIM OR HER TO THE CHAN-
44 CELLOR OF THE STATE UNIVERSITY. THE AMOUNT THEREOF SHALL BE INCLUDED IN
45 THE ANNUAL APPROPRIATION OF THE STATE FOR THE STATE UNIVERSITY. SUCH
46 AMOUNT SHALL BE PAID ON THE WARRANT OF THE COMPTROLLER TO THE PENSION
47 ACCUMULATION FUND OF THE RETIREMENT SYSTEM.

48 H. IN COMPUTING THE TWENTY-FIVE YEARS OF COMPLETED SERVICE OF A
49 UNIVERSITY POLICE OFFICER IN THE SERVICE OF THE STATE UNIVERSITY, FULL
50 CREDIT SHALL BE GIVEN AND FULL ALLOWANCE SHALL BE MADE FOR SERVICE OF
51 SUCH MEMBER IN WAR AFTER WORLD WAR I AS DEFINED IN SECTION TWO OF THIS
52 CHAPTER, PROVIDED SUCH MEMBER AT THE TIME OF HIS OR HER ENTRANCE INTO
53 THE ARMED FORCES WAS IN STATE SERVICE, AND FULL CREDIT AND FULL ALLOW-
54 ANCE SHALL BE MADE FOR SERVICE AS A UNIVERSITY PEACE OFFICER PRIOR TO
55 THE EFFECTIVE DATE OF CHAPTER FOUR HUNDRED TWENTY-FOUR OF THE LAWS OF
56 NINETEEN HUNDRED NINETY-EIGHT.

1 I. THE PROVISIONS OF THIS SECTION SHALL BE CONTROLLING NOTWITHSTANDING
2 ANY PROVISION IN THIS ARTICLE TO THE CONTRARY.

3 J. NOTWITHSTANDING ANY PROVISION OF SUBDIVISION D, E OR I OF THIS
4 SECTION TO THE CONTRARY, A MEMBER WHO IS IN THE COLLECTIVE NEGOTIATING
5 UNIT DESIGNATED AS THE AGENCY POLICE SERVICES UNIT AND ESTABLISHED
6 PURSUANT TO ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW AND WHO HAS
7 ELECTED OR IS REQUIRED TO CONTRIBUTE IN ACCORDANCE WITH THIS SECTION
8 MAY, ON OR BEFORE MARCH THIRTY-FIRST, TWO THOUSAND FIFTEEN, ELECT TO
9 COME UNDER THE PROVISIONS OF SECTION THREE HUNDRED SEVENTY-FIVE-H OF
10 THIS ARTICLE. SUCH ELECTION SHALL BE DULY EXECUTED AND FILED WITH THE
11 COMPTROLLER.

12 K. COMMENCING WITH THE EFFECTIVE DATE OF THIS SECTION AND IN A MANNER
13 DETERMINED BY THE HEAD OF THE RETIREMENT SYSTEM, THE STATE, AS EMPLOYER,
14 SHALL MAKE CONTRIBUTIONS TO THE RETIREMENT SYSTEM TO FUND THE PAST
15 SERVICE LIABILITY COSTS ASSOCIATED WITH THE IMPLEMENTATION OF THIS
16 SECTION AS THOSE COSTS ARE CALCULATED BY THE RETIREMENT SYSTEM ACTUARY.
17 SUCH CONTRIBUTIONS MAY, AT THE ELECTION OF THE EMPLOYER, BE AMORTIZED
18 OVER A TEN YEAR PERIOD.

19 S 4. No employee contributions made to the New York state and local
20 employees' retirement system by any state university police officer who
21 elects to transfer pursuant to this act shall be returned to such offi-
22 cer. Such employee contributions shall be used to offset any past
23 service costs incurred by operation of the provisions of this act.

24 S 5. Notwithstanding subdivision h of section 343 of the retirement
25 and social security law, the provisions of subdivisions c and d of
26 section 343 of the retirement and social security law shall apply and
27 the employer contributions reserve shall be transferred from the appro-
28 priate fund or funds of the New York state and local employees' retire-
29 ment system to the New York state and local police and fire retirement
30 system.

31 S 6. Subdivision 3 of section 58 of the civil service law, as amended
32 by chapter 435 of the laws of 1997, is amended to read as follows:

33 3. As used in this section, the term "police officer" means a member
34 of the regional state park police, THE STATE UNIVERSITY POLICE or a
35 police force, police department, or other organization of a county,
36 city, town, village, housing authority, transit authority or police
37 district, who is responsible for the prevention and detection of crime
38 and the enforcement of the general criminal laws of the state, but shall
39 not include any person serving as such solely by virtue of his occupying
40 any other office or position, nor shall such term include a sheriff,
41 under-sheriff, commissioner of police, deputy or assistant commissioner
42 of police, chief of police, deputy or assistant chief of police or any
43 person having an equivalent title who is appointed or employed to exer-
44 cise equivalent supervisory authority.

45 S 7. Paragraphs (a) and (b) of subdivision 4 of section 58 of the
46 civil service law, as amended by chapter 435 of the laws of 1997, are
47 amended to read as follows:

48 (a) Any person who has received provisional or permanent appointment
49 in the competitive class of the civil service as a police officer of the
50 regional state park police, THE STATE UNIVERSITY OF NEW YORK POLICE or
51 any police force or police department of any county, city, town,
52 village, housing authority, transit authority or police district shall
53 be eligible to resign from any police force or police department, and to
54 be appointed as a police officer in the same or any other police force
55 or police department without satisfying the age requirements set forth
56 in paragraph (a) of subdivision one of this section at the time of such

1 second or subsequent appointment, provided such second or subsequent
2 appointment occurs within thirty days of the date of resignation.

3 (b) Any person who has received permanent appointment in the compet-
4 itive class of the civil service as a police officer of the regional
5 state park police, THE STATE UNIVERSITY OF NEW YORK POLICE or any police
6 force or police department of any county, city, town, village, housing
7 authority, transit authority or police district shall be eligible to
8 resign from any police force or police department and, subject to such
9 civil service rules as may be applicable, shall be eligible for rein-
10 statement in the same police force or police department or in any other
11 police force or police department to which he was eligible for transfer,
12 without satisfying the age requirements set forth in paragraph (a) of
13 subdivision one of this section at the time of such reinstatement,
14 provided such reinstatement occurs within one year of the date of resig-
15 nation.

16 S 8. This act shall take effect immediately.

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

This bill would allow State University Police Officers to elect to transfer to the New York State and Local Police and Fire Retirement System and to be covered by the provisions of a new twenty-five (25) year half pay retirement plan, with additional one-sixtieths of final average salary for each year of service in excess of twenty-five (25) years, but not exceeding fifteen (15) such years. For Tiers 2, 5, and 6 members, the additional one-sixtieths can not exceed seven (7) such years. There will be no refund of Article 14 or Article 15 member contributions for officers who elect to transfer to the Police and Fire Retirement system.

If this bill is enacted, we anticipate that there will be an increase of approximately \$1.6 million in the annual contributions of the State of New York for the fiscal year ending March 31, 2014.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately \$10.9 million which would be borne by the State of New York. This estimate is based on the assumption that payment will be made on March 1, 2014. If this cost is amortized over ten (10) years, the cost for the first year, including interest, would be approximately \$1.48 million.

It should be noted that in addition to the increase in annual contributions given above, there would be increases in annual contributions for future State University Police officers who would be Tier 6 members of the New York State and Local Police and Fire Retirement System rather than Tier 6 members of the New York State and Local Employees' Retirement System.

These estimated costs are based on five hundred eight-two (582) State University Police Officers with a total estimated salary of approximately \$41 million for the fiscal year ending March 31, 2013.

Summary of relevant resources:

Data: March 31, 2012 Actuarial Year End File with distributions of membership and other statistics displayed in the 2012 Report of the Actuary and 2012 Comprehensive Annual Financial Report.

Assumptions and Methods: 2010, 2011 and 2012 Annual Report to the Comptroller on Actuarial Assumptions, Codes Rules and Regulations of the State of New York: Audit and Control.

Market Assets and GASB Disclosures: March 31, 2012 New York State and Local Retirement System Financial Statements and Supplementary Information.

Valuations of Benefit Liabilities and Actuarial Assets: summarized in the 2012 Actuarial Valuations report.

I am a member of the American Academy of Actuaries and meet the Qualification Standards to render the actuarial opinion contained herein.

This estimate, dated January 25, 2013 and intended for use only during the 2013 Legislative Session, is Fiscal Note No. 2013-56 prepared by the Actuary for the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System.