

6886

I N S E N A T E

March 25, 2014

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] ARTICLE, 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] TITLE.
24 S 3. The retirement and social security law is amended by adding a new
25 section 383-d to read as follows:
26 S 383-D. ALTERNATIVE RETIREMENT BENEFITS FOR UNIVERSITY POLICE OFFI-
27 CERS APPOINTED BY THE STATE UNIVERSITY. A. AS USED IN THIS SECTION, THE
28 TERM "UNIVERSITY POLICE OFFICER" SHALL MEAN A PERSON WHO IS SO APPOINTED
29 PURSUANT TO PARAGRAPH L OF SUBDIVISION TWO OF SECTION THREE HUNDRED
30 FIFTY-FIVE OF THE EDUCATION LAW.

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

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

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

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

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

27 D. EVERY EMPLOYEE ENTERING OR RE-ENTERING SERVICE AS A UNIVERSITY
28 POLICE OFFICER IN THE SERVICE OF THE STATE UNIVERSITY ON OR AFTER THE
29 EFFECTIVE DATE OF THIS SECTION SHALL CONTRIBUTE ON THE BASIS PROVIDED
30 FOR BY THIS SECTION.

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

46 F. A MEMBER CONTRIBUTING ON THE BASIS OF THIS SECTION, AT THE TIME OF
47 RETIREMENT, SHALL BE ENTITLED TO RETIRE AFTER THE COMPLETION OF TWENTY-
48 FIVE YEARS OF TOTAL CREDITABLE SERVICE OR UPON THE ATTAINMENT OF AGE
49 SIXTY BY FILING AN APPLICATION THEREFOR IN A MANNER SIMILAR TO THAT
50 PROVIDED IN SECTION THREE HUNDRED SEVENTY OF THIS ARTICLE. HE OR SHE
51 SHALL RECEIVE, ON RETIREMENT, A RETIREMENT ALLOWANCE CONSISTING OF:

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

54 2. A PENSION WHICH, TOGETHER WITH SUCH ANNUITY AND A PENSION WHICH IS
55 THE ACTUARIAL EQUIVALENT OF THE RESERVE-FOR-INCREASED-TAKE-HOME-PAY TO
56 WHICH HE OR SHE MAY THEN BE ENTITLED, IF ANY, SHALL EQUAL ONE-FIFTIETH

1 OF HIS OR HER FINAL AVERAGE SALARY FOR EACH YEAR OF CREDITABLE SERVICE
2 IN SUCH SERVICE. THIS PENSION SHALL NOT EXCEED THE AMOUNT NEEDED TO MAKE
3 THE TOTAL AMOUNT OF THE BENEFITS PROVIDED UNDER THIS PARAGRAPH AND PARA-
4 GRAPH ONE OF THIS SUBDIVISION EQUAL TO ONE-HALF OF FINAL AVERAGE SALARY.

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

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

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

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

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

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

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

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

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

52 J. NOTWITHSTANDING ANY PROVISION OF SUBDIVISION D, E OR I OF THIS
53 SECTION TO THE CONTRARY, A MEMBER WHO IS IN THE COLLECTIVE NEGOTIATING
54 UNIT DESIGNATED AS THE AGENCY POLICE SERVICES UNIT AND ESTABLISHED
55 PURSUANT TO ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW AND WHO HAS
56 ELECTED OR IS REQUIRED TO CONTRIBUTE IN ACCORDANCE WITH THIS SECTION

MAY, ON OR BEFORE MARCH THIRTY-FIRST, TWO THOUSAND SIXTEEN, ELECT TO COME UNDER THE PROVISIONS OF SECTION THREE HUNDRED SEVENTY-FIVE-H OF THIS ARTICLE. SUCH ELECTION SHALL BE DULY EXECUTED AND FILED WITH THE COMPTROLLER.

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

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

S 5. Notwithstanding subdivision h of section 343 of the retirement and social security law, the provisions of subdivisions c and d of section 343 of the retirement and social security law shall apply and the employer contributions reserve shall be transferred from the appropriate fund or funds of the New York state and local employees' retirement system to the New York state and local police and fire retirement system.

S 6. Subdivision 3 of section 58 of the civil service law, as amended by chapter 244 of the laws of 2013, is amended to read as follows:

3. As used in this section, the term "police officer" means a police officer in the department of environmental conservation, THE STATE UNIVERSITY OF NEW YORK POLICE, a member of the regional state park police or a police force, police department, or other organization of a county, city, town, village, housing authority, transit authority or police district, who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state, but shall not include any person serving as such solely by virtue of his or her occupying any other office or position, nor shall such term include a sheriff, under-sheriff, commissioner of police, deputy or assistant commissioner of police, chief of police, deputy or assistant chief of police or any person having an equivalent title who is appointed or employed to exercise equivalent supervisory authority.

S 7. Paragraphs (a) and (b) of subdivision 4 of section 58 of the civil service law, as amended by chapter 244 of the laws of 2013, are amended to read as follows:

(a) Any person who has received provisional or permanent appointment in the competitive class of the civil service as a police officer of the regional state park police, THE STATE UNIVERSITY OF NEW YORK POLICE, the department of environmental conservation or any police force or police department of any county, city, town, village, housing authority, transit authority or police district shall be eligible to resign from any police force or police department, and to be appointed as a police officer in the same or any other police force or police department without satisfying the age requirements set forth in paragraph (a) of subdivision one of this section at the time of such second or subsequent appointment, provided such second or subsequent appointment occurs within thirty days of the date of resignation.

(b) Any person who has received permanent appointment in the competitive class of the civil service as a police officer of the regional state park police, THE STATE UNIVERSITY OF NEW YORK POLICE, the depart-

1 ment of environmental conservation or any police force or police depart-
2 ment of any county, city, town, village, housing authority, transit
3 authority or police district shall be eligible to resign from any police
4 force or police department and, subject to such civil service rules as
5 may be applicable, shall be eligible for reinstatement in the same
6 police force or police department or in any other police force or police
7 department to which he or she was eligible for transfer, without satis-
8 fying the age requirements set forth in paragraph (a) of subdivision one
9 of this section at the time of such reinstatement, provided such rein-
10 statement occurs within one year of the date of resignation.

11 S 8. This act shall take effect January 1, 2015.

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. The bill would become effective on January 1, 2015.

If this bill is enacted, we anticipate that there will be an increase of approximately \$350,000 in the annual contributions of the State of New York for the fiscal year ending March 31, 2015.

In addition to the annual contributions discussed above, it is estimated that there will be an immediate past service cost of \$10.2 million which would be borne by the State of New York, assuming that payment will be made on March 1, 2015. If this cost is amortized over ten (10) years, the cost for the first year, including interest, would be \$1.39 million.

These estimated costs are based on five hundred eighty (580) State University Police Officers with a total estimated salary of approximately \$39 million for the fiscal year ending March 31, 2013.

Summary of relevant resources:

The membership data used in measuring the impact of the proposed change was the same as that used in the March 31, 2013 actuarial valuation. Distributions and other statistics can be found in the 2013 Report of the Actuary and the 2013 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2010, 2011, 2012 and 2013 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, 2013 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 estimate, dated March 21, 2014, and intended for use only during the 2014 Legislative Session, is Fiscal Note No. 2014-107 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.