

# STATE OF NEW YORK

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3274

2023-2024 Regular Sessions

## IN ASSEMBLY

February 2, 2023

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Introduced by M. of A. EPSTEIN -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the civil service law, the retirement and social security law, the administrative code of the city of New York and the New York city charter, in relation to suspension of retirement allowance upon re-employment with a public authority or public benefit corporation

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

1 Section 1. Section 150 of the civil service law, as amended by chapter  
2 211 of the laws of 1995, is amended to read as follows:  
3 § 150. Suspension of pension and annuity during public employment.  
4 Except as otherwise provided by sections one hundred one, two hundred  
5 eleven, and two hundred twelve of the retirement and social security  
6 law, section five hundred three of the education law, and except as now  
7 provided by any local law or charter, if any person subsequent to his or  
8 her retirement from the civil service of the state or of any municipal  
9 corporation or political subdivision of the state, shall accept any  
10 office, position or employment in the civil service of the state or of  
11 any municipal corporation ~~[or]~~, political subdivision of the state or  
12 any public authority or public benefit corporation to which any salary  
13 or emolument is attached, except jury duty or the office of inspector of  
14 election, poll clerk or ballot clerk under the election law, or the  
15 office of notary public or commissioner of deeds, or an elective public  
16 office, any pension or annuity awarded or allotted to him or her upon  
17 retirement, and payable by the state, by such municipal corporation or  
18 political subdivision, or out of any fund established by or pursuant to  
19 law, shall be suspended during such service or employment and while such  
20 person is receiving any salary or emolument therefor except reimburse-  
21 ment for traveling expenses. Notwithstanding the foregoing, if any  
22 person, subsequent to his or her retirement from an elective public

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

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1 office, accepts appointment, is re-elected or takes a new oath of office  
2 to the same elective public office from which he or she retired, his or  
3 her retirement allowance shall be suspended until the date he or she  
4 vacates such elective public office, unless the amount earned for any  
5 calendar year for that elective public office does not exceed the earn-  
6 ing limitation provided for retired persons in section two hundred  
7 twelve of the retirement and social security law. However, for purposes  
8 of this section the age seventy unlimited earnings provision of section  
9 two hundred twelve of the retirement and social security law will not  
10 pertain to any person, subsequent to his or her retirement from an elec-  
11 tive public office, if such person accepts appointment, is re-elected or  
12 takes a new oath of office to the same elective public office from which  
13 he or she retired.

14 § 2. Subdivision 1 of section 211 of the retirement and social securi-  
15 ty law, as amended by chapter 640 of the laws of 2008, is amended to  
16 read as follows:

17 1. Notwithstanding the provisions of sections one hundred one, two  
18 hundred twelve and four hundred one of this chapter or section five  
19 hundred three of the education law, or the provisions of any local law  
20 or charter, a retired person may be employed and earn compensation in a  
21 position or positions in the public service, without any effect on his  
22 or her status as retired and without suspension or diminution of his or  
23 her retirement allowance subject to one of the following: (a) His or her  
24 total compensation in such position or positions in any calendar year,  
25 including compensation earned under other provisions of this article,  
26 shall not exceed the multiple of five hundred dollars next higher than  
27 the difference between (1) the sum of his or her annual retirement  
28 allowance computed without optional modification plus annual supple-  
29 mental retirement payments, if any, and (2) the salary on which his or  
30 her retirement allowance is based or his or her final salary, whichever  
31 is greater; or (b) The position in which he or she is employed is not a  
32 position in the service of a former employer, or a public authority or  
33 public benefit corporation.

34 § 3. Subdivision 1 of section 212 of the retirement and social securi-  
35 ty law, as amended by chapter 640 of the laws of 2008, is amended to  
36 read as follows:

37 1. Notwithstanding the provisions of section one hundred one, two  
38 hundred eleven or four hundred one of this chapter or of section five  
39 hundred three of the education law, or the provisions of any local law  
40 or charter, any retired person may continue as retired and, without  
41 loss, suspension or diminution of his or her retirement allowance, earn  
42 in a position or positions in public service, except for employment with  
43 a public authority or public benefit corporation, in any calendar year  
44 an amount not exceeding the amount set forth in the table in subdivision  
45 two of this section provided such retired person employed under this  
46 section duly executes and files with the retirement system from which he  
47 or she is receiving a retirement allowance a statement that he elects to  
48 have the provisions of this section apply to him or her. A statement of  
49 election executed and filed pursuant to this section may be withdrawn by  
50 a retired person at any time by a statement similarly executed and  
51 filed. However, there shall be no earning limitations under the  
52 provisions of this section on or after the calendar year in which any  
53 retired person attains age sixty-five. The retirement board of the New  
54 York state teachers' retirement system is authorized to adopt rules and  
55 regulations which would allow retired persons receiving a retirement  
56 allowance from such system to make such statements of earnings from a

1 position or positions in public service as such board shall determine  
2 necessary to enforce the provisions of this section in lieu of the fore-  
3 going statement of election.

4 § 4. Subdivision b of section 13-178 of the administrative code for  
5 the city of New York is amended to read as follows:

6 b. Under this section or section eleven hundred seventeen of the char-  
7 ter, during restoration to city-service or service under the state of  
8 New York or any municipal corporation or political subdivision of the  
9 state or any public authority or public benefit corporation, any bene-  
10 fits payable in the event of his or her death by reason of any optional  
11 selection in respect to his or her pension and his or her pension-for-  
12 increased-take-home-pay, if any, shall be suspended unless the benefici-  
13 ary shall pay to the fund or funds from which his or her ordinary  
14 pension and his or her pension-for-increased-take-home-pay, if any, were  
15 payable, the amount by which his or her ordinary pension and his or her  
16 pension-for-increased-take-home-pay, if any, exceeded the optional  
17 pension and his or her pension-for-increased-take-home-pay, if any,  
18 theretofore granted to him or her. In the event of his or her death  
19 during any period covered by such contribution, such optional benefit  
20 shall be payable. The provisions of this subdivision b shall not apply  
21 to any such beneficiary to whom the provisions of subdivision four of  
22 section 13-151 of this chapter are applicable.

23 § 5. Section 1117 of the New York city charter, as amended by a vote  
24 of the people of the city of New York at the general election held in  
25 November of 1989, is amended to read as follows:

26 § 1117. Pensioner not to hold office. If a person receiving a pension  
27 or a retirement allowance made up of such pension and an annuity  
28 purchased by the pensioner from the city or any agency, or out of any  
29 fund under the city or any agency, by reason of such person's own prior  
30 employment by the city or any agency, shall hold and receive any compen-  
31 sation from any office, employment or position under the state or city  
32 or any of the counties included within the city or any municipal corpo-  
33 ration or political subdivision of the state, or a public authority or  
34 public benefit corporation, except the offices of inspector of election,  
35 poll clerk or ballot clerk under the election law or commissioner of  
36 deeds or notary public or jury duty, the payment of said pension only  
37 shall be suspended and forfeited during and for the time such person  
38 shall hold and receive compensation from such office, position or  
39 employment; but this section shall not apply where the pension and the  
40 salary or compensation of the office, employment or position amount in  
41 the aggregate to less than one thousand eight hundred dollars annually.

42 § 6. This act shall take effect immediately.