S T A T E O F N E W Y O R K

10548

I N A S S E M B L Y

April 2, 2010

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

AN ACT to amend the education law, the retirement and social security law and the administrative code of the city of New York, in relation to permitting members of the New York state and New York city teachers' retirement systems to claim retirement credit for certain service as a teacher in another state

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

Section 1. Subdivision 2 of section 509 of the education law is amended by adding a new paragraph d to read as follows:

D. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A MEMBER SHALL BE ENTITLED TO OBTAIN CREDIT FOR UP TO TEN YEARS OF SERVICE RENDERED IN THE EMPLOY OF ANOTHER STATE, WHICH WOULD CONSTITUTE SERVICE AS A TEACHER, HAD IT BEEN PERFORMED WITHIN NEW YORK STATE FOR AN EMPLOYER SUBJECT TO THE PROVISIONS OF THIS ARTICLE. THE CREDITING OF SERVICE PURSUANT TO THIS PARAGRAPH SHALL BE IN ACCORDANCE WITH RULES AND REGULATIONS AS SHALL BE ADOPTED BY THE RETIREMENT BOARD, PROVIDED THAT SUCH RULES AND REGULATIONS SHALL BE SUBSTANTIALLY EQUIVALENT TO THE RULES AND REGULATIONS OTHERWISE APPLICABLE FOR THE CREDITING OF SERVICE PURSUANT TO THIS SECTION. PROVIDED, HOWEVER, NO SUCH CREDIT SHALL BE ALLOWED FOR ANY SERVICE FOR WHICH THE PERSON IS RECEIVING A BENEFIT OR WILL BE ENTITLED TO RECEIVE A BENEFIT AT ANY FUTURE TIME FROM SOME OTHER PUBLIC OR PRIVATE RETIREMENT SYSTEM OR PLAN, IN THIS STATE, IN ANY OTHER STATE OR FROM THE FEDERAL GOVERNMENT. NOTHING IN THIS PARAGRAPH SHALL AUTHORIZE OR REQUIRE THE SYSTEM TO CREDIT SERVICE WHERE NOT PERMITTED BY SECTION 415 (N) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.

S 2. Section 446 of the retirement and social security law is amended by adding a new subdivision k to read as follows:

K. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A MEMBER OF A TEACHERS' RETIREMENT SYSTEM SUBJECT TO THE PROVISIONS OF THIS ARTICLE SHALL BE ENTITLED TO OBTAIN CREDIT FOR UP TO TEN YEARS OF SERVICE RENDERED IN THE EMPLOY OF ANOTHER STATE, WHICH WOULD CONSTITUTE SERVICE AS A TEACHER, HAD IT BEEN PERFORMED WITHIN NEW YORK STATE FOR AN EMPLOYER SUBJECT TO

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

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THE PROVISIONS OF THIS ARTICLE. THE CREDITING OF SERVICE PURSUANT TO THIS SUBDIVISION SHALL BE IN ACCORDANCE WITH RULES AND REGULATIONS AS SHALL BE ADOPTED BY THE RETIREMENT BOARD OF SUCH RETIREMENT SYSTEM, PROVIDED THAT SUCH RULES AND REGULATIONS SHALL BE SUBSTANTIALLY EQUIVALENT TO THE RULES AND REGULATIONS OTHERWISE APPLICABLE FOR THE CREDITING OF SERVICE PURSUANT TO THIS SECTION. PROVIDED, HOWEVER, NO SUCH CREDIT SHALL BE ALLOWED FOR ANY SERVICE FOR WHICH THE PERSON IS RECEIVING A BENEFIT OR WILL BE ENTITLED TO RECEIVE A BENEFIT AT ANY FUTURE TIME FROM SOME OTHER PUBLIC OR PRIVATE RETIREMENT SYSTEM OR PLAN, IN THIS STATE, IN ANY OTHER STATE OR FROM THE FEDERAL GOVERNMENT. NOTHING IN THIS SUBDIVISION SHALL AUTHORIZE OR REQUIRE THE SYSTEM TO CREDIT SERVICE WHERE NOT PERMITTED BY SECTION 415 (N) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.

S 3. Section 513 of the retirement and social security law is amended by adding a new subdivision i to read as follows:

I. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A MEMBER OF A TEACHERS' RETIREMENT SYSTEM SUBJECT TO THE PROVISIONS OF THIS ARTICLE SHALL BE ENTITLED TO OBTAIN CREDIT FOR UP TO TEN YEARS OF SERVICE RENDERED IN THE EMPLOY OF ANOTHER STATE, WHICH WOULD CONSTITUTE SERVICE AS A TEACHER, HAD IT BEEN PERFORMED WITHIN NEW YORK STATE FOR AN EMPLOYER SUBJECT TO THE PROVISIONS OF THIS ARTICLE, PROVIDED SUCH MEMBER MAKES THE PAYMENTS REQUIRED PURSUANT TO THE PROVISIONS OF SECTION FIVE HUNDRED SEVENTEEN OF THIS ARTICLE. THE CREDITING OF SERVICE PURSUANT TO THIS SUBDIVISION SHALL BE IN ACCORDANCE WITH RULES AND REGULATIONS AS SHALL BE ADOPTED BY THE RETIREMENT BOARD OF SUCH RETIREMENT SYSTEM, PROVIDED THAT SUCH RULES AND REGULATIONS SHALL BE SUBSTANTIALLY EQUIVALENT TO THE RULES AND REGULATIONS OTHERWISE APPLICABLE FOR THE CREDITING OF SERVICE PURSUANT TO THIS SECTION. PROVIDED, HOWEVER, NO SUCH CREDIT SHALL BE ALLOWED FOR ANY SERVICE FOR WHICH THE PERSON IS RECEIVING A BENEFIT OR WILL BE ENTITLED TO RECEIVE A BENEFIT AT ANY FUTURE TIME FROM SOME OTHER PUBLIC OR PRIVATE RETIREMENT SYSTEM OR PLAN, IN THIS STATE, IN ANY OTHER STATE OR FROM THE FEDERAL GOVERNMENT. NOTHING IN THIS SUBDIVISION SHALL AUTHORIZE OR REQUIRE THE SYSTEM TO CREDIT SERVICE WHERE NOT PERMITTED BY SECTION 415 (N) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.

S 4. Section 609 of the retirement and social security law is amended by adding a new subdivision h to read as follows:

H. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A MEMBER OF A TEACHERS' RETIREMENT SYSTEM SUBJECT TO THE PROVISIONS OF THIS ARTICLE SHALL BE ENTITLED TO OBTAIN CREDIT FOR UP TO TEN YEARS OF SERVICE RENDERED IN THE EMPLOY OF ANOTHER STATE, WHICH WOULD CONSTITUTE SERVICE AS A TEACHER, HAD IT BEEN PERFORMED WITHIN NEW YORK STATE FOR AN EMPLOYER SUBJECT TO THE PROVISIONS OF THIS ARTICLE, PROVIDED SUCH MEMBER MAKES THE PAYMENTS REQUIRED PURSUANT TO THE PROVISIONS OF SECTION SIX HUNDRED THIRTEEN OF THIS ARTICLE AND PARAGRAPH TWO OF SUBDIVISION B OF THIS SECTION. THE CREDITING OF SERVICE PURSUANT TO THIS SUBDIVISION SHALL BE IN ACCORDANCE WITH RULES AND REGULATIONS AS SHALL BE ADOPTED BY THE RETIREMENT BOARD OF SUCH RETIREMENT SYSTEM, PROVIDED THAT SUCH RULES AND REGULATIONS SHALL BE SUBSTANTIALLY EQUIVALENT TO THE RULES AND REGULATIONS OTHERWISE APPLICABLE FOR THE CREDITING OF SERVICE PURSUANT TO THIS SECTION. PROVIDED, HOWEVER, NO SUCH CREDIT SHALL BE ALLOWED FOR ANY SERVICE FOR WHICH THE PERSON IS RECEIVING A BENEFIT OR WILL BE ENTITLED TO RECEIVE A BENEFIT AT ANY FUTURE TIME FROM SOME OTHER PUBLIC OR PRIVATE RETIREMENT SYSTEM OR PLAN, IN THIS STATE, IN ANY OTHER STATE OR FROM THE FEDERAL GOVERNMENT. NOTHING IN THIS SUBDIVISION SHALL AUTHORIZE OR REQUIRE THE SYSTEM TO CREDIT SERVICE WHERE NOT PERMITTED BY SECTION 415 (N) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.

S 5. Subparagraph (d) of paragraph 3 of subdivision a of section 13-505 of the administrative code of the city of New York is amended to read as follows:

(d) Credit for such prior service up to a maximum of fifteen years shall be given only if application and payment therefor is made by the contributor within the first four years subsequent to membership in the New York city teachers' retirement system or before December thirty-first, [nineteen hundred sixty-nine] TWO THOUSAND SIX, whichever is later.

S 6. Subdivision a of section 13-505 of the administrative code of the city of New York is amended by adding a new paragraph 10 to read as follows:

10. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A MEMBER SHALL BE ENTITLED TO OBTAIN CREDIT FOR UP TO TEN YEARS OF SERVICE RENDERED IN THE EMPLOY OF ANOTHER STATE, WHICH WOULD CONSTITUTE SERVICE AS A TEACHER, HAD IT BEEN PERFORMED WITHIN NEW YORK STATE FOR AN EMPLOYER SUBJECT TO THE PROVISIONS OF THIS CHAPTER. THE CREDITING OF SERVICE PURSUANT TO THIS PARAGRAPH SHALL BE IN ACCORDANCE WITH RULES AND REGULATIONS AS SHALL BE ADOPTED BY THE RETIREMENT BOARD, PROVIDED THAT SUCH RULES AND REGULATIONS SHALL BE SUBSTANTIALLY EQUIVALENT TO THE RULES AND REGULATIONS OTHERWISE APPLICABLE FOR THE CREDITING OF SERVICE PURSUANT TO THIS SECTION. PROVIDED, HOWEVER, NO SUCH CREDIT SHALL BE ALLOWED FOR ANY SERVICE FOR WHICH THE PERSON IS RECEIVING A BENEFIT OR WILL BE ENTITLED TO RECEIVE A BENEFIT AT ANY FUTURE TIME FROM SOME OTHER PUBLIC OR PRIVATE RETIREMENT SYSTEM OR PLAN, IN THIS STATE, IN ANY OTHER STATE OR FROM THE FEDERAL GOVERNMENT. NOTHING IN THIS PARAGRAPH SHALL AUTHORIZE OR REQUIRE THE SYSTEM TO CREDIT SERVICE WHERE NOT PERMITTED BY SECTION 415 (N) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.

S 7. This act shall take effect immediately.

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

This bill amends section 509 of the Education Law and sections 446, 513, and 609 of the Retirement and Social Security Law to permit all members of the New York State Teachers' Retirement System to claim service credit for up to ten years of out-of-state public school teaching service, regardless of when such service was rendered. Current law permits only Tier 1 members to obtain service credit for out-of-state teaching service, and requires that such out-of-state service predate a member's date of membership in order to be creditable. Payments for such credit for Tier 3, 4 and 5 members shall be required in accordance with section 517 and section 613 and paragraph two of subdivision b of section 609 of the Retirement and Social Security Law.

The annual cost to the employers of members of New York State Teachers' Retirement System for this benefit is estimated to be $147.9 million or .96% of payroll if this bill is enacted.

The source of this estimate is Fiscal Note 2010-35 dated March 26, 2010 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2010 Legislative Session.