

2435

2009-2010 Regular Sessions

I N A S S E M B L Y

January 15, 2009

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

AN ACT to amend the retirement and social security law, in relation to
retirement benefits for certain employees

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

1 Section 1. The retirement and social security law is amended by adding
2 a new section 89-y to read as follows:
3 S 89-Y. ALTERNATIVE RETIREMENT BENEFITS FOR PEACE OFFICERS IN THE
4 DEPARTMENT OF MOTOR VEHICLES. A. DEFINITIONS. FOR PURPOSES OF THIS
5 SECTION:
6 1. "QUALIFYING MEMBER" SHALL MEAN ANY MEMBER WHO IS IN SERVICE AS AN
7 EMPLOYEE OF THE NEW YORK STATE DEPARTMENT OF MOTOR VEHICLES WHO IS A
8 PEACE OFFICER AS DEFINED IN ARTICLE TWO OF THE CRIMINAL PROCEDURE LAW.
9 2. "QUALIFYING CREDITABLE SERVICE" SHALL MEAN CREDITABLE SERVICE
10 RENDERED WHILE A MEMBER IS A MEMBER OF A PUBLIC RETIREMENT SYSTEM
11 EMPLOYED IN A POSITION WHICH IS DESIGNATED AS A POLICE OFFICER PURSUANT
12 TO ARTICLE ONE OF THE CRIMINAL PROCEDURE LAW OR AS A PEACE OFFICER
13 PURSUANT TO ARTICLE TWO OF THE CRIMINAL PROCEDURE LAW.
14 3. "PUBLIC RETIREMENT SYSTEM" SHALL MEAN THE NEW YORK STATE AND LOCAL
15 EMPLOYEES' RETIREMENT SYSTEM, THE NEW YORK STATE AND LOCAL POLICE AND
16 FIRE RETIREMENT SYSTEM, THE NEW YORK STATE TEACHERS' RETIREMENT SYSTEM,
17 THE NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM, THE NEW YORK CITY TEACH-
18 ERS' RETIREMENT SYSTEM, THE NEW YORK CITY POLICE PENSION FUND, THE NEW
19 YORK CITY FIRE DEPARTMENT PENSION FUND AND THE NEW YORK CITY BOARD OF
20 EDUCATION RETIREMENT SYSTEM.
21 B. ELIGIBILITY. 1. ANY QUALIFYING MEMBER, AS DEFINED IN SUBDIVISION A
22 OF THIS SECTION, SHALL BE ELIGIBLE TO RETIRE PURSUANT TO THE PROVISIONS
23 OF THIS SECTION. SUCH ELIGIBILITY SHALL BE AN ALTERNATIVE TO THE ELIGI-
24 BILITY PROVISIONS AVAILABLE UNDER ANY OTHER PLAN OF THIS ARTICLE TO
25 WHICH SUCH MEMBER IS SUBJECT. THE COMPTROLLER MAY REQUEST CERTIFICATIONS

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

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1 FROM AGENCY OFFICIALS, AS APPROPRIATE, TO IDENTIFY SUCH ELIGIBLE
2 MEMBERS.

3 2. ANY SUCH QUALIFYING MEMBER SHALL BE ENTITLED TO RETIRE AFTER THE
4 COMPLETION OF TWENTY-FIVE YEARS OF QUALIFYING CREDITABLE SERVICE BY
5 FILING AN APPLICATION THEREFOR IN A MANNER SIMILAR TO THAT PROVIDED IN
6 SECTION SEVENTY OF THIS ARTICLE; PROVIDED, HOWEVER, NO SUCH MEMBER SHALL
7 BE ELIGIBLE TO RETIRE UNTIL HE OR SHE HAS A MINIMUM OF TEN YEARS OF
8 QUALIFYING CREDITABLE SERVICE.

9 C. RETIREMENT ALLOWANCE. A MEMBER RETIRING UNDER THE PROVISIONS OF
10 THIS SECTION SHALL RECEIVE A RETIREMENT ALLOWANCE CONSISTING OF A
11 PENSION EQUAL TO ONE-FIFTIETH OF HIS OR HER FINAL AVERAGE SALARY FOR
12 EACH YEAR OF QUALIFYING CREDITABLE SERVICE. THIS RETIREMENT ALLOWANCE
13 SHALL NOT EXCEED FIFTY PERCENT OF SUCH MEMBER'S FINAL AVERAGE SALARY.

14 D. COMPUTATION OF SERVICE. IN COMPUTING THE TWENTY-FIVE YEARS OF
15 COMPLETED SERVICE OF A QUALIFYING MEMBER FOR PURPOSES OF THIS SECTION,
16 FULL CREDIT SHALL BE GIVEN AND FULL ALLOWANCE SHALL BE MADE FOR SERVICE
17 OF SUCH MEMBER IN WAR AFTER WORLD WAR I, AS DEFINED IN SUBDIVISION THIR-
18 TY OF SECTION TWO OF THIS CHAPTER, PROVIDED SUCH MEMBER AT THE TIME OF
19 HIS OR HER ENTRANCE INTO THE ARMED FORCES WAS IN STATE SERVICE.

20 E. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PREVENT A MEMBER, WHO
21 DOES NOT RETIRE PURSUANT TO THE PROVISIONS OF THIS SECTION, FROM UTILIZ-
22 ING SERVICE WHICH IS CREDITABLE SERVICE PURSUANT TO THE PROVISIONS OF
23 THIS SECTION FOR THE SERVICE CREDIT PURSUANT TO ANY OTHER PLAN OF THIS
24 ARTICLE TO WHICH SUCH MEMBER IS SUBJECT.

25 F. THE INCREASED COSTS OF THE BENEFITS PROVIDED FOR IN THIS SECTION
26 SHALL BE PAID FROM ADDITIONAL CONTRIBUTIONS MADE BY THE EMPLOYER.

27 G. THE PROVISIONS IN THIS SECTION SHALL BE CONTROLLING NOTWITHSTANDING
28 ANY OTHER PROVISION IN THIS ARTICLE TO THE CONTRARY.

29 S 2. Subdivision a of section 445 of the retirement and social securi-
30 ty law, as amended by chapter 295 of the laws of 2007, is amended to
31 read as follows:

32 a. No member of a retirement system who is subject to the provisions
33 of this article shall retire without regard to age, exclusive of retire-
34 ment for disability, unless he is a policeman, an investigator member of
35 the New York city employees' retirement system, fireman, correction
36 officer, a qualifying member as defined in section eighty-nine-t, as
37 added by chapter six hundred fifty-seven of the laws of nineteen hundred
38 ninety-eight, of this chapter, A QUALIFYING MEMBER AS DEFINED IN SECTION
39 EIGHTY-NINE-Y OF THIS CHAPTER, sanitation man, a special officer
40 (including persons employed by the city of New York in the title urban
41 park ranger or associate urban park ranger), school safety agent, campus
42 peace officer or a taxi and limousine commission inspector member of the
43 New York city employees' retirement system or the New York city board of
44 education retirement system, a dispatcher member of the New York city
45 employees' retirement system, a police communications member of the New
46 York city employees' retirement system, an EMT member of the New York
47 city employees' retirement system, a deputy sheriff member of the New
48 York city employees' retirement system, a correction officer of the
49 Westchester county correction department as defined in section eighty-
50 nine-e of this chapter or employed in Suffolk county as a peace officer,
51 as defined in section eighty-nine-s, as added by chapter five hundred
52 eighty-eight of the laws of nineteen hundred ninety-seven, of this chap-
53 ter, employed in Suffolk county as a correction officer, as defined in
54 section eighty-nine-f of this chapter, or employed in Nassau county as a
55 correction officer, uniformed correction division personnel, sheriff,
56 undersheriff or deputy sheriff, as defined in section eighty-nine-g of

1 this chapter, or employed in Nassau county as an ambulance medical tech-
2 nician, an ambulance medical technician/supervisor or a member who
3 performs ambulance medical technician related services, as defined in
4 section eighty-nine-s, as amended by chapter five hundred seventy-eight
5 of the laws of nineteen hundred ninety-eight, of this chapter, or
6 employed in Nassau county as a peace officer, as defined in section
7 eighty-nine-s, as added by chapter five hundred ninety-five of the laws
8 of nineteen hundred ninety-seven, of this chapter, or employed in Albany
9 county as a sheriff, undersheriff, deputy sheriff, correction officer or
10 identification officer, as defined in section eighty-nine-h of this
11 chapter or is employed in St. Lawrence county as a sheriff, undersher-
12 iff, deputy sheriff or correction officer, as defined in section eight-
13 y-nine-i of this chapter or is employed in Orleans county as a sheriff,
14 undersheriff, deputy sheriff or correction officer, as defined in
15 section eighty-nine-l of this chapter or is employed in Jefferson county
16 as a sheriff, undersheriff, deputy sheriff or correction officer, as
17 defined in section eighty-nine-j of this chapter or is employed in Onon-
18 daga county as a deputy sheriff-jail division competitively appointed or
19 as a correction officer, as defined in section eighty-nine-k of this
20 chapter or is employed in a county which makes an election under subdivi-
21 sion j of section eighty-nine-p of this chapter as a sheriff, under-
22 sheriff, deputy sheriff or correction officer as defined in such section
23 eighty-nine-p or is employed in Broome County as a sheriff, undersher-
24 iff, deputy sheriff or correction officer, as defined in section eight-
25 y-nine-m of this chapter or is a Monroe county deputy sheriff-court
26 security, or deputy sheriff-jailor as defined in section eighty-nine-n,
27 as added by chapter five hundred ninety-seven of the laws of nineteen
28 hundred ninety-one, of this chapter or is employed in Greene county as a
29 sheriff, undersheriff, deputy sheriff or correction officer, as defined
30 in section eighty-nine-o of this chapter or is a traffic officer with
31 the town of Elmira as defined in section eighty-nine-q of this chapter
32 or is employed by Suffolk county as a park police officer, as defined in
33 section eighty-nine-r of this chapter or is a peace officer employed by
34 a county probation department as defined in section eighty-nine-t, as
35 added by chapter six hundred three of the laws of nineteen hundred nine-
36 ty-eight, of this chapter or is employed in Rockland county as a deputy
37 sheriff-civil as defined in section eighty-nine-v of this chapter as
38 added by chapter four hundred forty-one of the laws of two thousand one,
39 or is employed in Rockland county as a superior correction officer as
40 defined in section eighty-nine-v of this chapter as added by chapter
41 five hundred fifty-six of the laws of two thousand one or is a paramedic
42 employed by the police department in the town of Tonawanda and retires
43 under the provisions of section eighty-nine-v of this chapter, as added
44 by chapter four hundred seventy-two of the laws of two thousand one, or
45 is a county fire marshal, supervising fire marshal, fire marshal,
46 assistant fire marshal, assistant chief fire marshal or chief fire
47 marshal employed by the county of Nassau as defined in section eighty-
48 nine-w of this chapter and is in a plan which permits immediate retire-
49 ment upon completion of a specified period of service without regard to
50 age. Except as provided in subdivision c of section four hundred forty-
51 five-a of this article, subdivision c of section four hundred forty-
52 five-b of this article, subdivision c of section four hundred forty-
53 five-c of this article, subdivision c of section four hundred
54 forty-five-d of this article, subdivision c of section four hundred
55 forty-five-e of this article, subdivision c of section four hundred
56 forty-five-f of this article and subdivision c of section four hundred

1 forty-five-h of this article, a member in such a plan and such an occu-
2 pation, other than a policeman or investigator member of the New York
3 city employees' retirement system or a fireman, shall not be permitted
4 to retire prior to the completion of twenty-five years of credited
5 service; provided, however, if such a member in such an occupation is in
6 a plan which permits retirement upon completion of twenty years of
7 service regardless of age, he may retire upon completion of twenty years
8 of credited service and prior to the completion of twenty-five years of
9 service, but in such event the benefit provided from funds other than
10 those based on such a member's own contributions shall not exceed two
11 per centum of final average salary per each year of credited service.

12 S 3. Section 603 of the retirement and social security law is amended
13 by adding a new subdivision t to read as follows:

14 T. THE SERVICE RETIREMENT BENEFIT SPECIFIED IN SECTION SIX HUNDRED
15 FOUR OF THIS ARTICLE SHALL BE PAYABLE WITHOUT REGARD TO AGE TO QUALIFY-
16 ING MEMBERS, AS DEFINED IN SUBDIVISION A OF SECTION EIGHTY-NINE-Y OF
17 THIS CHAPTER, WITH TWENTY-FIVE YEARS OF QUALIFYING SERVICE AS DEFINED IN
18 SUCH SECTION, IF SUCH MEMBERS HAVE MET THE MINIMUM SERVICE REQUIREMENTS
19 UPON RETIREMENT. ANY SUCH MEMBER SHALL BE ENTITLED TO RETIRE AFTER THE
20 COMPLETION OF TWENTY-FIVE YEARS OF QUALIFYING CREDITABLE SERVICE BY
21 FILING AN APPLICATION THEREFOR IN A MANNER SIMILAR TO THAT PROVIDED IN
22 SECTION SEVENTY OF THIS CHAPTER.

23 S 4. Section 604 of the retirement and social security law is amended
24 by adding a new subdivision u to read as follows:

25 U. THE EARLY SERVICE RETIREMENT BENEFIT FOR A MEMBER WHO IS A QUALIFY-
26 ING MEMBER AS DEFINED IN SUBDIVISION A OF SECTION EIGHTY-NINE-Y OF THIS
27 CHAPTER SHALL BE A PENSION EQUAL TO ONE-FIFTIETH OF FINAL AVERAGE SALARY
28 TIMES YEARS OF QUALIFYING SERVICE, AS DEFINED IN SECTION EIGHTY-NINE-Y
29 OF THIS CHAPTER, AT THE COMPLETION OF TWENTY-FIVE YEARS OF SUCH SERVICE,
30 BUT NOT EXCEEDING ONE-HALF OF HIS OR HER FINAL AVERAGE SALARY.

31 S 5. Implementation provisions. (a) Amortization of past service cost.
32 The comptroller shall prepare and file with the director of the budget
33 an estimate of the past service cost resulting from implementation of
34 this act, at the same time and in the same manner as the annual esti-
35 mates required under section 16 of the retirement and social security
36 law, on the first such annual date for which it is practicable to
37 provide such an estimate. Notwithstanding section 430 of the retirement
38 and social security law, the past service cost as so determined shall be
39 paid by the state, with interest as defined in section 16 of the retire-
40 ment and social security law, in ten equal annual installments. Such
41 payments shall be made at the same time and in the same manner as other
42 payments by the state pursuant to section 16 of the retirement and
43 social security law, beginning with the first payment date that is at
44 least 60 days after the preparation and filing of the estimate of past
45 service cost with the director of the budget.

46 (b) Increased employer contributions. All other contribution increases
47 resulting from implementation of this act (exclusive of those resulting
48 from past service cost) shall also be estimated by the comptroller and
49 paid by the state at the same time and in the same manner as contrib-
50 utions are estimated and paid under section 16 of the retirement and
51 social security law, notwithstanding provisions of section 430 of the
52 retirement and social security law to the contrary.

53 S 6. This act shall take effect immediately, provided, however that
54 the amendments to sections 603 and 604 of the retirement and social
55 security law made by sections three and four of this act shall expire on

1 the same date as such sections expire pursuant to section 615 of such
2 law.

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

This bill would permit certain peace officers in the New York State Department of Motor Vehicles to retire upon completion of twenty-five (25) years of creditable service. For all eligible officers, the benefit upon retirement would be an allowance of one-half final average salary. There would be no reduction due to early service retirement for these members.

If this bill is enacted, we anticipate that there would be an estimated increase in the annual contributions of the State of New York of approximately \$85,000 for the fiscal year ending March 31, 2010.

In addition to the annual contributions discussed above, there will be an immediate past service cost to the State of New York of approximately \$953,000. If this cost were amortized over a period of ten (10) years, the cost for the first year including interest would be approximately \$132,000.

These estimated costs are based on one hundred nine (109) officers employed by the Department of Motor Vehicles with a total salary of approximately \$6.0 million for the fiscal year ending March 31, 2008.

This estimate, dated December 3, 2008, and intended for use only during the 2009 Legislative Session, is Fiscal Note No. 2009-74, prepared by the Actuary for the New York State and Local Employees' Retirement System.