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

4142--A

2009-2010 Regular Sessions

I N A S S E M B L Y

January 30, 2009

Introduced by M. of A. ABBATE, PHEFFER -- Multi-Sponsored by -- M. of A. COOK -- read once and referred to the Committee on Governmental Employees -- recommitted to the Committee on Governmental Employees in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the retirement and social security law, in relation to the computation of final average salary

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

Section 1. Subdivision 1 of section 431 of the retirement and social security law, as added by chapter 503 of the laws of 1971, is amended to read as follows:

1. lump sum payments for deferred compensation, sick leave, accumulated vacation or other credits for time not worked, PROVIDED, HOWEVER, THAT WITH RESPECT TO PEACE OFFICERS OF THE UNIFIED COURT SYSTEM WHO JOINED THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM BEFORE JULY FIRST, NINETEEN HUNDRED SEVENTY-THREE, PAYMENT FOR UP TO THIRTY DAYS OF UNUSED ACCUMULATED VACATION TIME CREDITED TO SUCH MEMBER AT THE TIME OF RETIREMENT MAY BE INCLUDED IN DETERMINING FINAL AVERAGE SALARY,

S 2. Subdivisions a and b of section 443 of the retirement and social security law, subdivision a as amended and subdivision b as added by chapter 379 of the laws of 1986, are amended to read as follows:

a. The salary base used for the computation of benefits upon retirement, hereinafter called in this article final average salary, applicable to all members of the retirement systems who are subject to the provisions of this article, shall be the average salary earned by such a member during any three consecutive years which provide the highest average salary, exclusive of any form of termination pay (which shall include any compensation in anticipation of retirement), or any lump sum payment for deferred compensation, sick leave, or accumulated vacation

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

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credit, or any other payment for time not worked (other than compensation received while on sick leave or authorized leave of absence); provided, however, if the salary or wages earned during any year included in the period used to determine final average salary exceeds that of the average of the previous two years by more than twenty [percentum] PER CENTUM, the amount in excess of twenty [percentum] PER CENTUM shall be excluded from the computation of final average salary. Where the period used to determine final average salary is the period which immediately precedes the date of retirement, any month or months (not in excess of twelve) which would otherwise be included in computing final average salary but during which the member was on authorized leave of absence at partial pay or without pay shall be excluded from the computation of final average salary and the month or an equal number of months immediately preceding such period shall be substituted in lieu thereof, PROVIDED, HOWEVER, THAT WITH RESPECT TO PEACE OFFICERS OF THE UNIFIED COURT SYSTEM, PAYMENT FOR UP TO THIRTY DAYS OF UNUSED ACCUMULATED VACATION TIME CREDITED TO SUCH MEMBER AT THE TIME OF RETIREMENT MAY BE INCLUDED IN DETERMINING FINAL AVERAGE SALARY.

b. Notwithstanding the provisions of subdivision a of this section, with respect to the members of the New York state AND LOCAL employees' retirement system and New York state [policemen's and firemen's] AND LOCAL POLICE AND FIRE retirement system, the final average salary, shall be equal to one-third of the highest total salary earned during any continuous period of employment for which the member was credited with three years of service credit, exclusive of any form of termination pay (which shall include any compensation in anticipation of retirement), any lump sum payment for deferred compensation, sick leave, or accumulated vacation credit, or any other payment for time not worked (other than compensation received while on sick leave or authorized leave of absence); provided, however, if the salary earned during any year of credited service included in the period used to determine final average salary exceeds the average of the salaries of the previous two years of credited service by more than twenty per centum, the amount in excess of twenty per centum shall be excluded from the computation of final average salary, PROVIDED, HOWEVER, THAT WITH RESPECT TO PEACE OFFICERS OF THE UNIFIED COURT SYSTEM, PAYMENT FOR UP TO THIRTY DAYS OF UNUSED ACCUMULATED VACATION TIME CREDITED TO SUCH MEMBER AT THE TIME OF RETIREMENT MAY BE INCLUDED IN DETERMINING FINAL AVERAGE SALARY.

S 3. This act shall take effect immediately.

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

This bill will allow Tier 1 peace officers in the unified court system with membership dates on or after April 1, 1972, and all Tier 2 peace officers in the unified court system to receive credit for up to 30 days of unused accumulated vacation time in the calculation of their final average salary.

If this bill is enacted, we anticipate that there will be an immediate past service cost of approximately $4.71 million which would be borne by the State of New York as a one-time payment.

These estimated costs are based on 221 known affected officers having a total estimated annual salary for the fiscal year ending March 31, 2009 of approximately $21 million.

This estimate, dated March 12, 2010 and intended for use only during the 2010 Legislative Session, is Fiscal Note No. 2010-96, prepared by the Actuary for the New York State and Local Employees' Retirement System.