

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

4295--A

2009-2010 Regular Sessions

I N A S S E M B L Y

February 3, 2009

Introduced by M. of A. ABBATE -- Multi-Sponsored by -- M. of A. COOK, PHEFFER -- 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 retirement of members employed as investigators assigned to the department of law

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

- 1 Section 1. The retirement and social security law is amended by adding
2 a new section 89-x to read as follows:
3 S 89-X. RETIREMENT OF INVESTIGATORS EMPLOYED BY THE DEPARTMENT OF LAW.
4 A. "MEMBER", FOR THE PURPOSES OF THIS SECTION, SHALL MEAN ANY INVESTI-
5 GATOR, DEFINED IN PARAGRAPH (G) OR (M) OF SUBDIVISION THIRTY-FOUR OF
6 SECTION 1.20 OF THE CRIMINAL PROCEDURE LAW, EMPLOYED BY THE DEPARTMENT
7 OF LAW.
8 B. A MEMBER SHALL BE ELIGIBLE TO RETIRE PURSUANT TO THE PROVISIONS OF
9 THIS SECTION IF HE OR SHE IS ENGAGED DIRECTLY IN CRIMINAL LAW ENFORCE-
10 MENT ACTIVITIES. SUCH ELIGIBILITY SHALL BE AN ALTERNATIVE TO THE ELIGI-
11 BILITY PROVISIONS AVAILABLE UNDER ANY OTHER PLAN OF THIS ARTICLE TO
12 WHICH SUCH MEMBER IS SUBJECT.
13 C. SUCH MEMBER SHALL BE ENTITLED TO RETIRE UPON THE COMPLETION OF
14 TWENTY-FIVE YEARS OF TOTAL CREDITABLE SERVICE BY FILING AN APPLICATION
15 THEREFOR IN THE MANNER PROVIDED FOR IN SECTION SEVENTY OF THIS ARTICLE.
16 D. UPON COMPLETION OF TWENTY-FIVE YEARS OF SUCH SERVICE AND UPON
17 RETIREMENT, EACH SUCH MEMBER SHALL RECEIVE A PENSION WHICH, TOGETHER
18 WITH AN ANNUITY WHICH SHALL BE THE ACTUARIAL EQUIVALENT OF HIS OR HER
19 ACCUMULATED CONTRIBUTIONS AT THE TIME OF HIS OR HER RETIREMENT AND AN
20 ADDITIONAL PENSION WHICH IS THE ACTUARIAL EQUIVALENT OF THE

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

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1 RESERVE-FOR-INCREASED-TAKE-HOME-PAY TO WHICH HE OR SHE MAY THEN BE ENTI-
2 TLED SHALL BE SUFFICIENT TO PROVIDE HIM OR HER WITH A RETIREMENT ALLOW-
3 ANCE EQUAL TO ONE-HALF OF HIS OR HER FINAL AVERAGE SALARY.

4 E. AS USED IN THIS SECTION "CREDITABLE SERVICE" SHALL MEAN ALL
5 SERVICES PERFORMED AS AN INVESTIGATOR, DEFINED IN PARAGRAPH (G) OR (M)
6 OF SUBDIVISION THIRTY-FOUR OF SECTION 1.20 OF THE CRIMINAL PROCEDURE
7 LAW, EMPLOYED BY THE DEPARTMENT OF LAW, PROVIDED SUCH EMPLOYMENT IS
8 ENGAGED DIRECTLY IN CRIMINAL LAW ENFORCEMENT ACTIVITIES.

9 F. CREDIT FOR SERVICE AS A MEMBER OR OFFICER OF THE STATE POLICE, OR
10 AS A PAID FIREFIGHTER, POLICE OFFICER OR OFFICER OF ANY ORGANIZED FIRE
11 DEPARTMENT OR POLICE FORCE OR DEPARTMENT OF ANY COUNTY, CITY, VILLAGE,
12 TOWN, FIRE DISTRICT OR POLICE DISTRICT, OR A PAID FIREFIGHTER, POLICE
13 OFFICER OR OFFICER OF ANY ORGANIZED DEPARTMENT OR POLICE FORCE OF THE
14 CITY OF NEW YORK, OR A PAID FIREFIGHTER, POLICE OFFICER OR OFFICER OF
15 ANY ORGANIZED DEPARTMENT OR POLICE FORCE OF THE METROPOLITAN TRANSPORTA-
16 TION AUTHORITY, OR AS A CRIMINAL INVESTIGATOR IN THE OFFICE OF A
17 DISTRICT ATTORNEY, OR AS A SPECIAL INVESTIGATOR IN THE OFFICE OF A
18 DISTRICT ATTORNEY, OR AS A SPECIAL STATE PROSECUTOR/SPECIAL INVESTIGATOR
19 FOR THE NEW YORK CITY CRIMINAL JUSTICE SYSTEM, OR AS A PAID POLICE OFFI-
20 CER OF THE STATE UNIVERSITY OF NEW YORK, OR AS A PAID POLICE OFFICER OF
21 THE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION, OR AS A PAID
22 POLICE OFFICER OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, SHALL
23 ALSO BE DEEMED TO BE CREDITABLE SERVICE AND SHALL BE INCLUDED IN COMPUT-
24 ING YEARS OF TOTAL SERVICE FOR RETIREMENT PURSUANT TO THIS SECTION,
25 PROVIDED SUCH SERVICE WAS PERFORMED BY THE MEMBER WHILE CONTRIBUTING TO
26 THE RETIREMENT SYSTEM PURSUANT TO THE PROVISIONS OF THIS ARTICLE, ARTI-
27 CLE EIGHT OR ARTICLE FIFTEEN OF THIS CHAPTER.

28 G. THE ATTORNEY GENERAL OR HIS OR HER DESIGNEE SHALL CERTIFY TO THE
29 COMPTROLLER, PERIODICALLY AND AT SUCH INTERVALS OF TIME AS MAY BE
30 REQUIRED OF HIM OR HER AND IN SUCH FASHION AS MAY BE PRESCRIBED, THE
31 IDENTITY OF MEMBERS OF THE DEPARTMENT OF LAW WHO ARE ENGAGED DIRECTLY IN
32 CRIMINAL LAW ENFORCEMENT ACTIVITIES.

33 H. IN COMPUTING THE TWENTY-FIVE YEARS OF TOTAL SERVICE OF A MEMBER
34 PURSUANT TO THIS SECTION FULL CREDIT SHALL BE GIVEN AND FULL ALLOWANCE
35 SHALL BE MADE FOR SERVICE OF SUCH MEMBER IN TIME OF WAR AFTER WORLD WAR
36 I AS DEFINED IN SECTION TWO OF THIS CHAPTER, PROVIDED SUCH MEMBER AT THE
37 TIME OF HIS OR HER ENTRANCE INTO THE ARMED FORCES WAS ASSIGNED OR
38 EMPLOYED AS AN INVESTIGATOR, DEFINED IN PARAGRAPH (G) OR (M) OF SUBDIVI-
39 SION THIRTY-FOUR OF SECTION 1.20 OF THE CRIMINAL PROCEDURE LAW, BY THE
40 DEPARTMENT OF LAW.

41 I. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PREVENT A MEMBER, WHO
42 DOES NOT RETIRE PURSUANT TO THE PROVISIONS OF THIS SECTION, FROM UTILIZ-
43 ING SERVICE WHICH IS CREDITABLE SERVICE PURSUANT TO THE PROVISIONS OF
44 THIS SECTION FOR SERVICE CREDIT PURSUANT TO THE PROVISIONS OF ANY OTHER
45 PLAN OF THIS ARTICLE TO WHICH SUCH MEMBER IS SUBJECT.

46 J. THE PROVISIONS OF THIS SECTION SHALL BE CONTROLLING NOTWITHSTANDING
47 ANY OTHER PROVISION IN THIS ARTICLE TO THE CONTRARY.

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

51 a. No member of a retirement system who is subject to the provisions
52 of this article shall retire without regard to age, exclusive of retire-
53 ment for disability, unless he OR SHE is a [policeman] POLICE OFFICER,
54 an investigator member of the New York city employees' retirement
55 system, [fireman] FIREFIGHTER, correction officer, a qualifying member
56 as defined in section eighty-nine-t, as added by chapter six hundred

1 fifty-seven of the laws of nineteen hundred ninety-eight, of this chap-
2 ter, sanitation [man] WORKER, a special officer (including persons
3 employed by the city of New York in the title urban park ranger or asso-
4 ciate urban park ranger), school safety agent, campus peace officer or a
5 taxi and limousine commission inspector member of the New York city
6 employees' retirement system or the New York city board of education
7 retirement system, a dispatcher member of the New York city employees'
8 retirement system, a police communications member of the New York city
9 employees' retirement system, an EMT member of the New York city employ-
10 ees' retirement system, a deputy sheriff member of the New York city
11 employees' retirement system, a correction officer of the Westchester
12 county correction department as defined in section eighty-nine-e of this
13 chapter or employed in Suffolk county as a peace officer, as defined in
14 section eighty-nine-s, as added by chapter five hundred eighty-eight of
15 the laws of nineteen hundred ninety-seven, of this chapter, employed in
16 Suffolk county as a correction officer, as defined in section eighty-
17 nine-f of this chapter, or employed in Nassau county as a correction
18 officer, uniformed correction division personnel, sheriff, undersheriff
19 or deputy sheriff, as defined in section eighty-nine-g of this chapter,
20 or employed in Nassau county as an ambulance medical technician, an
21 ambulance medical technician/supervisor or a member who performs ambu-
22 lance medical technician related services, as defined in section eight-
23 y-nine-s, as amended by chapter five hundred seventy-eight of the laws
24 of nineteen hundred ninety-eight, of this chapter, or employed in Nassau
25 county as a peace officer, as defined in section eighty-nine-s, as added
26 by chapter five hundred ninety-five of the laws of nineteen hundred
27 ninety-seven, of this chapter, or employed in Albany county as a sher-
28 iff, undersheriff, deputy sheriff, correction officer or identification
29 officer, as defined in section eighty-nine-h of this chapter or is
30 employed in St. Lawrence county as a sheriff, undersheriff, deputy sher-
31 iff or correction officer, as defined in section eighty-nine-i of this
32 chapter or is employed in Orleans county as a sheriff, undersheriff,
33 deputy sheriff or correction officer, as defined in section
34 eighty-nine-l of this chapter or is employed in Jefferson county as a
35 sheriff, undersheriff, deputy sheriff or correction officer, as defined
36 in section eighty-nine-j of this chapter or is employed in Onondaga
37 county as a deputy sheriff-jail division competitively appointed or as a
38 correction officer, as defined in section eighty-nine-k of this chapter
39 or is employed in a county which makes an election under subdivision j
40 of section eighty-nine-p of this chapter as a sheriff, undersheriff,
41 deputy sheriff or correction officer as defined in such section eighty-
42 nine-p or is employed in Broome County as a sheriff, undersheriff, depu-
43 ty sheriff or correction officer, as defined in section eighty-nine-m of
44 this chapter or is a Monroe county deputy sheriff-court security, or
45 deputy sheriff-jailor as defined in section eighty-nine-n, as added by
46 chapter five hundred ninety-seven of the laws of nineteen hundred nine-
47 ty-one, of this chapter or is employed in Greene county as a sheriff,
48 undersheriff, deputy sheriff or correction officer, as defined in
49 section eighty-nine-o of this chapter or is a traffic officer with the
50 town of Elmira as defined in section eighty-nine-q of this chapter or is
51 employed by Suffolk county as a park police officer, as defined in
52 section eighty-nine-r of this chapter or is a peace officer employed by
53 a county probation department as defined in section eighty-nine-t, as
54 added by chapter six hundred three of the laws of nineteen hundred nine-
55 ty-eight, of this chapter or is employed in Rockland county as a deputy
56 sheriff-civil as defined in section eighty-nine-v of this chapter as

1 added by chapter four hundred forty-one of the laws of two thousand one,
2 or is employed in Rockland county as a superior correction officer as
3 defined in section eighty-nine-v of this chapter as added by chapter
4 five hundred fifty-six of the laws of two thousand one or is a paramedic
5 employed by the police department in the town of Tonawanda and retires
6 under the provisions of section eighty-nine-v of this chapter, as added
7 by chapter four hundred seventy-two of the laws of two thousand one, or
8 is a county fire marshal, supervising fire marshal, fire marshal,
9 assistant fire marshal, assistant chief fire marshal or chief fire
10 marshal employed by the county of Nassau as defined in section eighty-
11 nine-w of this chapter, OR IS EMPLOYED AS AN INVESTIGATOR EMPLOYED BY
12 THE DEPARTMENT OF LAW AS DEFINED IN SECTION EIGHTY-NINE-X OF THIS CHAP-
13 TER and is in a plan which permits immediate retirement upon completion
14 of a specified period of service without regard to age. Except as
15 provided in subdivision c of section four hundred forty-five-a of this
16 article, subdivision c of section four hundred forty-five-b of this
17 article, subdivision c of section four hundred forty-five-c of this
18 article, subdivision c of section four hundred forty-five-d of this
19 article, subdivision c of section four hundred forty-five-e of this
20 article, subdivision c of section four hundred forty-five-f of this
21 article and subdivision c of section four hundred forty-five-h of this
22 article, a member in such a plan and such an occupation, other than a
23 [policeman] POLICE OFFICER or investigator member of the New York city
24 employees' retirement system or a [fireman] FIREFIGHTER, shall not be
25 permitted to retire prior to the completion of twenty-five years of
26 credited service; provided, however, if such a member in such an occupa-
27 tion is in a plan which permits retirement upon completion of twenty
28 years of service regardless of age, he may retire upon completion of
29 twenty years of credited service and prior to the completion of twenty-
30 five years of service, but in such event the benefit provided from funds
31 other than those based on such a member's own contributions shall not
32 exceed two per centum of final average salary per each year of credited
33 service.

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

36 U. THE SERVICE RETIREMENT BENEFIT SPECIFIED IN SECTION SIX HUNDRED
37 FOUR OF THIS ARTICLE SHALL BE PAYABLE TO MEMBERS WITH TWENTY-FIVE YEARS
38 OF CREDITABLE SERVICE, WITHOUT REGARD TO AGE, WHO ARE EMPLOYED AS INVE-
39 TIGATORS BY THE DEPARTMENT OF LAW AS DEFINED IN SECTION EIGHTY-NINE-X OF
40 THIS CHAPTER IF: (I) SUCH MEMBERS HAVE MET THE MINIMUM SERVICE REQUIRE-
41 MENTS UPON RETIREMENT, AND (II) IN THE CASE OF A MEMBER SUBJECT TO THE
42 PROVISIONS OF ARTICLE FOURTEEN OF THIS CHAPTER, SUCH MEMBER FILES AN
43 ELECTION THEREFOR WHICH PROVIDES THAT HE OR SHE WILL BE SUBJECT TO THE
44 PROVISIONS OF THIS ARTICLE AND TO NONE OF THE PROVISIONS OF SUCH ARTICLE
45 FOURTEEN. SUCH ELECTION, WHICH SHALL BE IRREVOCABLE, SHALL BE IN WRIT-
46 ING, DULY EXECUTED AND SHALL BE FILED WITH THE COMPTROLLER WITHIN ONE
47 YEAR OF THE EFFECTIVE DATE OF THIS SUBDIVISION. FOR THE PURPOSES OF
48 THIS SUBDIVISION, THE TERM "CREDITABLE SERVICE" SHALL HAVE THE MEANING
49 AS SO DEFINED IN SECTION EIGHTY-NINE-X OF THIS CHAPTER.

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

52 U. THE EARLY SERVICE RETIREMENT FOR A MEMBER EMPLOYED AS AN INVESTI-
53 GATOR EMPLOYED BY THE DEPARTMENT OF LAW AS DEFINED IN SECTION
54 EIGHTY-NINE-X OF THIS CHAPTER SHALL BE A PENSION EQUAL TO ONE-FIFTIETH
55 OF FINAL AVERAGE SALARY TIMES YEARS OF CREDITED SERVICE, AS DEFINED IN
56 SECTION EIGHTY-NINE-X OF THIS CHAPTER, AT THE COMPLETION OF TWENTY-FIVE

1 YEARS OF SUCH CREDITED SERVICE AS SUCH AN INVESTIGATOR, BUT NOT EXCEED-
2 ING ONE-HALF OF HIS OR HER FINAL AVERAGE SALARY.

3 S 5. All costs attributable to the operation of this act shall be
4 borne by the state of New York.

5 S 6. This act shall take effect immediately.

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

This bill would permit any investigator employed by the department of law who is engaged directly in criminal law enforcement activities to retire upon completion of twenty-five (25) years of credible service, regardless of age. The benefit upon retirement would be an allowance of one-half of final average salary for 25 years of service.

If this bill is enacted, we anticipate that there will be an increase of approximately \$209,000 in the annual contributions of the State of New York for the fiscal year ending March 31, 2011.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately \$1.19 million, which would be borne by the State of New York as a one-time payment. This estimate is based on the assumption that payment will be made on March 1, 2011.

These estimated costs are based on 84 known affected members having a total estimated salary for the fiscal year ending March 31, 2010 of approximately \$7.3 million.

This estimate, dated February 12, 2010 and intended for use only during the 2010 Legislative Session, is Fiscal Note No. 2010-101, prepared by the Actuary for the New York State and Local Employees' Retirement System.