

7075--A

2009-2010 Regular Sessions

I N   A S S E M B L Y

March 19, 2009

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Introduced by M. of A. McENENY, CANESTRARI, CAHILL, BRADLEY, WRIGHT, SCHROEDER, GUNTHER, FIELDS, JAFFEE, RAMOS, HYER-SPENCER -- Multi-Sponsored by -- M. of A. BOYLAND, BRODSKY, BROOK-KRASNY, COLTON, CUSICK, DINOWITZ, HEASTIE, HOOPER, LATIMER, LIFTON, MILLER, PERALTA, PERRY, PHEFFER, SPANO, SWEENEY, WEINSTEIN, WEISENBERG -- read once and referred to the Committee on Governmental Employees -- 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 benefits of members subject to article 11 and article 15 who retire prior to the normal retirement age with twenty-five years of service

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

1     Section 1. Paragraph 1 of subdivision b of section 442 of the retire-  
2     ment and social security law, as amended by chapter 306 of the laws of  
3     1996, is amended to read as follows:  
4     1. A member who is a peace officer employed by the unified court  
5     system or a member of a teacher's retirement system or a member of the  
6     New York state and local employees' retirement system OR A MEMBER OF THE  
7     NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM OR A MEMBER OF THE NEW YORK  
8     CITY BOARD OF EDUCATION RETIREMENT SYSTEM may retire without reduction  
9     of his OR HER retirement benefit upon his OR HER attainment of at least  
10    fifty-five years of age and completion of [thirty] TWENTY-FIVE or more  
11    years of service; and  
12    S 2. Paragraph 1 of subdivision d of section 445-d of the retirement  
13    and social security law, as amended by chapter 509 of the laws of 2001,  
14    is amended to read as follows:  
15    1. In addition to the member contributions required by section 13-125  
16    or 13-162 of the administrative code or section eight or thirty of the  
17    BERS rules and regulations, each participant in the age fifty-five  
18    improved benefit retirement program shall contribute, subject to the

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

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1 applicable provisions of section 13-125.2 of the administrative code or  
2 subdivision nineteen of section twenty-five hundred seventy-five of the  
3 education law, an additional percentage or additional percentages of his  
4 or her compensation to the retirement system of which he or she is a  
5 member in accordance with the following schedule:

6 (i) (A) each such participant shall contribute an additional four and  
7 thirty-five one-hundredths percent of his or her compensation earned  
8 from all credited CPP qualifying service (whether or not in a physically  
9 taxing position) rendered on and after the starting date of the age  
10 fifty-five improved benefit retirement program and prior to the  
11 commencement date of the first payroll period which begins after January  
12 first, nineteen hundred ninety-eight (1) while such person is a partic-  
13 ipant in such program; and (2) before such person becomes such a partic-  
14 ipant pursuant to paragraph one or two of subdivision b of this section  
15 (whether or not rendered in a New York city eligible position); and (3)  
16 after such person ceases to be a participant, but before he or she again  
17 becomes such a participant pursuant to paragraph five of such subdivi-  
18 sion b (whether or not rendered in a New York city eligible position);  
19 and

20 (B) each such participant shall contribute an additional two and  
21 eighty-five one-hundredths percent of his or her compensation earned  
22 from all credited CPP qualifying service (whether or not in a physically  
23 taxing position) rendered on and after the commencement date of the  
24 first payroll period which begins after January first, nineteen hundred  
25 ninety-eight and prior to the commencement date of the first payroll  
26 period which begins subsequent to the effective date of [the] chapter  
27 FIVE HUNDRED NINE of the laws of two thousand one which amended this  
28 item AND PRIOR TO THE COMMENCEMENT DATE OF THE FIRST PAYROLL PERIOD  
29 WHICH BEGINS AFTER JULY FIRST, TWO THOUSAND NINE (1) while such person  
30 is a participant in such program; and (2) before such person becomes  
31 such a participant pursuant to paragraph one or two of subdivision b of  
32 this section (whether or not rendered in a New York city eligible posi-  
33 tion); and (3) after such person ceases to be a participant, but before  
34 he or she again becomes such a participant pursuant to paragraph five of  
35 such subdivision b (whether or not rendered in a New York city eligible  
36 position); and

37 (C) each such participant shall contribute an additional one and  
38 eighty-five one-hundredths percent of his or her compensation earned  
39 from all credited CPP qualifying service (whether or not in a physically  
40 taxing position) rendered on and after the commencement date of the  
41 first payroll period which begins subsequent to the effective date of  
42 [the] chapter FIVE HUNDRED NINE of the laws of two thousand one which  
43 added this item (1) while such person is a participant in such program;  
44 and (2) before such person becomes such a participant pursuant to para-  
45 graph one or two of subdivision b of this section (whether or not  
46 rendered in a New York city eligible position); and (3) after such  
47 person ceases to be a participant, but before he or she again becomes  
48 such a participant pursuant to paragraph five of such subdivision b  
49 (whether or not rendered in a New York city eligible position); and

50 (ii) each such participant who is employed in a physically taxing  
51 position (as defined in paragraph eleven of subdivision a of this  
52 section) shall contribute, in addition to the additional member contrib-  
53 utions required to be made at the percentage of compensation specified  
54 in subparagraph (i) of this paragraph for the credited CPP qualifying  
55 service specified in such subparagraph (i), an additional one and nine-  
56 ty-eight one-hundredths percent of his or her compensation earned from

1 that portion of such credited CPP qualifying service which is rendered  
2 in a physically taxing position on and after the starting date of the  
3 age fifty-five improved benefit retirement program (A) while such person  
4 is a participant in such program; and (B) before such person becomes  
5 such a participant pursuant to paragraph one or two of subdivision b of  
6 this section; and (C) after such person ceases to be a participant, but  
7 before he or she again becomes such a participant pursuant to paragraph  
8 five of such subdivision b.

9 S 3. Subdivision a of section 603 of the retirement and social securi-  
10 ty law, as amended by section 3 of chapter 19 of the laws of 2008, is  
11 amended to read as follows:

12 a. The service retirement benefit specified in section six hundred  
13 four of this article shall be payable to members who have met the mini-  
14 mum service requirements upon retirement and attainment of age sixty-  
15 two, other than members who are eligible for early service retirement  
16 pursuant to subdivision c of section six hundred four-b of this article,  
17 subdivision c of section six hundred four-c of this article, SUCH  
18 SECTION AS ADDED BY CHAPTER FOUR HUNDRED SEVENTY-TWO OF THE LAWS OF  
19 NINETEEN HUNDRED NINETY-FIVE, subdivision d of section six hundred  
20 four-d of this article, subdivision c of section six hundred four-e of  
21 this article, subdivision c of section six hundred four-f of this arti-  
22 cle, subdivision c of section six hundred four-g of this article, subdi-  
23 vision c of section six hundred four-h of this article or subdivision c  
24 of section six hundred four-i of this article, provided, however, a  
25 member who is a peace officer employed by the unified court system or a  
26 member of a teachers' retirement system or the New York state and local  
27 employees' retirement system OR THE NEW YORK CITY EMPLOYEES' RETIREMENT  
28 SYSTEM OR THE NEW YORK CITY BOARD OF EDUCATION RETIREMENT SYSTEM may  
29 retire without reduction of his or her retirement benefit upon attain-  
30 ment of at least fifty-five years of age and completion of [thirty]  
31 TWENTY-FIVE or more years of service.

32 S 3-a. Subdivision a of section 603 of the retirement and social secu-  
33 rity law, as amended by section 3-a of chapter 19 of the laws of 2008,  
34 is amended to read as follows:

35 a. The service retirement benefit specified in section six hundred  
36 four of this article shall be payable to members who have met the mini-  
37 mum service requirements upon retirement and attainment of age sixty-  
38 two, other than members who are eligible for early service retirement  
39 pursuant to subdivision c of section six hundred four-b of this article,  
40 subdivision c of section six hundred four-c of this article, SUCH  
41 SECTION AS ADDED BY CHAPTER FOUR HUNDRED SEVENTY-TWO OF THE LAWS OF  
42 NINETEEN HUNDRED NINETY-FIVE, subdivision d of section six hundred  
43 four-d of this article, subdivision c of section six hundred four-e of  
44 this article, subdivision c of section six hundred four-f of this arti-  
45 cle, subdivision c of section six hundred four-g of this article, subdi-  
46 vision c of section six hundred four-h of this article or subdivision c  
47 of section six hundred four-i of this article provided, however, a  
48 member who is a peace officer employed by the unified court system or a  
49 member of a teachers' retirement system or the New York state and local  
50 employees' retirement system OR THE NEW YORK CITY EMPLOYEES' RETIREMENT  
51 SYSTEM OR THE NEW YORK CITY BOARD OF EDUCATION RETIREMENT SYSTEM may  
52 retire without reduction of his or her retirement benefit upon attain-  
53 ment of at least fifty-five years of age and completion of [thirty]  
54 TWENTY-FIVE or more years of service.

1 S 4. Paragraph 1 of subdivision i of section 603 of the retirement and  
2 social security law, as amended by chapter 19 of the laws of 2008, is  
3 amended to read as follows:

4 1. A member of a teachers' retirement system or the New York state and  
5 local employees' retirement system who has met the minimum service  
6 requirements but who has less than [thirty] TWENTY-FIVE years of credit-  
7 ed service may retire prior to normal retirement age, but no earlier  
8 than attainment of age fifty-five, in which event, unless such person is  
9 a member of the New York city teachers' retirement system who is other-  
10 wise eligible for early service retirement pursuant to subdivision c of  
11 section six hundred four-i of this article, the amount of his or her  
12 retirement benefit otherwise computed without optional modification  
13 shall be reduced in accordance with the following schedule:

14 (i) for each of the first twenty-four full months that retirement  
15 predates age sixty-two, one-half of one per centum per month; and

16 (ii) for each full month that retirement predates age sixty, one-quar-  
17 ter of one per centum per month, but in no event shall retirement be  
18 permitted prior to attainment of age fifty-five.

19 S 5. Paragraph 1 of subdivision d of section 604-c of the retirement  
20 and social security law, as amended by chapter 509 of the laws of 2001,  
21 is amended to read as follows:

22 1. In addition to the member contributions required by section six  
23 hundred thirteen of this article, each participant in the twenty-five-  
24 year early retirement program shall contribute (subject to the applica-  
25 ble provisions of subdivision d of section six hundred thirteen of this  
26 article) an additional percentage or additional percentages of his or  
27 her compensation to the retirement system of which he or she is a member  
28 in accordance with the following schedule:

29 (i) (A) each such participant shall contribute an additional four and  
30 thirty-five one-hundredths percent of his or her compensation earned  
31 from all credited service (whether or not in a physically taxing posi-  
32 tion) rendered on and after the starting date of the twenty-five-year  
33 early retirement program and prior to the commencement date of the first  
34 payroll period which begins after January first, nineteen hundred nine-  
35 ty-eight (1) while such person is a participant in such program; and (2)  
36 before such person becomes such a participant pursuant to paragraph one  
37 or two of subdivision b of this section (whether or not rendered in a  
38 New York city eligible position); and (3) after such person ceases to be  
39 a participant, but before he or she again becomes such a participant  
40 pursuant to paragraph five of such subdivision b (whether or not  
41 rendered in a New York city eligible position); and

42 (B) each such participant shall contribute an additional two and  
43 eighty-five one-hundredths percent of his or her compensation earned  
44 from all credited service (whether or not in a physically taxing posi-  
45 tion) rendered on and after the commencement date of the first payroll  
46 period which begins after January first, nineteen hundred ninety-eight  
47 and prior to the commencement date of the first payroll period which  
48 begins subsequent to the effective date of [the] chapter FIVE HUNDRED  
49 NINE of the laws of two thousand one which amended this item AND PRIOR  
50 TO THE COMMENCEMENT DATE OF THE FIRST PAYROLL PERIOD WHICH BEGINS AFTER  
51 JULY FIRST, TWO THOUSAND NINE (1) while such person is a participant in  
52 such program; and (2) before such person becomes such a participant  
53 pursuant to paragraph one or two of subdivision b of this section  
54 (whether or not rendered in a New York city eligible position); and (3)  
55 after such person ceases to be a participant, but before he or she again  
56 becomes such a participant pursuant to paragraph five of such subdivi-

1 sion b (whether or not rendered in a New York city eligible position);  
2 and

3 (C) each such participant shall contribute an additional one and  
4 eighty-five one-hundredths percent of his or her compensation earned  
5 from all credited service (whether or not in a physically taxing posi-  
6 tion) rendered on and after the commencement date of the first payroll  
7 period which begins subsequent to the effective date of [the] chapter  
8 FIVE HUNDRED NINE of the laws of two thousand one which added this item

9 (1) while such person is a participant in such program; and (2) before  
10 such person becomes such a participant pursuant to paragraph one or two  
11 of subdivision b of this section (whether or not rendered in a New York  
12 city eligible position); and (3) after such person ceases to be a  
13 participant, but before he or she again becomes such a participant  
14 pursuant to paragraph five of such subdivision b (whether or not  
15 rendered in a New York city eligible position); and

16 (ii) each such participant who is employed in a physically taxing  
17 position (as defined in paragraph eleven of subdivision a of this  
18 section) shall contribute, in addition to the additional member contrib-  
19 utions required to be made at the percentage of compensation specified  
20 in subparagraph (i) of this paragraph for the credited service specified  
21 in such subparagraph (i), an additional one and ninety-eight one-hun-  
22 dredths percent of his or her compensation earned from that portion of  
23 such credited service which is rendered in a physically taxing position  
24 on and after the starting date of the twenty-five-year early retirement  
25 program (A) while such person is a participant in such program; and (B)  
26 before such person becomes such a participant pursuant to paragraph one  
27 or two of subdivision b of this section; and (C) after such person ceas-  
28 es to be a participant, but before he or she again becomes such a  
29 participant pursuant to paragraph five of such subdivision b.

30 (iii) notwithstanding the provisions of subparagraphs (i) and (ii) of  
31 this paragraph, a person who becomes a participant in the twenty-five-  
32 year early retirement program provided by this section, who prior to  
33 such membership was subject to the provisions of section six hundred  
34 four-b of this article, shall not be required to pay the additional  
35 member contributions required by subparagraphs (i) and (ii) of this  
36 paragraph for any period of credited service before which such person  
37 became a participant pursuant to paragraph one or two of subdivision b  
38 of this section and during which such participant was subject to the  
39 provisions of such section six hundred four-b and no additional employee  
40 contributions were required of such member.

41 S 6. Paragraph 1 of subdivision f of section 604-d of the retirement  
42 and social security law, as amended by chapter 509 of the laws of 2001,  
43 is amended to read as follows:

44 1. In addition to the member contributions required by section six  
45 hundred thirteen of this article, each participant in the age fifty-sev-  
46 en retirement program shall contribute (subject to the applicable  
47 provisions of subdivision d of section six hundred thirteen of this  
48 article) an additional percentage or additional percentages of his or  
49 her compensation to the retirement system of which he or she is a member  
50 in accordance with the following schedule:

51 (i) (A) each such participant shall contribute an additional four and  
52 thirty-five one-hundredths percent of his or her compensation earned  
53 from all credited service (whether or not in a physically taxing posi-  
54 tion) rendered prior to the commencement date of the first payroll peri-  
55 od which begins after January first, nineteen hundred ninety-eight (1)  
56 while such person is a participant in such program; and (2) before such

1 person becomes such a participant pursuant to paragraph one or three of  
2 subdivision c of this section (whether or not rendered in a New York  
3 city eligible position, and whether rendered before or after the enact-  
4 ment date of the age fifty-seven retirement program); and (3) after such  
5 person ceases to be a participant, but before he or she again becomes  
6 such a participant pursuant to paragraph five of such subdivision c  
7 (whether or not rendered in a New York city eligible position); and  
8 (B) each such participant shall contribute an additional two and  
9 eighty-five one-hundredths percent of his or her compensation earned  
10 from all credited service (whether or not in a physically taxing posi-  
11 tion) rendered on and after the commencement date of the first payroll  
12 period which begins after January first, nineteen hundred ninety-eight  
13 and prior to the commencement date of the first payroll period which  
14 begins subsequent to the effective date of [the] chapter FIVE HUNDRED  
15 NINE of the laws of two thousand one which amended this item AND PRIOR  
16 TO THE COMMENCEMENT DATE OF THE FIRST PAYROLL PERIOD WHICH BEGINS AFTER  
17 JULY FIRST, TWO THOUSAND NINE (1) while such person is a participant in  
18 such program; and (2) before such person becomes such a participant  
19 pursuant to paragraph one or three of subdivision c of this section  
20 (whether or not rendered in a New York city eligible position); and (3)  
21 after such person ceases to be a participant, but before he or she again  
22 becomes such a participant pursuant to paragraph five of such subdivi-  
23 sion c (whether or not rendered in a New York city eligible position);  
24 and

25 (C) each such participant shall contribute an additional one and  
26 eighty-five one-hundredths percent of his or her compensation earned  
27 from all credited service (whether or not in a physically taxing posi-  
28 tion) rendered on and after the commencement date of the first payroll  
29 period which begins subsequent to the effective date of [the] chapter  
30 FIVE HUNDRED NINE of the laws of two thousand one which added this item  
31 (1) while such person is a participant in such program; and (2) before  
32 such person becomes such a participant pursuant to paragraph one or  
33 three of subdivision c of this section (whether or not rendered in a New  
34 York city eligible position); and (3) after such person ceases to be a  
35 participant, but before he or she again becomes such a participant  
36 pursuant to paragraph five of such subdivision c (whether or not  
37 rendered in A New York city eligible position); and

38 (ii) each such participant who is employed in a physically taxing  
39 position (as defined in paragraph eleven of subdivision a of section six  
40 hundred four-c of this article) shall contribute, in addition to the  
41 additional member contributions required to be made at the percentage of  
42 compensation specified in subparagraph (i) of this paragraph for the  
43 credited service specified in such subparagraph (i), an additional one  
44 and ninety-eight one-hundredths percent of his or her compensation  
45 earned from that portion of such credited service which is rendered in a  
46 physically taxing position (A) while such person is a participant in  
47 such program; and (B) before such person becomes such a participant  
48 pursuant to paragraph one or three of subdivision c of this section  
49 (whether rendered before or after the enactment date of the age fifty-  
50 seven retirement program); and (C) after such person ceases to be a  
51 participant, but before he or she again becomes such a participant  
52 pursuant to paragraph five of such subdivision c.

53 (iii) notwithstanding the provisions of subparagraphs (i) and (ii) of  
54 this paragraph, a person who becomes a participant in the age fifty-sev-  
55 en early retirement program provided by this section, who prior to such  
56 membership was subject to the provisions of section six hundred four-b

1 of this article, shall not be required to pay the additional member  
2 contributions required by subparagraphs (i) and (ii) of this paragraph  
3 for any period of credited service before which such person became a  
4 participant pursuant to paragraph one or three of subdivision c of this  
5 section and during which such participant was subject to the provisions  
6 of such section six hundred four-b and no additional employee contrib-  
7 utions were required of such member.

8 S 7. This act shall take effect immediately and shall be deemed to  
9 have been in full force and effect on and after June 30, 2009; provided,  
10 however, that the amendments to subdivisions a and i of section 603,  
11 paragraph 1 of subdivision d of section 604-c and paragraph 1 of subdi-  
12 vision f of section 604-d of the retirement and social security law made  
13 by sections three, three-a, four, five and six of this act shall not  
14 affect the expiration of and shall expire on the same date as article 15  
15 of such law, pursuant to section 615 of the retirement and social secu-  
16 rity law; and provided, further, that the amendments to subdivision a of  
17 section 603 of the retirement and social security law made by section  
18 three of this act shall be subject to the expiration and reversion of  
19 such subdivision pursuant to section 13 of chapter 682 of the laws of  
20 2003, as amended, when upon such date the provisions of section three-a  
21 of this act shall take effect.

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

This bill would allow Tier 2, 3 and 4 members of the New York State and Local Employees' Retirement System and certain other public retirement systems to retire without a benefit reduction due to, early retirement upon the attainment of age fifty-five (55) and the completion of at least twenty-five (25) years of service. It would also amend the employee contribution payment schedule for certain members of the New York City Employees' Retirement System who are covered under the Optional Age Fifty-Five Improved Retirement Benefit Program. This bill would be deemed to be in effect on June 30, 2009.

Insofar as this bill would affect the New York State and Local Employees' Retirement System, if it is enacted, we anticipate that there would be estimated additional annual contributions of approximately \$67 million to the State of New York and \$95 million to the participating employers in the New York State and Local Employees' Retirement System.

This estimate, dated December 1, 2008 and intended for use only during the 2009 Legislative Session, is Fiscal Note No. 2009-19, prepared by the Actuary for the New York State and Local Employees' Retirement System.

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

This bill would permit members of the New York State Teachers' Retirement System who joined after June 30, 1973 to retire without reduction in retirement benefit upon attainment of at least age 55 with 25 years of service credit. Currently 30 years of service credit and attainment of at least age 55 are required in order to retire without an early retirement reduction. Retirement without reduction is always permitted upon attainment of age 62 with 5 years of service credit.

The annual cost to the employers of members of the New York State Teachers' Retirement System for this benefit is estimated to be \$200.0 million or 1.36% of payroll if this bill is enacted.

The source of this estimate is Fiscal Note 2009-68 dated May 22, 2009 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2009 Legislative Session.