

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

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2009-2010 Regular Sessions

I N A S S E M B L Y

May 11, 2009

Introduced by M. of A. ABBATE, JOHN, PHEFFER, BOYLAND, SCHROEDER, COLTON
-- Multi-Sponsored by -- M. of A. SALADINO, WEINSTEIN -- 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 allowing members of a public retirement system to obtain retirement
service credit for certain periods of child care leave

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

1 Section 1. Subdivision 2 of section 509 of the education law is
2 amended by adding a new paragraph d to read as follows:
3 D. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY MEMBER WHO IS
4 ABSENT WITHOUT PAY FOR A CHILD CARE LEAVE OF ABSENCE PURSUANT TO APPLI-
5 CABLE REGULATIONS OR COLLECTIVE BARGAINING AGREEMENTS, SHALL BE ELIGIBLE
6 FOR UP TO ONE YEAR OF CREDIT FOR EACH SUCH DULY AUTHORIZED LEAVE,
7 PROVIDED, HOWEVER, THAT THE TOTAL SERVICE CREDIT PROVIDED PURSUANT TO
8 THIS PARAGRAPH SHALL NOT EXCEED TWO YEARS. MEMBERS MUST FILE A CLAIM
9 FOR SUCH SERVICE CREDIT WITH THE RETIREMENT SYSTEM BY DECEMBER
10 THIRTY-FIRST, TWO THOUSAND TEN, OR WITHIN NINETY DAYS FOLLOWING TERMI-
11 NATION OF THE CHILD CARE LEAVE, WHICHEVER IS LATER, AND CONTRIBUTE TO
12 THE RETIREMENT SYSTEM AN AMOUNT WHICH SUCH MEMBER WOULD HAVE CONTRIBUTED
13 DURING THE PERIOD OF SUCH CHILD CARE LEAVE, TOGETHER WITH INTEREST THER-
14 EON. IN THE EVENT THERE IS A CONFLICT BETWEEN THE PROVISIONS OF THIS
15 PARAGRAPH AND THE PROVISIONS OF ANY OTHER LAW OR CODE TO THE CONTRARY,
16 THE PROVISIONS OF THIS PARAGRAPH SHALL GOVERN.
17 S 2. Section 2575 of the education law is amended by adding a new
18 subdivision 26 to read as follows:
19 26. THE RULES AND REGULATIONS OF THE BOARD OF EDUCATION RETIREMENT
20 SYSTEM SHALL PROVIDE THAT ANY MEMBER WHO IS ABSENT WITHOUT PAY FOR CHILD
21 CARE LEAVE OF ABSENCE PURSUANT TO REGULATIONS OF THE NEW YORK CITY BOARD
22 OF EDUCATION SHALL BE ELIGIBLE FOR UP TO ONE YEAR OF CREDIT FOR EACH

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

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1 SUCH DULY AUTHORIZED LEAVE, PROVIDED, HOWEVER, THAT THE TOTAL SERVICE
2 CREDIT PROVIDED PURSUANT TO THIS SUBDIVISION SHALL NOT EXCEED TWO YEARS.
3 MEMBERS MUST FILE A CLAIM FOR SUCH SERVICE CREDIT WITH THE RETIREMENT
4 SYSTEM BY DECEMBER THIRTY-FIRST, TWO THOUSAND TEN, OR WITHIN NINETY DAYS
5 FOLLOWING TERMINATION OF THE CHILD CARE LEAVE, WHICHEVER IS LATER, AND
6 CONTRIBUTE TO THE RETIREMENT SYSTEM AN AMOUNT WHICH SUCH MEMBER WOULD
7 HAVE CONTRIBUTED DURING THE PERIOD OF SUCH CHILD CARE LEAVE, TOGETHER
8 WITH INTEREST THEREON.

9 S 3. Subdivision i of section 41 of the retirement and social security
10 law is amended by adding a new paragraph 4 to read as follows:

11 4. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY MEMBER WHO IS
12 ABSENT WITHOUT PAY FOR A CHILD CARE LEAVE OF ABSENCE PURSUANT TO APPLI-
13 CABLE REGULATIONS OR COLLECTIVE BARGAINING AGREEMENTS, SHALL BE ELIGIBLE
14 FOR UP TO ONE YEAR OF CREDIT FOR EACH SUCH DULY AUTHORIZED LEAVE,
15 PROVIDED, HOWEVER, THAT THE TOTAL SERVICE CREDIT PROVIDED PURSUANT TO
16 THIS PARAGRAPH SHALL NOT EXCEED TWO YEARS. MEMBERS MUST FILE A CLAIM
17 FOR SUCH SERVICE CREDIT WITH THE RETIREMENT SYSTEM BY DECEMBER
18 THIRTY-FIRST, TWO THOUSAND TEN, OR WITHIN NINETY DAYS FOLLOWING TERMI-
19 NATION OF THE CHILD CARE LEAVE, WHICHEVER IS LATER, AND CONTRIBUTE TO
20 THE RETIREMENT SYSTEM AN AMOUNT WHICH SUCH MEMBER WOULD HAVE CONTRIBUTED
21 DURING THE PERIOD OF SUCH CHILD CARE LEAVE, TOGETHER WITH INTEREST THER-
22 EON. IN THE EVENT THERE IS A CONFLICT BETWEEN THE PROVISIONS OF THIS
23 PARAGRAPH AND THE PROVISIONS OF ANY OTHER LAW OR CODE TO THE CONTRARY,
24 THE PROVISIONS OF THIS PARAGRAPH SHALL GOVERN.

25 S 4. Subdivision i of section 341 of the retirement and social securi-
26 ty law is amended by adding a new paragraph 2 to read as follows:

27 2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY MEMBER WHO IS
28 ABSENT WITHOUT PAY FOR A CHILD CARE LEAVE OF ABSENCE PURSUANT TO APPLI-
29 CABLE REGULATIONS OR COLLECTIVE BARGAINING AGREEMENTS, SHALL BE ELIGIBLE
30 FOR UP TO ONE YEAR OF CREDIT FOR EACH SUCH DULY AUTHORIZED LEAVE,
31 PROVIDED, HOWEVER, THAT THE TOTAL SERVICE CREDIT PROVIDED PURSUANT TO
32 THIS PARAGRAPH SHALL NOT EXCEED TWO YEARS. MEMBERS MUST FILE A CLAIM
33 FOR SUCH SERVICE CREDIT WITH THE RETIREMENT SYSTEM BY DECEMBER
34 THIRTY-FIRST, TWO THOUSAND TEN, OR WITHIN NINETY DAYS FOLLOWING TERMI-
35 NATION OF THE CHILD CARE LEAVE, WHICHEVER IS LATER, AND CONTRIBUTE TO
36 THE RETIREMENT SYSTEM AN AMOUNT WHICH SUCH MEMBER WOULD HAVE CONTRIBUTED
37 DURING THE PERIOD OF SUCH CHILD CARE LEAVE, TOGETHER WITH INTEREST THER-
38 EON. IN THE EVENT THERE IS A CONFLICT BETWEEN THE PROVISIONS OF THIS
39 PARAGRAPH AND THE PROVISIONS OF ANY OTHER LAW OR CODE TO THE CONTRARY,
40 THE PROVISIONS OF THIS PARAGRAPH SHALL GOVERN.

41 S 5. Section 446 of the retirement and social security law is amended
42 by adding a new subdivision k to read as follows:

43 K. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY MEMBER WHO IS
44 ABSENT WITHOUT PAY FOR A CHILD CARE LEAVE OF ABSENCE PURSUANT TO APPLI-
45 CABLE REGULATIONS OR COLLECTIVE BARGAINING AGREEMENTS, SHALL BE ELIGIBLE
46 FOR UP TO ONE YEAR OF CREDIT FOR EACH SUCH DULY AUTHORIZED LEAVE,
47 PROVIDED, HOWEVER, THAT THE TOTAL SERVICE CREDIT PROVIDED PURSUANT TO
48 THIS SUBDIVISION SHALL NOT EXCEED TWO YEARS. MEMBERS MUST FILE A CLAIM
49 FOR SUCH SERVICE CREDIT WITH THE RETIREMENT SYSTEM BY DECEMBER
50 THIRTY-FIRST, TWO THOUSAND TEN, OR WITHIN NINETY DAYS FOLLOWING TERMI-
51 NATION OF THE CHILD CARE LEAVE, WHICHEVER IS LATER, AND CONTRIBUTE TO
52 THE RETIREMENT SYSTEM AN AMOUNT WHICH SUCH MEMBER WOULD HAVE CONTRIBUTED
53 DURING THE PERIOD OF SUCH CHILD CARE LEAVE, TOGETHER WITH INTEREST THER-
54 EON. IN THE EVENT THERE IS A CONFLICT BETWEEN THE PROVISIONS OF THIS
55 SUBDIVISION AND THE PROVISIONS OF ANY OTHER LAW OR CODE TO THE CONTRARY,
56 THE PROVISIONS OF THIS SUBDIVISION SHALL GOVERN.

1 S 6. Section 513 of the retirement and social security law is amended
2 by adding a new subdivision i to read as follows:

3 I. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY MEMBER WHO IS
4 ABSENT WITHOUT PAY FOR A CHILD CARE LEAVE OF ABSENCE PURSUANT TO APPLI-
5 CABLE REGULATIONS OR COLLECTIVE BARGAINING AGREEMENTS, SHALL BE ELIGIBLE
6 FOR UP TO ONE YEAR OF CREDIT FOR EACH SUCH DULY AUTHORIZED LEAVE,
7 PROVIDED, HOWEVER, THAT THE TOTAL SERVICE CREDIT PROVIDED PURSUANT TO
8 THIS SUBDIVISION SHALL NOT EXCEED TWO YEARS. MEMBERS MUST FILE A CLAIM
9 FOR SUCH SERVICE CREDIT WITH THE RETIREMENT SYSTEM BY DECEMBER
10 THIRTY-FIRST, TWO THOUSAND TEN, OR WITHIN NINETY DAYS FOLLOWING TERMI-
11 NATION OF THE CHILD CARE LEAVE, WHICHEVER IS LATER, AND CONTRIBUTE TO
12 THE RETIREMENT SYSTEM AN AMOUNT WHICH SUCH MEMBER WOULD HAVE CONTRIBUTED
13 DURING THE PERIOD OF SUCH CHILD CARE LEAVE, TOGETHER WITH INTEREST THER-
14 EON. IN THE EVENT THERE IS A CONFLICT BETWEEN THE PROVISIONS OF THIS
15 SUBDIVISION AND THE PROVISIONS OF ANY OTHER LAW OR CODE TO THE CONTRARY,
16 THE PROVISIONS OF THIS SUBDIVISION SHALL GOVERN.

17 S 7. Section 609 of the retirement and social security law is amended
18 by adding a new subdivision h to read as follows:

19 H. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY MEMBER WHO IS
20 ABSENT WITHOUT PAY FOR A CHILD CARE LEAVE OF ABSENCE PURSUANT TO APPLI-
21 CABLE REGULATIONS OR COLLECTIVE BARGAINING AGREEMENTS, SHALL BE ELIGIBLE
22 FOR UP TO ONE YEAR OF CREDIT FOR EACH SUCH DULY AUTHORIZED LEAVE,
23 PROVIDED, HOWEVER, THAT THE TOTAL SERVICE CREDIT PROVIDED PURSUANT TO
24 THIS SUBDIVISION SHALL NOT EXCEED TWO YEARS. MEMBERS MUST FILE A CLAIM
25 FOR SUCH SERVICE CREDIT WITH THE RETIREMENT SYSTEM BY DECEMBER
26 THIRTY-FIRST, TWO THOUSAND TEN, OR WITHIN NINETY DAYS FOLLOWING TERMI-
27 NATION OF THE CHILD CARE LEAVE, WHICHEVER IS LATER, AND CONTRIBUTE TO
28 THE RETIREMENT SYSTEM AN AMOUNT WHICH SUCH MEMBER WOULD HAVE CONTRIBUTED
29 DURING THE PERIOD OF SUCH CHILD CARE LEAVE, TOGETHER WITH INTEREST THER-
30 EON. IN THE EVENT THERE IS A CONFLICT BETWEEN THE PROVISIONS OF THIS
31 SUBDIVISION AND THE PROVISIONS OF ANY OTHER LAW OR CODE TO THE CONTRARY,
32 THE PROVISIONS OF THIS SUBDIVISION SHALL GOVERN.

33 S 8. Subdivision a of section 13-505 of the administrative code of the
34 city of New York is amended by adding a new paragraph 10 to read as
35 follows:

36 10. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION C OF THIS SECTION,
37 ANY MEMBER WHO IS ABSENT WITHOUT PAY FOR A CHILD CARE LEAVE OF ABSENCE
38 PURSUANT TO REGULATIONS OF THE NEW YORK CITY BOARD OF EDUCATION SHALL BE
39 ELIGIBLE FOR UP TO ONE YEAR OF CREDIT FOR EACH SUCH DULY AUTHORIZED
40 LEAVE, PROVIDED, HOWEVER, THAT THE TOTAL SERVICE CREDIT PROVIDED PURSU-
41 ANT TO THIS PARAGRAPH SHALL NOT EXCEED TWO YEARS. MEMBERS MUST FILE A
42 CLAIM FOR SUCH SERVICE CREDIT WITH THE RETIREMENT SYSTEM BY DECEMBER
43 THIRTY-FIRST, TWO THOUSAND TEN, OR WITHIN NINETY DAYS FOLLOWING TERMI-
44 NATION OF THE CHILD CARE LEAVE, WHICHEVER IS LATER, AND CONTRIBUTE TO
45 THE RETIREMENT SYSTEM AN AMOUNT WHICH SUCH MEMBER WOULD HAVE CONTRIBUTED
46 DURING THE PERIOD OF SUCH CHILD CARE LEAVE, TOGETHER WITH INTEREST THER-
47 EON. IN THE EVENT THERE IS A CONFLICT BETWEEN THE PROVISIONS OF THIS
48 PARAGRAPH AND THE PROVISIONS OF ANY OTHER LAW OR CODE TO THE CONTRARY,
49 THE PROVISIONS OF THIS PARAGRAPH SHALL GOVERN.

50 S 9. Section 13-107 of the administrative code of the city of New York
51 is amended by adding a new subdivision l to read as follows:

52 L. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION C OF THIS SECTION,
53 ANY MEMBER WHO IS ABSENT WITHOUT PAY FOR CHILD CARE LEAVE OF ABSENCE
54 PURSUANT TO REGULATIONS OF THE AGENCY IN WHICH THE MEMBER IS EMPLOYED
55 SHALL BE ELIGIBLE FOR UP TO ONE YEAR OF CREDIT FOR EACH SUCH DULY
56 AUTHORIZED LEAVE, PROVIDED, HOWEVER, THAT THE TOTAL SERVICE CREDIT

1 PROVIDED PURSUANT TO THIS SUBDIVISION SHALL NOT EXCEED TWO YEARS.
2 MEMBERS MUST FILE A CLAIM FOR SUCH SERVICE CREDIT WITH THE RETIREMENT
3 SYSTEM BY DECEMBER THIRTY-FIRST, TWO THOUSAND TEN, OR WITHIN NINETY DAYS
4 FOLLOWING TERMINATION OF THE CHILD CARE LEAVE, WHICHEVER IS LATER, AND
5 CONTRIBUTE TO THE RETIREMENT SYSTEM AN AMOUNT WHICH SUCH MEMBER WOULD
6 HAVE CONTRIBUTED DURING THE PERIOD OF SUCH CHILD CARE LEAVE, TOGETHER
7 WITH INTEREST THEREON. IN THE EVENT THERE IS A CONFLICT BETWEEN THE
8 PROVISIONS OF THIS SUBDIVISION AND THE PROVISIONS OF ANY OTHER LAW OR
9 CODE TO THE CONTRARY, THE PROVISIONS OF THIS SUBDIVISION SHALL GOVERN.

10 S 10. Section 13-318 of the administrative code of the city of New
11 York is amended by adding a new subdivision i to read as follows:

12 I. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION C OF THIS SECTION,
13 ANY MEMBER WHO IS ABSENT WITHOUT PAY FOR CHILD CARE LEAVE OF ABSENCE
14 PURSUANT TO REGULATIONS OF THE NEW YORK CITY FIRE DEPARTMENT SHALL BE
15 ELIGIBLE FOR UP TO ONE YEAR OF CREDIT FOR EACH SUCH DULY AUTHORIZED
16 LEAVE, PROVIDED, HOWEVER, THAT THE TOTAL SERVICE CREDIT PROVIDED PURSU-
17 ANT TO THIS SUBDIVISION SHALL NOT EXCEED TWO YEARS. MEMBERS MUST FILE
18 FOR SUCH SERVICE CREDIT WITH THE PENSION FUND BY DECEMBER THIRTY-FIRST,
19 TWO THOUSAND TEN, OR WITHIN NINETY DAYS FOLLOWING TERMINATION OF THE
20 CHILD CARE LEAVE, WHICHEVER IS LATER, AND CONTRIBUTE TO THE PENSION FUND
21 AN AMOUNT WHICH SUCH MEMBER WOULD HAVE CONTRIBUTED DURING THE PERIOD OF
22 SUCH CHILD CARE LEAVE, TOGETHER WITH INTEREST THEREON. IN THE EVENT
23 THERE IS A CONFLICT BETWEEN THE PROVISIONS OF THIS SUBDIVISION AND THE
24 PROVISIONS OF ANY OTHER LAW OR CODE TO THE CONTRARY, THE PROVISIONS OF
25 THIS SUBDIVISION SHALL GOVERN.

26 S 11. This act shall take effect immediately and shall be deemed to
27 have been in full force and effect on and after June 30, 2009 if it
28 shall have become a law after such date; provided, however, that the
29 amendments to sections 513 and 609 of the retirement and social security
30 law made by sections six and seven of this act, respectively, shall not
31 affect the expiration of such sections and shall be deemed to expire
32 therewith.

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

This bill would amend subdivision 2 of section 509 of the Education Law, and sections 446, 513, and 609 of the Retirement and Social Security Law to permit members to receive service credit for leaves of absence for child care. To claim this credit, members must pay the amount they would have had to contribute during this period with regular interest. Service credit granted shall not exceed one year of credit for each period of authorized child care leave and the total service credit granted shall not exceed two years.

It is not possible to determine the total annual cost to the employers of members of the New York State Teachers' Retirement System since the total amount of service credit which would be claimed under this bill cannot be estimated. However, the cost to the employers of members of the New York State Teachers' Retirement System is estimated to be \$18,700 per year of service credited if this bill is enacted. It is anticipated this bill would result in a substantial number of members being eligible for up to two years of additional service credit.

The source of this estimate is Fiscal Note 2009-17 dated February 27, 2009 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2009 Legislative Session.