

8797

2009-2010 Regular Sessions

I N A S S E M B L Y

June 9, 2009

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

AN ACT to amend the education law, in relation to retirement service credit for certain World War II service

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

1 Section 1. Subdivision 10-a of section 503 of the education law, as
2 added by chapter 864 of the laws of 1980 and paragraph a as amended by
3 chapter 616 of the laws of 1995, is amended to read as follows:
4 10-a. Credit for certain World War II service. a. In addition to cred-
5 it for military service pursuant to section two hundred forty-three of
6 the military law and subdivisions six through nine of this section, a
7 RETIRED member who joined the retirement system prior to July first,
8 nineteen hundred seventy-three, and who was not [eligible for credit for
9 military service under subdivision ten of this section as a result of
10 being on a leave of absence without pay between July twentieth, nineteen
11 hundred seventy-six and October fifteenth, nineteen hundred seventy-sev-
12 en or on leave of absence with less than full pay between July twenti-
13 eth, nineteen hundred seventy-six and October fifteenth, nineteen
14 hundred seventy-seven] A RESIDENT OF THE STATE OF NEW YORK AT THE TIME
15 OF ENTRY INTO AND DISCHARGE FROM SUCH MILITARY SERVICE, may obtain cred-
16 it for military service not in excess of three years and not otherwise
17 creditable under section two hundred forty-three of the military law and
18 subdivisions six through nine of this section, rendered on active duty
19 in the armed forces of the United States during the period commencing
20 July first, nineteen hundred forty, and terminating December thirty-
21 first, nineteen hundred forty-six, or on service by one who was employed
22 by the War Shipping Administration or Office of Defense Transportation
23 or their agents as a merchant seaman documented by the United States
24 Coast Guard or Department of Commerce, or as a civil servant employed by
25 the United States Army Transport Service (later redesignated as the

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

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1 United States Army Transportation Corps, Water Division) or the Naval
2 Transportation Service; and who served satisfactorily as a crew member
3 during the period of armed conflict, December seventh, nineteen hundred
4 forty-one, to August fifteenth, nineteen hundred forty-five, aboard
5 merchant vessels in oceangoing, i.e., foreign, intercoastal, or coast-
6 wise service as such terms are defined under federal law (46 USCA 10301
7 & 10501) and further to include "near foreign" voyages between the
8 United States and Canada, Mexico, or the West Indies via ocean routes,
9 or public vessels in oceangoing service or foreign waters and who has
10 received a Certificate of Release or Discharge from Active Duty and a
11 discharge certificate, or an Honorable Service Certificate/Report of
12 Casualty, from the Department of Defense, or on service by one who
13 served as a United States civilian employed by the American Field
14 Service and served overseas under United States Armies and United States
15 Army Groups in world war II during the period of armed conflict, Decem-
16 ber seventh, nineteen hundred forty-one through May eighth, nineteen
17 hundred forty-five, and who was discharged or released therefrom under
18 honorable conditions, or on service by one who served as a United States
19 civilian Flight Crew and Aviation Ground Support Employee of Pan Ameri-
20 can World Airways or one of its subsidiaries or its affiliates and
21 served overseas as a result of Pan American's contract with Air Trans-
22 port Command or Naval Air Transport Service during the period of armed
23 conflict, December fourteenth, nineteen hundred forty-one through August
24 fourteenth, nineteen hundred forty-five, and who was discharged or
25 released therefrom under honorable conditions [by a person who was a
26 resident of New York state at the time of entry into such service and at
27 the time of being] PROVIDED HE OR SHE WAS discharged therefrom under
28 honorable circumstances[, and who makes the payments required in accord-
29 ance with the provisions of this subdivision].

30 However, no military service shall be creditable under this subdivi-
31 sion in the case of a RETIRED member who is receiving a military pension
32 (other than for disability) for military service in the armed forces of
33 the United States.

34 b. [To obtain such credit a member shall: (1) deposit in the annuity
35 savings fund a sum equal to the product of his required contribution
36 rate at time of entry into full-time New York state teaching service,
37 his annual full-time rate of compensation at that time, and the period
38 of military service being claimed, with regular interest, and (2) depos-
39 it in the pension accumulation fund a sum equal to the product of the
40 employer's contribution rate exclusive of the rate for supplemental
41 pensions at the time of the member's entry into such teaching service,
42 his annual full-time rate of compensation at that time, and the period
43 of military service being claimed, with regular interest. Such deposit
44 must be made on or before October fourteenth, nineteen hundred eighty,
45 provided, however, such member may elect to deposit such amount over a
46 period of time no greater than the period for which credit is being
47 claimed, in which case such payments must commence no later than October
48 fourteenth, nineteen hundred eighty. If the full amount of such payments
49 is not paid to the retirement system at the time of retirement, the
50 amount of service credited shall be proportional to the total amount of
51 the payments made.

52 c. The credit for military service hereunder shall not be used to
53 increase a service retirement benefit if, at the time of retirement,
54 such member (1) is retiring from service with less than ten years of
55 full-time service credit or (2) is retiring with less than three years
56 of member service rendered subsequent to the date that he last became a

1 member of this system. Upon retirement, as specified in (1) or (2),
2 there shall be refunded to such member the amount of such deposit plus
3 accrued interest exclusive of the amount deposited to the pension accu-
4 mulation fund attributable to death and disability benefits.

5 d. (1) In the case of members who have transferred into this system
6 from another public retirement system within the state of New York,
7 their rate of contribution shall be computed as though they had been a
8 member of this system from the date of membership in the retirement
9 system from which they transferred.

10 (2) Any other provision of law to the contrary notwithstanding, the
11 rate of contribution to be used in calculating contributions to the
12 annuity savings fund pursuant to this subdivision shall be at the rate
13 of four per centum of earnable compensation for members whose date of
14 membership is on or before June thirtieth, nineteen hundred forty-eight
15 and at the rate of five per centum of earnable compensation for members
16 whose date of membership is on or after July first, nineteen hundred
17 forty-eight.

18 e.] In no event shall credit be granted pursuant to this subdivision
19 if credit is granted for the same period of time pursuant to other
20 provisions of law.

21 [f. No application for credit pursuant to the provisions of this
22 subdivision shall be honored if made on or after October fifteenth,
23 nineteen hundred eighty.]

24 S 2. This act shall take effect August 1, 2009; provided, that any
25 benefit increases are to be provided prospectively from the date of
26 application for credit.

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

This bill would permit retired members who last joined the New York State Teachers' Retirement System prior to July 1, 1973 and were not eligible for credit under subdivision ten of section five hundred three of the Education Law as a result of not being a resident of New York State at the time of entry into, and discharge from, military service, to obtain retirement credit for a maximum of three years of military service rendered during the period July 1, 1940 through December 31, 1946. This increase in benefit is to be provided prospectively from the date of application.

The annual cost to the employers of members of the New York State Teachers' Retirement System is estimated to be \$699,000 or .005% of payroll if this bill is enacted.

The source of this estimate is Fiscal Note 2009-72 dated June 2, 2009 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2009 Legislative Session.