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I N S E N A T E

April 21, 2009

Introduced by Sens. THOMPSON, KLEIN -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- recommitted to the Committee on Civil Service and Pensions in accordance with Senate Rule 6, sec. 8 -- 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 providing credit to members of public retirement systems of the state for military service

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

Section 1. Section 1000 of the retirement and social security law, as added by chapter 548 of the laws of 2000 and subdivision 9 as added by chapter 547 of the laws of 2002, is amended to read as follows:

S 1000. Military service credit. Notwithstanding any law to the contrary, a member of a public retirement system of the state, as defined in subdivision twenty-three of section five hundred one of this chapter, shall be eligible for credit for military service as hereinafter provided:

1. A member, upon application to such retirement system, may obtain a total not to exceed three years of service credit for up to three years of military duty, as defined in section two hundred forty-three of the military law, if the member was honorably discharged from the military [and all or part of such military service was rendered during the following periods: (a) commencing December seventh, nineteen hundred forty-one and terminating December thirty-first, nineteen hundred forty-six; (b) commencing June twenty-seventh, nineteen hundred fifty and terminating January thirty-first, nineteen hundred fifty-five; or (c) commencing February twenty-eighth, nineteen hundred sixty-one and terminating May seventh, nineteen hundred seventy-five;

2. A member, upon application to such retirement system, may obtain a total not to exceed three years of service credit for up to three years of military duty, as defined in section two hundred forty-three of the military law, if honorably discharged therefrom, if all or part of such

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

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services was rendered in the military conflicts referenced below, as follows:

(a) hostilities participated in by the military forces of the United States in Lebanon, from the first day of June, nineteen hundred eighty-three to the first day of December, nineteen hundred eighty-seven, as established by receipt of the armed forces expeditionary medal, the navy expeditionary medal, or the marine corps expeditionary medal;

(b) hostilities participated in by the military forces of the United States in Grenada, from the twenty-third day of October, nineteen hundred eighty-three to the twenty-first day of November, nineteen hundred eighty-three, as established by receipt of the armed forces expeditionary medal, the navy expeditionary medal, or the marine corps expeditionary medal;

(c) hostilities participated in by the military forces of the United States in Panama, from the twentieth day of December, nineteen hundred eighty-nine to the thirty-first day of January, nineteen hundred ninety, as established by receipt of the armed forces expeditionary medal, the navy expeditionary medal, or the marine corps expeditionary medal; or

(d) hostilities participated in by the military forces of the United States, from the second day of August, nineteen hundred ninety, to the end of such hostilities in case of a veteran who served in the theater of operations including Iraq, Kuwait, Saudi Arabia, Bahrain, Qatar, the United Arab Emirates, Oman, the Gulf of Aden, the Gulf of Oman, the Persian Gulf, the Red Sea, and the airspace above these locations].

[3] 2. A member must have at least five years of credited service (not including service granted hereunder) to be eligible to receive credit under this section.

[4] 3. To obtain such credit, a member shall pay such retirement system, for deposit in the fund used to accumulate employer contributions, a sum equal to the product of the number of years of military service being claimed and three percent of such member's compensation earned during the twelve months of credited service immediately preceding the date that the member made application for credit pursuant to this section. If permitted by rule or regulation of the applicable retirement system, the member may pay such member costs by payroll deduction for a period which shall not exceed the time period of military service to be credited pursuant to this section. In the event the member leaves the employer payroll prior to completion of payment, he or she shall forward all remaining required payments to the appropriate retirement system prior to the effective date of retirement. If the full amount of such member costs is not paid to the appropriate retirement system prior to the member's retirement, the amount of service credited shall be proportional to the total amount of the payments made prior to retirement.

[5] 4. In no event shall the credit granted pursuant to this section, when added to credit granted for military service with any retirement system of this state pursuant to this or any other provision of law, exceed a total of three years.

[6] 5. To be eligible to receive credit for military service under this section, a member must make application for such credit before the effective date of retirement. [Notwithstanding the foregoing provisions of this subdivision, an individual who retired on or after December twenty-first, nineteen hundred ninety-eight and before the effective date of this section may make application for credit pursuant to this section within one year following the effective date of this section, in

which event, the cost to the retiree would be based on the twelve month period immediately preceding retirement.]

[7] 6. All costs for service credited to a member pursuant to this section, other than the member costs set forth in subdivision three of this section, shall be paid by the state and all employers which participate in the retirement system in which such member is granted credit.

[8] 7. A member who has purchased military service credit pursuant to section two hundred forty-four-a of the military law shall be entitled to a refund of the difference between the amount paid by the member for such purchase and the amount that would be payable if service had been purchased pursuant to this section.

[9] 8. Notwithstanding any other provision of law, in the event of death prior to retirement, amounts paid by the member for the purchase of military service credit pursuant to this section shall be refunded, with interest, to the extent the military service purchased with such amounts does not produce a greater death benefit than would have been payable had the member not purchased such credit.

Notwithstanding any other provision of law, in the event of retirement, amounts paid by the member for the purchase of military service credit pursuant to this section shall be refunded, with interest, to the extent the military service purchased with such amounts does not produce a greater retirement allowance than would have been payable had the member not purchased such credit.

S 2. This act shall take effect immediately.

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

This bill would allow up to three (3) years of service credit for military duty by removing all existing requirements that such military service be performed during certain war periods, during certain hostilities while in the theater of operations or upon the receipt of an expeditionary medal. However, the total service credit granted for active and peacetime military service shall not exceed three (3) years. The member would be required to make a payment of three percent of current compensation per year of additional service credit granted by this bill. Members must have at least five (5) years of credited service (not including military service).

Insofar as this bill affects the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System, if this bill were enacted there would be an estimated first year cost of approximately $2.5 million to the State of New York, $3 million to participating employers in the New York State and Local Employees' Retirement System and $2 million to the participating employers in the New York State and Local Police and Fire Retirement System.

In addition to the above costs, there would be additional costs for future members of the Retirement System's who have such military service.

This estimate, dated January 8, 2010 and intended for use only during the 2010 Legislative Session, is Fiscal Note No. 2010-64, prepared by the Actuary for the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System.

This bill would amend Article 20 of the Retirement and Social Security Law to allow active members of public retirement systems of New York State to claim service credit for up to three years of military service, regardless of when it was performed. Currently active members can receive service credit for military service performed during specified periods of war. A member must have at least five years of credited service to be eligible and make application for such credit before the effective date of retirement. To obtain such credit, a member must deposit in the pension accumulation fund three percent of his or her current annual full-time rate of compensation per year of military service claimed.

The annual cost to the employers of members of the New York State Teachers' Retirement System for this benefit is estimated to be $4.6 million or .03% of payroll if this bill is enacted.

The source of this estimate is Fiscal Note 2010-56 dated May 28, 2010 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2010 Legislative Session.

PROVISIONS OF PROPOSED LEGISLATION: With respect to certain New York City Retirement Systems ("NYCRS"), this proposed legislation would amend New York State Retirement and Social Security Law ("RSSL") Section 1000 to provide certain members of the New York City Employees' Retirement System ("NYCERS"), the New York City Teachers' Retirement System ("NYCTRS"), the New York City Board of Education Retirement System ("BERS"), the New York City Police Pension Fund ("POLICE") and the New York City Fire Pension Fund ("FIRE") the opportunity to obtain additional retirement service credits for certain Military Service.

This proposed legislation would permit any NYCRS member, prior to the effective date of retirement, to make application for these additional service credits.

To obtain such Military Service credits, members would be required to pay to the appropriate NYCRS, for each year of Military Service purchased, a sum equal to 3% of such member's compensation earned during the twelve months of credited service immediately preceding the date that the member makes application for credit.

MEMBERS IMPACTED: Insofar as this proposed legislation relates to the NYCRS, the number of members who could potentially benefit from this proposed legislation cannot be readily determined.

IMPACT ON BENEFITS: With respect to the NYCRS, a member who served in the U.S. military and received an honorable discharge would be permitted, after completing five years of credited service (exclusive of the service credit that could be purchased under this proposed legislation), to purchase a maximum of three years of Military Service (inclusive of any prior purchases of Military Service credit).

In order to purchase the Military Service credits provided in this proposed legislation, a member must have been honorably discharged following a period of "military duty" as defined in New York State Military Law Section 243.

If a member's Military Service meets these conditions, then that member would be permitted to purchase a maximum of three years of Military Service (inclusive of any previously-received Military Service credit) attributable to any period of the member's military career.

For purposes of the respective NYCRS, each year of Military Service credit purchased would apply toward providing the member with a year of benefit accrual under the particular benefit formula covering the member.

In certain circumstances, the member also may be entitled to utilize such Military Service as qualifying service for benefit eligibility purposes.

For purposes of the Fiscal Note, it has been assumed that members who purchase Military Service in accordance with this proposed legislation would generally be entitled to count such service for benefit accrual purposes and for the purpose of qualifying for benefits.

FINANCIAL IMPACT - OVERVIEW: With respect to an individual member, the additional cost of this proposed legislation would depend on the length of all New York City service, age, salary history and Plan in which the member participates, as well as the number of years of service credit purchased.

With respect to employers participating in the NYCRS, the ultimate employer cost of this proposed legislation would be determined by the increase in benefits to be paid, the impact of certain benefits commencing earlier, a shorter working lifetime, and the reduction in certain future member contributions.

FINANCIAL IMPACT - ACTUARIAL PRESENT VALUES: With respect to the NYCRS and based on the census data and assumptions herein, the enactment of this proposed legislation would increase the Actuarial Present Value ("APV") of benefits ("APVB") by approximately $178.0 million as of June 30, 2009.

In addition, with respect to the NYCRS, the APV of future member contributions (primarily attributable to the payments by members of 3% of salary per year of Military Service purchased) would increase by approximately $29.9 million when measured as of June 30, 2009.

Consequently, with respect to the NYCRS, the APV of net future employer contributions would increase by approximately $148.1 million as of June 30, 2009.

FINANCIAL IMPACT - ANNUAL EMPLOYER COSTS: With respect to the NYCRS, based on the Actuary's actuarial assumptions and methods in effect as of June 30, 2009, the enactment of this proposed legislation would increase annual employer costs by approximately $19.2 million per year.

FINANCIAL IMPACT - EMPLOYER CONTRIBUTIONS: With respect to the NYCRS, based on the Actuary's actuarial assumptions in effect as of June 30, 2009, the enactment of this proposed legislation would ultimately increase employer contributions by approximately the estimated additional annual employer costs.

FINANCIAL IMPACT - SUMMARY: The following Table 1 summarizes the estimated financial impact of this proposed legislation on the NYCRS.

Table 1
Estimated Financial Impact to Allow Members of the NYCRS
To Purchase up to Three Years of Military Service Credit{1}
($ Millions)

Retirement System	Additional APVB	Additional APV of Future Employer Contributions{2}	Estimated First Year Additional Employer Costs{3}
NYCERS	$ 59.2	$ 48.8	$ 6.4
NYCTRS	22.9	18.3	1.8
BERS	6.3	5.3	0.7
POLICE	72.9	61.5	8.6
FIRE	16.7	14.2	1.7
TOTAL	$178.0	$148.1	$19.2

{1} Based on the Actuary's actuarial assumptions and methods in effect as of June 30, 2006.

{2} Equals change in APVB minus increase in APV of future member contributions.

{3} Estimated Additional Employer Costs are determined without regard to the funded status of the Retirement Systems and represent the best estimates of the ultimate annual financial burden of the proposed legislation. Estimated Additional Employer Contributions would ultimately approximate Estimated Additional Employer Costs.

ADDITIONAL EMPLOYER COSTS - GENERAL: In general, the real cost of the enactment of this proposed legislation would be the additional benefits paid.

FINANCIAL IMPACT - OTHER: The Actuary is expecting to propose revised actuarial assumptions and methods to be effective on or after Fiscal Year 2010.

The estimated financial impact of proposed legislation incorporating those revised actuarial assumptions and methods is expected to differ, possible significantly, from the financial impact computed using the actuarial assumptions and methods continued from Fiscal Year 2010.

Further, the near certainty of payment of benefits from the NYCRS (due to the substantive level of funding and New York State Constitutional Protection of benefits), suggests that it may be appropriate to also consider a more economic-based, market-related estimate of the value of those benefits (i.e., a Financial Value estimate). Such value of benefits would likely be based on an expected pattern of benefits payments determined using discount rates consistent with those derived from default-free securities of similar duration.

Under current economic conditions, the APVB, employer cost and employer contributions determined under Financial Value concepts would be greater than those shown herein.

OTHER COSTS: Not measured in this Fiscal Note is the impact of this proposed legislation on the Manhattan and Bronx Surface Transit Operating Authority ("MaBSTOA") or on State or Local employers with respect to their participation in the New York State and Local Retirement Systems ("NYSLRS") or the New York State Teachers' Retirement System ("NYSTRS").

Also, this Fiscal Note does not include analyses of the impact of this proposed legislation on the expected increases in administrative costs or costs for Other Post-Employment Benefits ("OPEB").

CENSUS DATA: The census data used for estimates of APV of benefits and employer contributions presented herein are the active members included in the June 30, 2009 (Lag) actuarial valuations of NYCERS, NYCTRS, BERS, POLICE and FIRE.

ACTUARIAL ASSUMPTIONS AND METHODS: Additional APV of benefits, of member contributions and of employer contributions have been estimated as of June 30, 2009 using various approximating techniques and assumptions by the Actuary, including, but not limited to:

* A certain percentage of Veterans being honorably discharged.
* A certain percentage of honorably discharged Veterans being disabled.
* Different percentages of members by NYCRS would have prior Military Service.
* Each eligible member would purchase an average of 2.5 years of Military Service.

Employer costs have been estimated assuming the additional APV of benefits and reductions in APV of member contributions would be financed through future normal contributions.

FISCAL NOTE IDENTIFICATION: This estimate is intended for use only during the 2010 Legislative Session. It is Fiscal Note 2010-16, dated June 4, 2010, prepared by the Chief Actuary for the New York City Employees' Retirement System, the New York City Teachers' Retirement System, the New York City Board of Education Retirement System, the New York City Police Pension Fund and the New York City Fire Pension Fund.