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

4325--A

2009-2010 Regular Sessions

I N S E N A T E

April 22, 2009

Introduced by Sens. MAZIARZ, DeFRANCISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- 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 three years of retirement service credit to certain members of public retirement systems of the state honorably discharged from the military for medical reasons due to injuries suffered during certain military conflicts

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 is amended by adding a new subdivision 2-a to read as follows:

2-A. A MEMBER, UPON APPLICATION TO SUCH RETIREMENT SYSTEM, MAY OBTAIN A TOTAL OF THREE YEARS OF SERVICE CREDIT FOR LESS THAN 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 FOR MEDICAL REASONS DUE TO INJURIES SUFFERED DURING SUCH MILITARY DUTY, IF ALL OR PART OF SUCH SERVICES WAS RENDERED IN THE MILITARY CONFLICTS REFERENCED BELOW, AS FOLLOWS:

(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;

(C) COMMENCING FEBRUARY TWENTY-EIGHTH, NINETEEN HUNDRED SIXTY-ONE AND TERMINATING MAY SEVENTH, NINETEEN HUNDRED SEVENTY-FIVE;

(D) 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;

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

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(E) 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;

(F) 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

(G) 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.

HOWEVER, NOTHING CONTAINED IN THIS SUBDIVISION SHALL AUTHORIZE OR PERMIT THE CREDITING OF SERVICE WHERE NOT PERMITTED PURSUANT TO SECTION 415(N) OF THE INTERNAL REVENUE CODE OR ANY REGULATIONS PROMULGATED THEREUNDER.

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after December 21, 1998.

FISCAL NOTE.--This bill would amend Chapter 548 of the Laws of 2000 to allow certain individuals with less than three (3) years of military duty, who were discharged from the military for medical reasons due to injuries suffered during such military duty, to purchase three (3) years of service credit for military duty. The additional service credit granted pursuant to this legislation, when added to credit granted for military service pursuant to any other provision of law shall not exceed a total of three (3) years. Members must have at least five (5) years of credited service and would be required to make a payment of three (3) percent of current compensation per year of additional services granted by this bill.

The exact number of members who could be affected by this legislation cannot be readily determined. In all likelihood, very few members would be affected.

Insofar as this bill would affect the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System, if it is enacted, there would be an immediate past service cost for each affected member. The amount of this cost would depend on the member's age, current service, annual salary, plan and tier status, as well as on the amount of additional service to be credited. This cost would be shared by the State of New York and the participating employers in the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System.

This estimate, dated March 24, 2009 and intended for use only during the 2009 Legislative Session, is Fiscal Note No. 2009-199, 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.

FISCAL NOTE.--This bill would add a new subdivision 2-a to Section 1000 of the Retirement and Social Security Law to allow members of public retirement systems of New York State to claim service credit for up to three years of military service, for less than three years of

military duty, if the member was honorably discharged for medical reasons due to injuries suffered during such military duty. A member must have at least five years of credited service to be eligible. 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. A member who retired on or after December 21, 1998 may apply for credit pursuant to this section within one year of the effective date of this act.

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 $16,400 per year of service credited if this bill is enacted.

The source of this estimate is Fiscal Note 2009-61 dated May 5, 2009 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2009 Legislative Session.