

4802

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. STEWART-COUSINS -- read twice and ordered printed,
and when printed to be committed to the Committee on Civil Service and
Pensions

AN ACT to amend the retirement and social security law, in relation to
the retirement of detention officers employed by the city of Yonkers
after twenty-five years of creditable service

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

1 Section 1. The retirement and social security law is amended by adding
2 a new section 89-x to read as follows:
3 S 89-X. RETIREMENT OF DETENTION OFFICERS EMPLOYED BY THE CITY OF YONK-
4 ERS. A. A MEMBER EMPLOYED AS A DETENTION OFFICER BY THE CITY OF YONKERS
5 SHALL BE ELIGIBLE TO RETIRE PURSUANT TO THE PROVISIONS OF THIS SECTION
6 IF HE OR SHE IS A DETENTION OFFICER OR HOLDS A JOB WITH RESPONSIBILITIES
7 SIMILAR TO THOSE OF A DETENTION OFFICER, IN THE EVENT THAT THE JOB TITLE
8 OF DETENTION OFFICER SHALL BE ABOLISHED. SUCH ELIGIBILITY SHALL BE AN
9 ALTERNATIVE TO THE ELIGIBILITY PROVISIONS AVAILABLE UNDER ANY OTHER PLAN
10 OF THIS ARTICLE TO WHICH SUCH MEMBER IS SUBJECT.
11 B. SUCH MEMBER SHALL BE ENTITLED TO RETIRE UPON THE COMPLETION OF
12 TWENTY-FIVE YEARS OF TOTAL CREDITABLE SERVICE BY FILING AN APPLICATION
13 THEREFOR IN THE MANNER PROVIDED FOR IN SECTION SEVENTY OF THIS ARTICLE.
14 C. UPON COMPLETION OF TWENTY-FIVE YEARS OF SUCH SERVICE AND UPON
15 RETIREMENT, EACH SUCH MEMBER SHALL RECEIVE A PENSION WHICH, TOGETHER
16 WITH AN ANNUITY WHICH SHALL BE THE ACTUARIAL EQUIVALENT OF HIS OR HER
17 ACCUMULATED CONTRIBUTIONS AT THE TIME OF HIS OR HER RETIREMENT AND AN
18 ADDITIONAL PENSION WHICH IS THE ACTUARIAL EQUIVALENT OF THE
19 RESERVED-FOR-INCREASED-TAKE-HOME-PAY TO WHICH HE OR SHE MAY THEN BE
20 ENTITLED SHALL BE SUFFICIENT TO PROVIDE HIM OR HER WITH A RETIREMENT
21 ALLOWANCE EQUAL TO ONE-HALF OF HIS OR HER FINAL AVERAGE SALARY.
22 D. AS USED IN THIS SECTION "CREDITABLE SERVICE" SHALL INCLUDE ANY AND
23 ALL SERVICES PERFORMED AS A DETENTION OFFICER WITH THE CITY OF YONKERS.

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

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1 E. CREDIT FOR SERVICE AS A MEMBER OR OFFICER OF THE STATE POLICE OR AS
2 A PAID FIREFIGHTER, POLICE OFFICER OR OFFICER OF ANY ORGANIZED FIRE
3 DEPARTMENT OR POLICE FORCE OR DEPARTMENT OF ANY COUNTY, CITY, VILLAGE,
4 TOWN, FIRE DISTRICT OR POLICE DISTRICT, SHALL ALSO BE DEEMED TO BE CRED-
5 ITABLE SERVICE AND SHALL BE INCLUDED IN COMPUTING YEARS OF TOTAL SERVICE
6 FOR RETIREMENT PURSUANT TO THIS SECTION, PROVIDED SUCH SERVICE WAS
7 PERFORMED BY THE MEMBER WHILE CONTRIBUTING TO THE RETIREMENT SYSTEM
8 PURSUANT TO THE PROVISIONS OF THIS ARTICLE OR ARTICLE EIGHT OF THIS
9 CHAPTER.

10 F. THE CITY OF YONKERS SHALL CERTIFY TO THE COMPTROLLER, PERIODICALLY
11 AND AT SUCH INTERVALS OF TIME AS MAY BE REQUIRED AND IN SUCH FASHION AS
12 MAY BE PRESCRIBED, THE IDENTITY OF THE DETENTION OFFICERS IN ITS EMPLOY.

13 G. A MEMBER CONTRIBUTING ON THE BASIS OF THIS SECTION AT THE TIME OF
14 RETIREMENT, MAY RETIRE AFTER THE COMPLETION OF TWENTY-FIVE YEARS OF
15 TOTAL CREDITABLE SERVICE. APPLICATION THEREFOR MAY BE FILED IN A MANNER
16 SIMILAR TO THAT PROVIDED IN SECTION SEVENTY OF THIS ARTICLE. UPON
17 COMPLETION OF TWENTY-FIVE YEARS OF SUCH SERVICE AND UPON RETIREMENT,
18 EACH SUCH MEMBER SHALL RECEIVE A PENSION WHICH, TOGETHER WITH AN ANNUITY
19 WHICH SHALL BE THE ACTUARIAL EQUIVALENT OF HIS OR HER ACCUMULATED
20 CONTRIBUTIONS AT THE TIME OF HIS OR HER RETIREMENT AND AN ADDITIONAL
21 PENSION WHICH IS THE ACTUARIAL EQUIVALENT OF THE RESERVED-FOR-IN-
22 CREASED-TAKE-HOME-PAY TO WHICH HE OR SHE MAY THEN BE ENTITLED SHALL BE
23 SUFFICIENT TO PROVIDE HIM OR HER WITH A RETIREMENT ALLOWANCE EQUAL TO
24 ONE-HALF OF HIS OR HER FINAL AVERAGE SALARY.

25 H. IN COMPUTING THE TWENTY-FIVE YEARS OF TOTAL SERVICE OF A MEMBER
26 PURSUANT TO THIS SECTION FULL CREDIT SHALL BE GIVEN AND FULL ALLOWANCE
27 SHALL BE MADE FOR SERVICE OF SUCH MEMBER IN TIME OF WAR AFTER WORLD WAR
28 I AS DEFINED IN SECTION TWO OF THIS CHAPTER, PROVIDED SUCH MEMBER AT THE
29 TIME OF HIS OR HER ENTRANCE INTO THE ARMED FORCES WAS IN THE SERVICE OF
30 THE CITY OF YONKERS.

31 I. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PREVENT A MEMBER, WHO
32 DOES NOT RETIRE PURSUANT TO THE PROVISIONS OF THIS SECTION, FROM UTILIZ-
33 ING SERVICE WHICH IS CREDITABLE SERVICE PURSUANT TO THE PROVISIONS OF
34 THIS SECTION FOR SERVICE CREDIT PURSUANT TO THE PROVISIONS OF ANY OTHER
35 PLAN OF THIS ARTICLE TO WHICH SUCH MEMBER IS SUBJECT.

36 J. THE PROVISIONS OF THIS SECTION SHALL BE CONTROLLING NOTWITHSTANDING
37 ANY OTHER PROVISION IN THIS ARTICLE TO THE CONTRARY.

38 S 2. Subdivision a of section 445 of the retirement and social securi-
39 ty law, as amended by chapter 295 of the laws of 2007, is amended to
40 read as follows:

41 a. No member of a retirement system who is subject to the provisions
42 of this article shall retire without regard to age, exclusive of retire-
43 ment for disability, unless he OR SHE is a [policeman] POLICE OFFICER,
44 an investigator member of the New York city employees' retirement
45 system, [fireman] FIREFIGHTER, correction officer, a qualifying member
46 as defined in section eighty-nine-t, as added by chapter six hundred
47 fifty-seven of the laws of nineteen hundred ninety-eight, of this chap-
48 ter, sanitation [man] PERSON, a special officer (including persons
49 employed by the city of New York in the title urban park ranger or asso-
50 ciate urban park ranger), school safety agent, campus peace officer or a
51 taxi and limousine commission inspector member of the New York city
52 employees' retirement system or the New York city board of education
53 retirement system, a dispatcher member of the New York city employees'
54 retirement system, a police communications member of the New York city
55 employees' retirement system, an EMT member of the New York city employ-
56 ees' retirement system, a deputy sheriff member of the New York city

1 employees' retirement system, a correction officer of the Westchester
2 county correction department as defined in section eighty-nine-e of this
3 chapter or employed in Suffolk county as a peace officer, as defined in
4 section eighty-nine-s, as added by chapter five hundred eighty-eight of
5 the laws of nineteen hundred ninety-seven, of this chapter, employed in
6 Suffolk county as a correction officer, as defined in section eighty-
7 nine-f of this chapter, or employed in Nassau county as a correction
8 officer, uniformed correction division personnel, sheriff, undersheriff
9 or deputy sheriff, as defined in section eighty-nine-g of this chapter,
10 or employed in Nassau county as an ambulance medical technician, an
11 ambulance medical technician/supervisor or a member who performs ambu-
12 lance medical technician related services, as defined in section eight-
13 y-nine-s, as amended by chapter five hundred seventy-eight of the laws
14 of nineteen hundred ninety-eight, of this chapter, or employed in Nassau
15 county as a peace officer, as defined in section eighty-nine-s, as added
16 by chapter five hundred ninety-five of the laws of nineteen hundred
17 ninety-seven, of this chapter, or employed in Albany county as a sher-
18 iff, undersheriff, deputy sheriff, correction officer or identification
19 officer, as defined in section eighty-nine-h of this chapter or is
20 employed in St. Lawrence county as a sheriff, undersheriff, deputy sher-
21 iff or correction officer, as defined in section eighty-nine-i of this
22 chapter or is employed in Orleans county as a sheriff, undersheriff,
23 deputy sheriff or correction officer, as defined in section
24 eighty-nine-l of this chapter or is employed in Jefferson county as a
25 sheriff, undersheriff, deputy sheriff or correction officer, as defined
26 in section eighty-nine-j of this chapter or is employed in Onondaga
27 county as a deputy sheriff-jail division competitively appointed or as a
28 correction officer, as defined in section eighty-nine-k of this chapter
29 or is employed in a county which makes an election under subdivision j
30 of section eighty-nine-p of this chapter as a sheriff, undersheriff,
31 deputy sheriff or correction officer as defined in such section eighty-
32 nine-p OF THIS CHAPTER or is employed in Broome County as a sheriff,
33 undersheriff, deputy sheriff or correction officer, as defined in
34 section eighty-nine-m of this chapter or is a Monroe county deputy sher-
35 iff-court security, or deputy sheriff-jailor as defined in section
36 eighty-nine-n, as added by chapter five hundred ninety-seven of the laws
37 of nineteen hundred ninety-one, of this chapter or is employed in Greene
38 county as a sheriff, undersheriff, deputy sheriff or correction officer,
39 as defined in section eighty-nine-o of this chapter or is a traffic
40 officer with the town of Elmira as defined in section eighty-nine-q of
41 this chapter or is employed by Suffolk county as a park police officer,
42 as defined in section eighty-nine-r of this chapter or is a peace offi-
43 cer employed by a county probation department as defined in section
44 eighty-nine-t, as added by chapter six hundred three of the laws of
45 nineteen hundred ninety-eight, of this chapter or is employed in Rock-
46 land county as a deputy sheriff-civil as defined in section
47 eighty-nine-v of this chapter as added by chapter four hundred forty-one
48 of the laws of two thousand one, or is employed in Rockland county as a
49 superior correction officer as defined in section eighty-nine-v of this
50 chapter as added by chapter five hundred fifty-six of the laws of two
51 thousand one or is a paramedic employed by the police department in the
52 town of Tonawanda and retires under the provisions of section eighty-
53 nine-v of this chapter, as added by chapter four hundred seventy-two of
54 the laws of two thousand one, or is a county fire marshal, supervising
55 fire marshal, fire marshal, assistant fire marshal, assistant chief fire
56 marshal or chief fire marshal employed by the county of Nassau as

1 defined in section eighty-nine-w of this chapter, OR IS A DETENTION
2 OFFICER EMPLOYED BY THE CITY OF YONKERS AND RETIRES UNDER THE PROVISIONS
3 OF SECTION EIGHTY-NINE-X OF THIS CHAPTER, and is in a plan which permits
4 immediate retirement upon completion of a specified period of service
5 without regard to age. Except as provided in subdivision c of section
6 four hundred forty-five-a of this article, subdivision c of section four
7 hundred forty-five-b of this article, subdivision c of section four
8 hundred forty-five-c of this article, subdivision c of section four
9 hundred forty-five-d of this article, subdivision c of section four
10 hundred forty-five-e of this article, subdivision c of section four
11 hundred forty-five-f of this article and subdivision c of section four
12 hundred forty-five-h of this article, a member in such a plan and such
13 an occupation, other than a [policeman] POLICE OFFICER or investigator
14 member of the New York city employees' retirement system or a [fireman]
15 FIREFIGHTER, shall not be permitted to retire prior to the completion of
16 twenty-five years of credited service; provided, however, if such a
17 member in such an occupation is in a plan which permits retirement upon
18 completion of twenty years of service regardless of age, he may retire
19 upon completion of twenty years of credited service and prior to the
20 completion of twenty-five years of service, but in such event the bene-
21 fit provided from funds other than those based on such a member's own
22 contributions shall not exceed two per centum of final average salary
23 per each year of credited service.

24 S 3. Section 603 of the retirement and social security law is amended
25 by adding a new subdivision t to read as follows:

26 T. THE SERVICE RETIREMENT BENEFIT SPECIFIED IN SECTION SIX HUNDRED
27 FOUR OF THIS ARTICLE SHALL BE PAYABLE TO MEMBERS WITH TWENTY-FIVE YEARS
28 OF CREDITABLE SERVICE, WITHOUT REGARD TO AGE, WHO ARE DETENTION OFFICERS
29 EMPLOYED BY THE CITY OF YONKERS, AS DEFINED IN SECTION EIGHTY-NINE-X OF
30 THIS CHAPTER, IF: (I) SUCH MEMBERS HAVE MET THE MINIMUM SERVICE REQUIRE-
31 MENTS UPON RETIREMENT, AND (II) IN THE CASE OF A MEMBER SUBJECT TO THE
32 PROVISIONS OF ARTICLE FOURTEEN OF THIS CHAPTER, SUCH MEMBER FILES AN
33 ELECTION THEREFOR WHICH PROVIDES THAT HE OR SHE WILL BE SUBJECT TO THE
34 PROVISIONS OF THIS ARTICLE AND NONE OF THE PROVISIONS OF SUCH ARTICLE
35 FOURTEEN. SUCH ELECTION, WHICH SHALL BE IRREVOCABLE, SHALL BE IN WRIT-
36 ING, DULY EXECUTED AND SHALL BE FILED WITH THE COMPTROLLER ON OR BEFORE
37 SEPTEMBER FIRST, TWO THOUSAND NINE. FOR THE PURPOSES OF THIS SUBDIVI-
38 SION, THE TERM "CREDITABLE SERVICE" SHALL HAVE THE MEANING AS SO DEFINED
39 IN BOTH SECTIONS EIGHTY-NINE-X AND SIX HUNDRED ONE OF THIS CHAPTER.

40 S 4. Section 604 of the retirement and social security law is amended
41 by adding a new subdivision u to read as follows:

42 U. THE EARLY SERVICE RETIREMENT BENEFIT FOR A MEMBER WHO IS A
43 DETENTION OFFICER EMPLOYED BY THE CITY OF YONKERS, AS DEFINED IN SECTION
44 EIGHTY-NINE-X OF THIS CHAPTER, SHALL BE A PENSION EQUAL TO ONE-FIFTIETH
45 OF FINAL AVERAGE SALARY TIMES YEARS OF CREDITED SERVICE AT THE
46 COMPLETION OF TWENTY-FIVE YEARS OF SERVICE AS SUCH DETENTION OFFICER,
47 BUT NOT EXCEEDING ONE-HALF OF HIS OR HER FINAL AVERAGE SALARY.

48 S 5. The cost attributable to the operation of this act shall be borne
49 by the city of Yonkers and shall be paid as provided by applicable law
50 over a ten year period commencing with the state fiscal year ending
51 March 31, 2010.

52 S 6. This act shall take effect immediately; provided that the amend-
53 ments to sections 603 and 604 of the retirement and social security law,
54 made by sections three and four of this act, shall expire on the same
55 date as such sections expire pursuant to section 615 of such law.
FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill would permit detention officers employed by the city of Yonkers to retire upon the completion of twenty-five (25) years of creditable service if the employing city elects to provide this alternative. For all eligible Tier 3 officers who elect to forfeit their benefits under Article 14 and all eligible Tier 1, 2 and 4 officers, their benefit upon retirement would be an allowance of one-half final average salary. There would be no reduction due to early service retirement for these members.

If this bill is enacted, we anticipate that there will be an increase of approximately \$39,700 in the annual contributions of the city of Yonkers.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately \$376,000 which would be borne by the city of Yonkers. If this cost were amortized over a ten (10) year period, the cost for the first year including interest, would be approximately \$51,900. This estimate is based on the assumption that payment will be made on February 1, 2010.

These estimated costs are based on twenty-two (22) known affected members having a total annual salary for the fiscal year ending March 31, 2009 of approximately \$2.7 million.

This estimate, dated April 27, 2009 and intended for use only during the 2009 Legislative Session, is Fiscal Note No. 2009-233, prepared by the Actuary for the New York State and Local Employees' Retirement System.