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

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2009-2010 Regular Sessions

I N S E N A T E

May 27, 2009

Introduced by Sen. BRESLIN -- 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 a twenty-five year optional retirement plan for emergency medical services providers employed by the town of Colonie and to amend the retirement and social security law and the general municipal law, in relation to disability benefits

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

Section 1. The retirement and social security law is amended by adding a new section 89-x to read as follows:

S 89-X. RETIREMENT OF EMERGENCY MEDICAL SERVICES PROVIDERS EMPLOYED BY THE TOWN OF COLONIE. A. A MEMBER EMPLOYED BY THE TOWN OF COLONIE IN A FULL-TIME POSITION WHICH REQUIRES CERTIFICATION AS AN EMERGENCY MEDICAL TECHNICIAN, ADVANCED EMERGENCY MEDICAL TECHNICIAN, OR PARAMEDIC, SHALL BE ELIGIBLE TO RETIRE PURSUANT TO THE PROVISIONS OF THIS SECTION, IF SUCH MEMBER FILES A TIMELY ELECTION WITH THE COMPTROLLER, ON A FORM PROVIDED BY THE COMPTROLLER FOR SUCH PURPOSE, TO BE COVERED BY THIS SECTION. TO BE EFFECTIVE, SUCH FORM MUST BE FILED WITHIN ONE YEAR AFTER THIS SECTION SHALL BECOME LAW, OR WITHIN ONE YEAR FOLLOWING THE INDIVIDUAL'S COMMENCEMENT OF ELIGIBLE EMPLOYMENT WITH THE TOWN OF COLONIE, WHICHEVER IS LATER. THE BENEFITS HEREINABOVE PROVIDED SHALL BE PAYABLE TO A MEMBER, UNLESS AT THE DATE OF RETIREMENT, SUCH MEMBER WOULD OTHERWISE BE ENTITLED TO A GREATER BENEFIT UNDER OTHER PROVISIONS OF THIS ARTICLE HAD HE OR SHE WITHDRAWN FROM THIS SECTION, IN WHICH EVENT SUCH GREATER BENEFITS SHALL BE PAYABLE.

B. SUCH MEMBERS SHALL BE ENTITLED TO RETIRE UPON THE COMPLETION OF TWENTY-FIVE YEARS OF TOTAL CREDITABLE SERVICE BY FILING AN APPLICATION THEREFOR IN THE MANNER PROVIDED FOR IN SECTION SEVENTY OF THIS ARTICLE.

C. UPON COMPLETION OF TWENTY-FIVE YEARS OF SUCH SERVICES AND UPON RETIREMENT, EACH SUCH MEMBER SHALL RECEIVE A PENSION WHICH, TOGETHER

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

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WITH AN ANNUITY WHICH SHALL BE THE ACTUARIAL EQUIVALENT OF HIS OR HER ACCUMULATED CONTRIBUTIONS AT THE TIME OF HIS OR HER RETIREMENT AND AN ADDITIONAL PENSION WHICH IS THE ACTUARIAL EQUIVALENT OF THE RESERVED-FOR-INCREASED-TAKE-HOME-PAY TO WHICH HE OR SHE MAY THEN BE ENTITLED SHALL BE SUFFICIENT TO PROVIDE HIM OR HER WITH A RETIREMENT ALLOWANCE EQUAL TO ONE-HALF OF HIS OR HER FINAL AVERAGE SALARY.

D. AS USED IN THIS SECTION "CREDITABLE SERVICE" SHALL INCLUDE ANY AND ALL SERVICES PERFORMED IN A FULL-TIME POSITION WHICH REQUIRES CERTIFICATION AS AN EMERGENCY MEDICAL TECHNICIAN, ADVANCED EMERGENCY MEDICAL TECHNICIAN, OR PARAMEDIC, WITH THE TOWN OF COLONIE.

E. AS USED IN THIS SECTION "FULL-TIME POSITION" SHALL MEAN AN ANNUAL SALARIED POSITION WITH A REGULAR FIXED SCHEDULE OF TWO THOUSAND EIGHTY HOURS, EXCLUSIVE OF OVERTIME, ANNUALLY.

F. AS USED IN THIS SECTION "PART-TIME POSITION" SHALL MEAN AN HOURLY PAID POSITION WITH A VARIABLE SCHEDULE OF LESS THAN TWO THOUSAND EIGHTY HOURS, EXCLUSIVE OF OVERTIME, ANNUALLY.

G. CREDIT FOR SERVICE AS A FULL-TIME EMERGENCY MEDICAL SERVICES PROVIDER EMPLOYED BY ANY COUNTY, CITY, VILLAGE, TOWN, FIRE DISTRICT OR POLICE DISTRICT, MAY ALSO BE DEEMED TO BE CREDITABLE SERVICE AND SHALL BE INCLUDED IN COMPUTING YEARS OF TOTAL SERVICE FOR RETIREMENT PURSUANT TO THIS SECTION PROVIDED THAT SUCH MEMBER PAYS THE ACCRUED LIABILITY COST, AS CALCULATED BY THE RETIREMENT SYSTEM ACTUARY, ASSOCIATED WITH THE CREDITING OF THIS SERVICE. SUCH COST SHALL BE NON-REFUNDABLE, AND SHALL BE BASED ON ALL AVAILABLE SERVICE CREDIT AT THE TIME OF THE REQUEST FOR SUCH SERVICE CREDIT.

H. CREDIT FOR SERVICE IN THE TOWN OF COLONIE IN A PART-TIME POSITION WHICH REQUIRES CERTIFICATION AS AN EMERGENCY MEDICAL TECHNICIAN, ADVANCED EMERGENCY MEDICAL TECHNICIAN, OR PARAMEDIC MAY ALSO BE DEEMED TO BE CREDITABLE SERVICE AND SHALL BE INCLUDED IN COMPUTING YEARS OF TOTAL SERVICE FOR REIMBURSEMENT PURSUANT TO THIS SECTION PROVIDED THAT SUCH MEMBER PAYS THE ACCRUED LIABILITY COST, AS CALCULATED BY THE RETIREMENT SYSTEM ACTUARY, ASSOCIATED WITH THE CREDITING OF THIS SERVICE. SUCH COST SHALL BE NON-REFUNDABLE, AND WILL BE BASED ON ALL AVAILABLE SERVICE CREDIT AT THE TIME OF THE REQUEST FOR SUCH SERVICE CREDIT.

I. THE TOWN OF COLONIE SHALL CERTIFY TO THE COMPTROLLER, PERIODICALLY AND AT SUCH INTERVALS OF TIME AS MAY BE REQUIRED AND IN SUCH FASHION AS MAY BE PRESCRIBED, THE IDENTITY OF THE PART-TIME OR FULL-TIME EMERGENCY MEDICAL SERVICES PROVIDERS IN ITS EMPLOY.

J. A MEMBER CONTRIBUTING ON THE BASIS OF THIS SECTION AT THE TIME OF RETIREMENT, MAY RETIRE AFTER THE COMPLETION OF TWENTY-FIVE YEARS OF TOTAL CREDITABLE SERVICE. APPLICATION THEREFOR MAY BE FILED IN A MANNER SIMILAR TO THAT PROVIDED IN SECTION SEVENTY OF THIS ARTICLE. UPON COMPLETION OF TWENTY-FIVE YEARS OF SUCH SERVICES AND UPON RETIREMENT, EACH SUCH MEMBER SHALL RECEIVE A PENSION WHICH, TOGETHER WITH AN ANNUITY WHICH SHALL BE THE ACTUARIAL EQUIVALENT OF HIS OR HER ACCUMULATED CONTRIBUTIONS AT THE TIME OF HIS OR HER RETIREMENT AND AN ADDITIONAL PENSION WHICH IS THE ACTUARIAL EQUIVALENT OF THE RESERVED-FOR-INCREASED-TAKE-HOME-PAY TO WHICH HE OR SHE MAY THEN BE ENTITLED SHALL BE SUFFICIENT TO PROVIDE HIM OR HER WITH A RETIREMENT ALLOWANCE EQUAL TO ONE-HALF OF HIS OR HER FINAL AVERAGE SALARY. UPON RETIREMENT, EACH SUCH MEMBER SHALL RECEIVE, FOR EACH YEAR OF SERVICE IN EXCESS OF TWENTY-FIVE, AN ADDITIONAL PENSION WHICH SHALL BE EQUAL TO ONE-SIXTIETH OF HIS OR HER FINAL AVERAGE SALARY; PROVIDED, HOWEVER, THAT THE TOTAL ALLOWANCE PAYABLE PURSUANT TO THIS SECTION SHALL NOT EXCEED THREE-QUARTERS OF SUCH MEMBER'S FINAL AVERAGE SALARY.

K. IN COMPUTING THE SERVICE OF A MEMBER PURSUANT TO THIS SECTION, FULL CREDIT SHALL BE GIVEN AND FULL ALLOWANCE SHALL BE MADE FOR SERVICE OF SUCH MEMBER IN TIME OF WAR AFTER WORLD WAR I AS DEFINED IN SECTION TWO OF THIS CHAPTER, PROVIDED SUCH MEMBER AT THE TIME OF HIS OR HER ENTRANCE INTO THE ARMED FORCES WAS IN THE SERVICE OF THE TOWN OF COLONIE AS AN EMERGENCY MEDICAL TECHNICIAN, ADVANCED EMERGENCY MEDICAL TECHNICIAN OR PARAMEDIC.

L. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PREVENT A MEMBER, WHO DOES NOT RETIRE PURSUANT TO THE PROVISIONS OF THIS SECTION, FROM UTILIZING SERVICE WHICH IS CREDITABLE SERVICE PURSUANT TO THE PROVISIONS OF THIS SECTION FOR SERVICE CREDIT PURSUANT TO THE PROVISIONS OF ANY OTHER PLAN OF THIS ARTICLE TO WHICH SUCH MEMBER IS SUBJECT.

M. ACCIDENTAL DISABILITY RETIREMENT FOR EMERGENCY MEDICAL SERVICES PROVIDERS EMPLOYED BY THE TOWN OF COLONIE. A MEMBER EMPLOYED BY THE TOWN OF COLONIE IN A FULL-TIME POSITION WHICH REQUIRES CERTIFICATION AS AN EMERGENCY MEDICAL TECHNICIAN, ADVANCED EMERGENCY MEDICAL TECHNICIAN, OR PARAMEDIC WHO BECOMES PHYSICALLY OR MENTALLY INCAPACITATED FOR THE PERFORMANCE OF DUTIES AS THE NATURAL AND PROXIMATE RESULT OF AN ACCIDENT, SUSTAINED IN THE PERFORMANCE OF HIS OR HER DUTIES, NOT CAUSED BY HIS OR HER WILLFUL NEGLIGENCE, SUSTAINED IN SUCH SERVICE AND WHILE ACTUALLY A MEMBER OF THE RETIREMENT SYSTEM, SHALL BE PAID AN ACCIDENTAL DISABILITY RETIREMENT ALLOWANCE EQUAL TO THREE-QUARTERS OF FINAL AVERAGE COMPENSATION AS PROVIDED IN SECTION SIXTY-THREE OF THIS ARTICLE, SUBJECT TO THE PROVISIONS OF SECTION SIXTY-FOUR OF THIS ARTICLE.

N. IMPAIRMENTS OF HEALTH; PRESUMPTION. NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER OR OF ANY GENERAL, SPECIAL OR LOCAL LAW TO THE CONTRARY, ANY EMERGENCY MEDICAL SERVICES PROVIDER EMPLOYED BY THE TOWN OF COLONIE WHO IS COVERED BY THE PROVISIONS OF THIS SECTION OR SUBDIVISION U OF SECTION SIX HUNDRED FOUR OF THIS CHAPTER AND WHO CONTRACTS HIV, TUBERCULOSIS OR HEPATITIS AFTER CONTACT WITH A MEMBER OF THE PUBLIC (WHERE THERE MAY HAVE BEEN AN EXPOSURE TO A BODILY FLUID) WILL BE PRESUMED TO HAVE CONTRACTED SUCH DISEASE IN THE PERFORMANCE OR DISCHARGE OF HIS OR HER DUTIES AS THE NATURAL AND PROXIMATE RESULT OF AN ACCIDENT SUSTAINED IN THE PERFORMANCE OF DUTIES UNLESS THE CONTRARY BE PROVEN BY COMPETENT EVIDENCE.

O. NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER OR OF ANY GENERAL OR SPECIAL LAW TO THE CONTRARY, ANY CONDITION OR IMPAIRMENT OF HEALTH CAUSED BY DISEASES OF THE HEART, RESULTING IN DISABILITY OR DEATH TO ANY EMERGENCY MEDICAL SERVICES PROVIDER EMPLOYED BY THE TOWN OF COLONIE WHO IS COVERED BY THE PROVISIONS OF THIS SECTION OR SUBDIVISION U OF SECTION SIX HUNDRED FOUR OF THIS CHAPTER AND WHO, PRIOR TO ENTRY INTO SUCH SERVICE SUCCESSFULLY PASSED A PHYSICAL EXAMINATION WHICH FAILED TO DISCLOSE EVIDENCE OF ANY DISEASE OR OTHER IMPAIRMENT OF THE HEART SHALL BE PRESUMPTIVE EVIDENCE THAT IT WAS INCURRED IN THE PERFORMANCE OR DISCHARGE OF DUTY AND THE NATURAL AND PROXIMATE RESULT OF AN ACCIDENT, UNLESS THE CONTRARY BE PROVEN BY COMPETENT EVIDENCE.

P. AN EMERGENCY MEDICAL SERVICES PROVIDER EMPLOYED BY THE TOWN OF COLONIE WHO IS COVERED BY THE PROVISIONS OF THIS SECTION OR SUBDIVISION U OF SECTION SIX HUNDRED FOUR OF THIS CHAPTER AND IS IN A PLAN WHICH PERMITS IMMEDIATE RETIREMENT UPON COMPLETION OF A SPECIFIED PERIOD OF SERVICE WITHOUT REGARD TO AGE OR WHO IS SUBJECT TO THE PROVISION OF SUBDIVISION B OF SECTION FOUR HUNDRED FORTY-FIVE OF THIS CHAPTER, SHALL UPON COMPLETION OF NINETY DAYS OF SERVICE BE COVERED FOR FINANCIAL PROTECTION IN THE EVENT OF DEATH IN SERVICE PURSUANT TO THIS SUBDIVISION. SUCH DEATH BENEFIT SHALL BE EQUAL TO THREE TIMES THE MEMBER'S SALARY RAISED TO THE NEXT HIGHEST MULTIPLE OF ONE THOUSAND DOLLARS, BUT

IN NO EVENT SHALL IT EXCEED THREE TIMES THE MAXIMUM SALARY SPECIFIED IN SECTION ONE HUNDRED THIRTY OF THE CIVIL SERVICE LAW.

Q. THE PROVISIONS OF THIS SECTION SHALL BE CONTROLLING NOTWITHSTANDING ANY OTHER PROVISIONS IN THIS CHAPTER TO THE CONTRARY.

S 2. Subdivision a of section 445 of the retirement and social security law, as amended by chapter 295 of the laws of 2007, is amended to read as follows:

a. No member of a retirement system who is subject to the provisions of this article shall retire without regard to age, exclusive of retirement for disability, unless he OR SHE is a [policeman] POLICE OFFICER, an investigator member of the New York city employees' retirement system, [fireman] FIREFIGHTER, correction officer, a qualifying member as defined in section eighty-nine-t, as added by chapter six hundred fifty-seven of the laws of nineteen hundred ninety-eight, of this chapter, sanitation [man] WORKER, a special officer (including persons employed by the city of New York in the title urban park ranger or associate urban park ranger), school safety agent, campus peace officer or a taxi and limousine commission inspector member of the New York city employees' retirement system or the New York city board of education retirement system, a dispatcher member of the New York city employees' retirement system, a police communications member of the New York city employees' retirement system, an EMT member of the New York city employees' retirement system, a deputy sheriff member of the New York city employees' retirement system, a correction officer of the Westchester county correction department as defined in section eighty-nine-e of this chapter or employed in Suffolk county as a peace officer, as defined in section eighty-nine-s, as added by chapter five hundred eighty-eight of the laws of nineteen hundred ninety-seven, of this chapter, employed in Suffolk county as a correction officer, as defined in section eighty-nine-f of this chapter, or employed in Nassau county as a correction officer, uniformed correction division personnel, sheriff, undersheriff or deputy sheriff, as defined in section eighty-nine-g of this chapter, or employed in Nassau county as an ambulance medical technician, an ambulance medical technician/supervisor or a member who performs ambulance medical technician related services, as defined in section eighty-nine-s, as amended by chapter five hundred seventy-eight of the laws of nineteen hundred ninety-eight, of this chapter, or employed in Nassau county as a peace officer, as defined in section eighty-nine-s, as added by chapter five hundred ninety-five of the laws of nineteen hundred ninety-seven, of this chapter, or employed in Albany county as a sheriff, undersheriff, deputy sheriff, correction officer or identification officer, as defined in section eighty-nine-h of this chapter or is employed in St. Lawrence county as a sheriff, undersheriff, deputy sheriff or correction officer, as defined in section eighty-nine-i of this chapter or is employed in Orleans county as a sheriff, undersheriff, deputy sheriff or correction officer, as defined in section eighty-nine-l of this chapter or is employed in Jefferson county as a sheriff, undersheriff, deputy sheriff or correction officer, as defined in section eighty-nine-j of this chapter or is employed in Onondaga county as a deputy sheriff-jail division competitively appointed or as a correction officer, as defined in section eighty-nine-k of this chapter or is employed in a county which makes an election under subdivision j of section eighty-nine-p of this chapter as a sheriff, undersheriff, deputy sheriff or correction officer as defined in such section eighty-nine-p or is employed in Broome County as a sheriff, undersheriff, deputy sheriff or correction officer, as defined in section eighty-nine-m of

this chapter or is a Monroe county deputy sheriff-court security, or deputy sheriff-jailor as defined in section eighty-nine-n, as added by chapter five hundred ninety-seven of the laws of nineteen hundred ninety-one, of this chapter or is employed in Greene county as a sheriff, undersheriff, deputy sheriff or correction officer, as defined in section eighty-nine-o of this chapter or is a traffic officer with the town of Elmira as defined in section eighty-nine-q of this chapter or is employed by Suffolk county as a park police officer, as defined in section eighty-nine-r of this chapter or is a peace officer employed by a county probation department as defined in section eighty-nine-t, as added by chapter six hundred three of the laws of nineteen hundred ninety-eight, of this chapter or is employed in Rockland county as a deputy sheriff-civil as defined in section eighty-nine-v of this chapter as added by chapter four hundred forty-one of the laws of two thousand one, or is employed in Rockland county as a superior correction officer as defined in section eighty-nine-v of this chapter as added by chapter five hundred fifty-six of the laws of two thousand one or is a paramedic employed by the police department in the town of Tonawanda and retires under the provisions of section eighty-nine-v of this chapter, as added by chapter four hundred seventy-two of the laws of two thousand one, or is a county fire marshal, supervising fire marshal, fire marshal, assistant fire marshal, assistant chief fire marshal or chief fire marshal employed by the county of Nassau as defined in section eighty-nine-w of this chapter, OR IS EMPLOYED IN A FULL-TIME POSITION WHICH REQUIRES CERTIFICATION AS AN EMERGENCY MEDICAL TECHNICIAN, ADVANCED EMERGENCY MEDICAL TECHNICIAN, OR PARAMEDIC BY THE TOWN OF COLONIE AND RETIRES UNDER THE PROVISIONS OF SECTION EIGHTY-NINE-X OF THIS CHAPTER and is in a plan which permits immediate retirement upon completion of a specified period of service without regard to age. Except as provided in subdivision c of section four hundred forty-five-a of this article, subdivision c of section four hundred forty-five-b of this article, subdivision c of section four hundred forty-five-c of this article, subdivision c of section four hundred forty-five-d of this article, subdivision c of section four hundred forty-five-e of this article, subdivision c of section four hundred forty-five-f of this article and subdivision c of section four hundred forty-five-h of this article, a member in such a plan and such an occupation, other than a [policeman] POLICE OFFFICER or investigator member of the New York city employees' retirement system or a [fireman] FIREFIGHTER, shall not be permitted to retire prior to the completion of twenty-five years of credited service; provided, however, if such a member in such an occupation is in a plan which permits retirement upon completion of twenty years of service regardless of age, he OR SHE may retire upon completion of twenty years of credited service and prior to the completion of twenty-five years of service, but in such event the benefit provided from funds other than those based on such a member's own contributions shall not exceed two per centum of final average salary per each year of credited service.

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

T. THE SERVICE RETIREMENT BENEFIT SPECIFIED IN SECTION SIX HUNDRED FOUR OF THIS ARTICLE SHALL BE PAYABLE TO MEMBERS WITH TWENTY-FIVE OR MORE YEARS OF CREDITABLE SERVICE, WITHOUT REGARD TO AGE, WHO ARE EMPLOYED IN A FULL-TIME POSITION WHICH REQUIRES CERTIFICATION AS AN EMERGENCY MEDICAL TECHNICIAN, ADVANCED EMERGENCY MEDICAL TECHNICIAN, OR PARAMEDIC BY THE TOWN OF COLONIE IF: (I) SUCH MEMBERS HAVE MET THE MINIMUM SERVICE REQUIREMENTS UPON RETIREMENT, AND (II) IN THE CASE OF A

MEMBER SUBJECT TO THE PROVISIONS OF ARTICLE FOURTEEN OF THIS CHAPTER, SUCH MEMBER FILES AN ELECTION THEREFOR WHICH PROVIDES THAT HE OR SHE WILL BE SUBJECT TO THE PROVISIONS OF THIS ARTICLE AND TO NONE OF THE PROVISIONS OF SUCH ARTICLE FOURTEEN. SUCH ELECTION WHICH SHALL BE IRREVOCABLE, SHALL BE IN WRITING, DULY EXECUTED AND SHALL BE FILED WITH THE COMPTROLLER WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SUBDIVISION. FOR THE PURPOSES OF THIS SUBDIVISION, THE TERM "CREDITABLE SERVICE" SHALL HAVE THE MEANING AS SO DEFINED IN BOTH SECTION EIGHTY-NINE-X OF THIS CHAPTER AND SECTION SIX HUNDRED ONE OF THIS ARTICLE.

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

U. THE EARLY SERVICE RETIREMENT BENEFIT FOR A MEMBER WHO IS AN EMERGENCY MEDICAL SERVICES PROVIDER EMPLOYED BY THE TOWN OF COLONIE AS DEFINED IN SECTION EIGHTY-NINE-X OF THIS CHAPTER SHALL BE A PENSION EQUAL TO ONE-FIFTIETH OF FINAL AVERAGE SALARY TIMES YEARS OF CREDITED SERVICE AT THE COMPLETION OF TWENTY-FIVE YEARS OF CREDITED SERVICE AS SUCH EMERGENCY MEDICAL SERVICES PROVIDER, BUT NOT EXCEEDING ONE-HALF OF HIS OR HER FINAL AVERAGE SALARY. IN ADDITION THERETO, UPON RETIREMENT, EACH SUCH MEMBER SHALL RECEIVE, FOR EACH YEAR OF SERVICE IN EXCESS OF TWENTY-FIVE YEARS, A PENSION WHICH SHALL BE EQUAL TO ONE-SIXTIETH OF HIS OR HER FINAL AVERAGE SALARY. THE TOTAL ALLOWANCE PAYABLE PURSUANT TO THIS SECTION SHALL NOT EXCEED THREE-QUARTERS OF SUCH MEMBER'S FINAL AVERAGE SALARY.

S 5. The retirement and social security law is amended by adding a new section 607-i to read as follows:

S 607-I. ACCIDENTAL DISABILITY RETIREMENT FOR EMERGENCY MEDICAL SERVICES PROVIDER EMPLOYED BY THE TOWN OF COLONIE. A. A MEMBER EMPLOYED BY THE TOWN OF COLONIE IN A FULL-TIME POSITION WHICH REQUIRES CERTIFICATION AS AN EMERGENCY MEDICAL TECHNICIAN, ADVANCED EMERGENCY MEDICAL TECHNICIAN, OR PARAMEDIC, WHO BECOMES PHYSICALLY OR MENTALLY INCAPACITATED FOR THE PERFORMANCE OF DUTIES AS THE NATURAL AND PROXIMATE RESULT OF AN ACCIDENT, NOT CAUSED BY HIS OR HER WILLFUL NEGLIGENCE, SUSTAINED IN SUCH SERVICE AND WHILE ACTUALLY A MEMBER OF THE RETIREMENT SYSTEM, SHALL BE PAID AN ACCIDENTAL DISABILITY RETIREMENT ALLOWANCE EQUAL TO THREE-QUARTERS OF FINAL AVERAGE COMPENSATION AS PROVIDED IN SECTION SIXTY-THREE OF THIS CHAPTER, SUBJECT TO THE PROVISIONS OF SECTION SIXTY-FOUR OF THIS CHAPTER.

B. NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER OR ANY GENERAL OR SPECIAL LAW TO THE CONTRARY, ANY CONDITION OR IMPAIRMENT OF HEALTH CAUSED BY DISEASES OF THE HEART, RESULTING IN THE DISABILITY OR DEATH TO ANY MEMBER COVERED BY THIS SECTION, OR SUBDIVISION U OF SECTION SIX HUNDRED FOUR OF THIS ARTICLE PRESENTLY EMPLOYED AND WHO SHALL HAVE SUSTAINED SUCH DISABILITY WHILE SO EMPLOYED, WHO SUCCESSFULLY PASSED A PHYSICAL EXAMINATION WHICH FAILED TO DISCLOSE EVIDENCE OF ANY DISEASE OR OTHER IMPAIRMENT OF THE HEART, SHALL BE PRESUMPTIVE EVIDENCE THAT IT WAS INCURRED IN THE PERFORMANCE OR DISCHARGE OF DUTY, UNLESS, THE CONTRARY CAN BE PROVEN BY COMPETENT EVIDENCE.

C. NOTWITHSTANDING ANY PROVISIONS OF THIS CHAPTER OR OF ANY GENERAL OR SPECIAL LAW TO THE CONTRARY, A MEMBER COVERED BY THIS SECTION OR SUBDIVISION U OF SECTION SIX HUNDRED FOUR OF THIS ARTICLE WHO CONTRACTS HIV, TUBERCULOSIS OR HEPATITIS AFTER CONTACT WITH MEMBERS OF THE PUBLIC (WHERE THERE MAY HAVE BEEN AN EXPOSURE TO A BODILY FLUID), WILL BE PRESUMED TO HAVE CONTRACTED SUCH DISEASE IN THE PERFORMANCE OR DISCHARGE OF HIS OR HER DUTIES, AS THE NATURAL AND PROXIMATE RESULT OF AN ACCIDENT

SUSTAINED IN THE PERFORMANCE OF DUTIES UNLESS THE CONTRARY BE PROVEN BY COMPETENT EVIDENCE.

S 6. The general municipal law is amended by adding a new section 207-r to read as follows:

S 207-R. ACCIDENTAL DISABILITY RETIREMENT FOR EMERGENCY MEDICAL SERVICES PROVIDERS EMPLOYED BY THE TOWN OF COLONIE. A. NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER OR ANY GENERAL OR SPECIAL LAW TO THE CONTRARY, ANY CONDITION OR IMPAIRMENT OF HEALTH CAUSED BY DISEASES OF THE HEART, RESULTING IN THE DISABILITY OR DEATH TO AN EMERGENCY MEDICAL SERVICES PROVIDER AS DEFINED IN SECTION EIGHTY-NINE-X OF THE RETIREMENT AND SOCIAL SECURITY LAW EMPLOYED BY THE TOWN OF COLONIE, AND WHO IS PRESENTLY EMPLOYED AND WHO SHALL HAVE SUSTAINED SUCH DISABILITY WHILE SO EMPLOYED, AND WHO SUCCESSFULLY PASSED A PHYSICAL EXAMINATION ON ENTRY INTO SERVICE AS A MEMBER COVERED BY THIS SECTION, WHICH EXAMINATION FAILED TO DISCLOSE EVIDENCE OF ANY DISEASE OR OTHER IMPAIRMENT OF THE HEART, SHALL BE PRESUMPTIVE EVIDENCE THAT IT WAS INCURRED IN THE PERFORMANCE AND DISCHARGE OF DUTY, UNLESS THE CONTRARY CAN BE PROVEN BY COMPETENT EVIDENCE.

B. NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER OR OF ANY GENERAL OR SPECIAL LAW TO THE CONTRARY, AN EMERGENCY MEDICAL SERVICES PROVIDER AS DEFINED IN SECTION EIGHTY-NINE-X OF THE RETIREMENT AND SOCIAL SECURITY LAW EMPLOYED BY THE TOWN OF COLONIE, WHO CONTRACTS HIV, TUBERCULOSIS OR HEPATITIS AFTER CONTACT WITH MEMBERS OF THE PUBLIC (WHERE THERE MAY HAVE BEEN AN EXPOSURE TO A BODILY FLUID), WILL BE PRESUMED TO HAVE CONTRACTED SUCH DISEASE IN THE PERFORMANCE OR DISCHARGE OF HIS OR HER DUTIES, AS THE NATURAL AND PROXIMATE RESULT OF AN ACCIDENT SUSTAINED IN THE PERFORMANCE OF DUTIES UNLESS THE CONTRARY BE PROVEN BY COMPETENT EVIDENCE.

S 7. The past service cost attributable to the operation of this act shall be borne by the town of Colonie and may, at the option of the town, be paid over a five year period at the rate or rates of interest used in the actuarial valuations covering that five year time period.

S 8. This act shall take effect immediately, provided, however that the amendments to article 15 of the retirement and social security law made by sections three, four and five of this act shall not affect the expiration of such article and shall expire on the same date as such article expires pursuant to section 615 of the retirement and social security law.

FISCAL NOTE.-- This bill will permit certain full-time emergency medical technicians, advanced emergency medical technicians or paramedics employed by the Town of Colonie to retire upon completion of 25 years of creditable service. For all eligible Tier 3 members who elect to forfeit their benefits under Article 14 and all eligible Tier 1, 2 and 4 members, the benefit upon retirement will be an allowance of one-half final average salary. In addition, members who render service in excess of 25 years of service will receive an additional pension of one-sixtieth of final average salary for each year of service in excess of 25, limited to 15 such years. There will be no reduction due to early service retirement for these members. In addition, this bill will provide a 75% of final average salary accidental disability benefit, less workers' compensation. The improved disability will include the assumption of accident if the disability is due to HIV, tuberculosis or hepatitis. The assumption of accident will also apply to heart disabilities, but the member would have to prove that such heart related disability was the result of an accident. In addition, this bill will allow such full-time employees to purchase similar full-time service from

other employers as well as any part-time emergency medical technician service with the Town of Colonie.

If this bill is enacted, we anticipate that there will be an increase of approximately $54,000 in the annual contributions of the Town of Colonie for the fiscal year ending March 31, 2010.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately $399,000 which would be borne by the Town of Colonie. If this cost is amortized over a period of five (5) years, the cost for the first year, including interest, will be approximately $92,600.

These estimated costs are based on 41 full-time members having an estimated total annual salary for the fiscal year ending March 31, 2009 of approximately $2.6 million.

This estimate, dated January 20, 2009, and intended for use only during the 2009 Legislative Session, is Fiscal Note No, 2009-94, prepared by the Actuary for the New York State and Local Employees' Retirement System.