

10548

I N A S S E M B L Y

April 2, 2010

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

AN ACT to amend the education law, the retirement and social security law and the administrative code of the city of New York, in relation to permitting members of the New York state and New York city teachers' retirement systems to claim retirement credit for certain service as a teacher in another state

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

1 Section 1. Subdivision 2 of section 509 of the education law is  
2 amended by adding a new paragraph d to read as follows:  
3 D. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A MEMBER SHALL BE ENTI-  
4 TLED TO OBTAIN CREDIT FOR UP TO TEN YEARS OF SERVICE RENDERED IN THE  
5 EMPLOY OF ANOTHER STATE, WHICH WOULD CONSTITUTE SERVICE AS A TEACHER,  
6 HAD IT BEEN PERFORMED WITHIN NEW YORK STATE FOR AN EMPLOYER SUBJECT TO  
7 THE PROVISIONS OF THIS ARTICLE. THE CREDITING OF SERVICE PURSUANT TO  
8 THIS PARAGRAPH SHALL BE IN ACCORDANCE WITH RULES AND REGULATIONS AS  
9 SHALL BE ADOPTED BY THE RETIREMENT BOARD, PROVIDED THAT SUCH RULES AND  
10 REGULATIONS SHALL BE SUBSTANTIALLY EQUIVALENT TO THE RULES AND REGU-  
11 LATIONS OTHERWISE APPLICABLE FOR THE CREDITING OF SERVICE PURSUANT TO  
12 THIS SECTION. PROVIDED, HOWEVER, NO SUCH CREDIT SHALL BE ALLOWED FOR ANY  
13 SERVICE FOR WHICH THE PERSON IS RECEIVING A BENEFIT OR WILL BE ENTITLED  
14 TO RECEIVE A BENEFIT AT ANY FUTURE TIME FROM SOME OTHER PUBLIC OR  
15 PRIVATE RETIREMENT SYSTEM OR PLAN, IN THIS STATE, IN ANY OTHER STATE OR  
16 FROM THE FEDERAL GOVERNMENT. NOTHING IN THIS PARAGRAPH SHALL AUTHORIZE  
17 OR REQUIRE THE SYSTEM TO CREDIT SERVICE WHERE NOT PERMITTED BY SECTION  
18 415 (N) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.  
19 S 2. Section 446 of the retirement and social security law is amended  
20 by adding a new subdivision k to read as follows:  
21 K. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A MEMBER OF A TEACHERS'  
22 RETIREMENT SYSTEM SUBJECT TO THE PROVISIONS OF THIS ARTICLE SHALL BE  
23 ENTITLED TO OBTAIN CREDIT FOR UP TO TEN YEARS OF SERVICE RENDERED IN THE  
24 EMPLOY OF ANOTHER STATE, WHICH WOULD CONSTITUTE SERVICE AS A TEACHER,  
25 HAD IT BEEN PERFORMED WITHIN NEW YORK STATE FOR AN EMPLOYER SUBJECT TO

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

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1 THE PROVISIONS OF THIS ARTICLE. THE CREDITING OF SERVICE PURSUANT TO  
2 THIS SUBDIVISION SHALL BE IN ACCORDANCE WITH RULES AND REGULATIONS AS  
3 SHALL BE ADOPTED BY THE RETIREMENT BOARD OF SUCH RETIREMENT SYSTEM,  
4 PROVIDED THAT SUCH RULES AND REGULATIONS SHALL BE SUBSTANTIALLY EQUIV-  
5 ALENT TO THE RULES AND REGULATIONS OTHERWISE APPLICABLE FOR THE CREDIT-  
6 ING OF SERVICE PURSUANT TO THIS SECTION. PROVIDED, HOWEVER, NO SUCH  
7 CREDIT SHALL BE ALLOWED FOR ANY SERVICE FOR WHICH THE PERSON IS RECEIV-  
8 ING A BENEFIT OR WILL BE ENTITLED TO RECEIVE A BENEFIT AT ANY FUTURE  
9 TIME FROM SOME OTHER PUBLIC OR PRIVATE RETIREMENT SYSTEM OR PLAN, IN  
10 THIS STATE, IN ANY OTHER STATE OR FROM THE FEDERAL GOVERNMENT. NOTHING  
11 IN THIS SUBDIVISION SHALL AUTHORIZE OR REQUIRE THE SYSTEM TO CREDIT  
12 SERVICE WHERE NOT PERMITTED BY SECTION 415 (N) OF THE INTERNAL REVENUE  
13 CODE OF 1986, AS AMENDED.

14 S 3. Section 513 of the retirement and social security law is amended  
15 by adding a new subdivision i to read as follows:

16 I. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A MEMBER OF A TEACHERS'  
17 RETIREMENT SYSTEM SUBJECT TO THE PROVISIONS OF THIS ARTICLE SHALL BE  
18 ENTITLED TO OBTAIN CREDIT FOR UP TO TEN YEARS OF SERVICE RENDERED IN THE  
19 EMPLOY OF ANOTHER STATE, WHICH WOULD CONSTITUTE SERVICE AS A TEACHER,  
20 HAD IT BEEN PERFORMED WITHIN NEW YORK STATE FOR AN EMPLOYER SUBJECT TO  
21 THE PROVISIONS OF THIS ARTICLE, PROVIDED SUCH MEMBER MAKES THE PAYMENTS  
22 REQUIRED PURSUANT TO THE PROVISIONS OF SECTION FIVE HUNDRED SEVENTEEN OF  
23 THIS ARTICLE. THE CREDITING OF SERVICE PURSUANT TO THIS SUBDIVISION  
24 SHALL BE IN ACCORDANCE WITH RULES AND REGULATIONS AS SHALL BE ADOPTED BY  
25 THE RETIREMENT BOARD OF SUCH RETIREMENT SYSTEM, PROVIDED THAT SUCH RULES  
26 AND REGULATIONS SHALL BE SUBSTANTIALLY EQUIVALENT TO THE RULES AND REGU-  
27 LATIONS OTHERWISE APPLICABLE FOR THE CREDITING OF SERVICE PURSUANT TO  
28 THIS SECTION. PROVIDED, HOWEVER, NO SUCH CREDIT SHALL BE ALLOWED FOR  
29 ANY SERVICE FOR WHICH THE PERSON IS RECEIVING A BENEFIT OR WILL BE ENTI-  
30 TLED TO RECEIVE A BENEFIT AT ANY FUTURE TIME FROM SOME OTHER PUBLIC OR  
31 PRIVATE RETIREMENT SYSTEM OR PLAN, IN THIS STATE, IN ANY OTHER STATE OR  
32 FROM THE FEDERAL GOVERNMENT. NOTHING IN THIS SUBDIVISION SHALL AUTHOR-  
33 IZE OR REQUIRE THE SYSTEM TO CREDIT SERVICE WHERE NOT PERMITTED BY  
34 SECTION 415 (N) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.

35 S 4. Section 609 of the retirement and social security law is amended  
36 by adding a new subdivision h to read as follows:

37 H. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A MEMBER OF A TEACHERS'  
38 RETIREMENT SYSTEM SUBJECT TO THE PROVISIONS OF THIS ARTICLE SHALL BE  
39 ENTITLED TO OBTAIN CREDIT FOR UP TO TEN YEARS OF SERVICE RENDERED IN THE  
40 EMPLOY OF ANOTHER STATE, WHICH WOULD CONSTITUTE SERVICE AS A TEACHER,  
41 HAD IT BEEN PERFORMED WITHIN NEW YORK STATE FOR AN EMPLOYER SUBJECT TO  
42 THE PROVISIONS OF THIS ARTICLE, PROVIDED SUCH MEMBER MAKES THE PAYMENTS  
43 REQUIRED PURSUANT TO THE PROVISIONS OF SECTION SIX HUNDRED THIRTEEN OF  
44 THIS ARTICLE AND PARAGRAPH TWO OF SUBDIVISION B OF THIS SECTION. THE  
45 CREDITING OF SERVICE PURSUANT TO THIS SUBDIVISION SHALL BE IN ACCORDANCE  
46 WITH RULES AND REGULATIONS AS SHALL BE ADOPTED BY THE RETIREMENT BOARD  
47 OF SUCH RETIREMENT SYSTEM, PROVIDED THAT SUCH RULES AND REGULATIONS  
48 SHALL BE SUBSTANTIALLY EQUIVALENT TO THE RULES AND REGULATIONS OTHERWISE  
49 APPLICABLE FOR THE CREDITING OF SERVICE PURSUANT TO THIS SECTION.  
50 PROVIDED, HOWEVER, NO SUCH CREDIT SHALL BE ALLOWED FOR ANY SERVICE FOR  
51 WHICH THE PERSON IS RECEIVING A BENEFIT OR WILL BE ENTITLED TO RECEIVE A  
52 BENEFIT AT ANY FUTURE TIME FROM SOME OTHER PUBLIC OR PRIVATE RETIREMENT  
53 SYSTEM OR PLAN, IN THIS STATE, IN ANY OTHER STATE OR FROM THE FEDERAL  
54 GOVERNMENT. NOTHING IN THIS SUBDIVISION SHALL AUTHORIZE OR REQUIRE THE  
55 SYSTEM TO CREDIT SERVICE WHERE NOT PERMITTED BY SECTION 415 (N) OF THE  
56 INTERNAL REVENUE CODE OF 1986, AS AMENDED.

1 S 5. Subparagraph (d) of paragraph 3 of subdivision a of section  
2 13-505 of the administrative code of the city of New York is amended to  
3 read as follows:

4 (d) Credit for such prior service up to a maximum of fifteen years  
5 shall be given only if application and payment therefor is made by the  
6 contributor within the first four years subsequent to membership in the  
7 New York city teachers' retirement system or before December thirty-  
8 first, [nineteen hundred sixty-nine] TWO THOUSAND SIX, whichever is  
9 later.

10 S 6. Subdivision a of section 13-505 of the administrative code of the  
11 city of New York is amended by adding a new paragraph 10 to read as  
12 follows:

13 10. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A MEMBER SHALL BE  
14 ENTITLED TO OBTAIN CREDIT FOR UP TO TEN YEARS OF SERVICE RENDERED IN THE  
15 EMPLOY OF ANOTHER STATE, WHICH WOULD CONSTITUTE SERVICE AS A TEACHER,  
16 HAD IT BEEN PERFORMED WITHIN NEW YORK STATE FOR AN EMPLOYER SUBJECT TO  
17 THE PROVISIONS OF THIS CHAPTER. THE CREDITING OF SERVICE PURSUANT TO  
18 THIS PARAGRAPH SHALL BE IN ACCORDANCE WITH RULES AND REGULATIONS AS  
19 SHALL BE ADOPTED BY THE RETIREMENT BOARD, PROVIDED THAT SUCH RULES AND  
20 REGULATIONS SHALL BE SUBSTANTIALLY EQUIVALENT TO THE RULES AND REGU-  
21 LATIONS OTHERWISE APPLICABLE FOR THE CREDITING OF SERVICE PURSUANT TO  
22 THIS SECTION. PROVIDED, HOWEVER, NO SUCH CREDIT SHALL BE ALLOWED FOR ANY  
23 SERVICE FOR WHICH THE PERSON IS RECEIVING A BENEFIT OR WILL BE ENTITLED  
24 TO RECEIVE A BENEFIT AT ANY FUTURE TIME FROM SOME OTHER PUBLIC OR  
25 PRIVATE RETIREMENT SYSTEM OR PLAN, IN THIS STATE, IN ANY OTHER STATE OR  
26 FROM THE FEDERAL GOVERNMENT. NOTHING IN THIS PARAGRAPH SHALL AUTHORIZE  
27 OR REQUIRE THE SYSTEM TO CREDIT SERVICE WHERE NOT PERMITTED BY SECTION  
28 415 (N) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.

29 S 7. This act shall take effect immediately.

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

This bill amends section 509 of the Education Law and sections 446, 513, and 609 of the Retirement and Social Security Law to permit all members of the New York State Teachers' Retirement System to claim service credit for up to ten years of out-of-state public school teaching service, regardless of when such service was rendered. Current law permits only Tier 1 members to obtain service credit for out-of-state teaching service, and requires that such out-of-state service predate a member's date of membership in order to be creditable. Payments for such credit for Tier 3, 4 and 5 members shall be required in accordance with section 517 and section 613 and paragraph two of subdivision b of section 609 of the Retirement and Social Security Law.

The annual cost to the employers of members of New York State Teachers' Retirement System for this benefit is estimated to be \$147.9 million or .96% of payroll if this bill is enacted.

The source of this estimate is Fiscal Note 2010-35 dated March 26, 2010 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2010 Legislative Session.