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

10753--A

I N A S S E M B L Y

April 19, 2010

Introduced by M. of A. STIRPE, M. MILLER, SCHIMEL, GUNTHER, JOHN, HOOPER, CASTRO, COLTON, SPANO, SCARBOROUGH, KOON, D. WEPRIN -- Multi-Sponsored by -- M. of A. AUBRY, BARCLAY, CALHOUN, CROUCH, DUPREY, FINCH, GIGLIO, JEFFRIES, MAGEE, MARKEY, McKEVITT, MONTESANO, NOLAN, PHEFFER, RAIA, REILLY, ROBINSON, SALADINO, SAYWARD, SKARTADOS, THIELE, TOWNS, TOWNSEND, WEISENBERG -- read once and referred to the Committee on Governmental Employees -- reported and referred to the Committee on Ways and Means -- 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 allowing state police officers to receive an improved death benefit where such officers die without twenty years of service credit

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

Section 1. Subdivision aaa of section 360-a of the retirement and social security law, as added by chapter 358 of the laws of 2002, is amended to read as follows:

aaa. Provided further, notwithstanding any other provision of this article to the contrary, where the member is an officer or member of the state police and would have been entitled to a service retirement benefit at the time of his or her death and where his or her death occurs on or after July first, two thousand, the beneficiary or beneficiaries may elect to receive, in a lump sum, an amount payable which shall be equal to the pension reserve that would have been established had the member retired on the date of his or her death, or the value of the death benefit and the reserve-for-increased-take-home-pay, if any, whichever is greater. PROVIDED FURTHER, THAT FOR THE PURPOSE OF DETERMINING ENTITLEMENT TO THE BENEFIT PROVIDED BY THIS SUBDIVISION, AND NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION J OF SECTION THREE HUNDRED FORTY-ONE OF THIS ARTICLE, THE TOTAL NUMBER OF DAYS OF UNUSED SICK LEAVE AND ACCUMULATED VACATION CREDIT ACCRUED BY THE MEMBER AT THE TIME OF HIS OR HER DEATH SHALL BE CONSIDERED IN MEETING THE TOTAL CREDITABLE SERVICE REQUIRED TO QUALIFY FOR A SERVICE RETIREMENT BENEFIT PROVIDED WITHOUT

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

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REGARD TO AGE WHERE HIS OR HER DEATH OCCURS ON OR AFTER JULY SECOND, TWO THOUSAND NINE.

S 2. Paragraph 2 of subdivision b of section 448 of the retirement and social security law, as amended by chapter 666 of the laws of 2002, is amended to read as follows:

2. Provided further, notwithstanding any other provision of this article to the contrary, where the member is a police officer or firefighter and would have been entitled to a service retirement benefit at the time of his or her death and where his or her death occurs on or after July first, two thousand, the beneficiary or beneficiaries nominated for the purposes of this subdivision may elect to receive, in a lump sum, an amount payable which shall be equal to the pension reserve that would have been established had the member retired on the date of his or her death, or the value of the death benefit and the reserve-for-increased-take-home-pay, if any, whichever is greater, provided further THAT FOR THE PURPOSE OF DETERMINING ENTITLEMENT TO THE BENEFIT PROVIDED BY THIS SUBDIVISION, AND NOTWITHSTANDING SUBDIVISION J OF SECTION THREE HUNDRED FORTY-ONE OF THIS CHAPTER, WHERE THE MEMBER IS AN OFFICER OR MEMBER OF THE STATE POLICE THE TOTAL NUMBER OF DAYS OF UNUSED SICK LEAVE AND ACCUMULATED VACATION CREDIT ACCRUED BY THE MEMBER AT THE TIME OF HIS OR HER DEATH SHALL BE CONSIDERED IN MEETING THE TOTAL CREDITABLE SERVICE REQUIRED TO QUALIFY FOR A SERVICE RETIREMENT BENEFIT PROVIDED WITHOUT REGARD TO AGE WHERE HIS OR HER DEATH OCCURS ON OR AFTER JULY SECOND, TWO THOUSAND NINE. PROVIDED FURTHER that where such police officer or firefighter dies on or after July first, two thousand, after having retired from service, but before a first payment of a retirement allowance, such person shall be deemed to have been in service at the time of his or her death for the purposes of this subdivision only, and provided further that the pension reserve established pursuant to this paragraph for a person who dies after retiring from service, but before first payment of a retirement allowance, shall be determined as of the date of retirement and any pension payments payable for the period of time prior to the retiree's death shall be deducted from any benefits payable pursuant to this subdivision.

S 3. All past service costs incurred due to enactment of this legislation shall be borne by the state of New York.

S 4. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after July 2, 2009.

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

This bill will provide an improved death benefit equal to the pension reserve to the beneficiaries of State Police Officers by allowing their unused vacation and sick leave credit to be included with their service credit for the purpose of determining retirement eligibility. All past service costs will be paid by the State of New York, and all future costs will be shared and spread over the future working lifetimes of current members.

If this bill is enacted, for the one person known to be affected, we anticipate that there will be a cost to the State of New York of approximately $357,000, based on a billing date of March 1, 2011. In the future, we anticipate that there will be few individuals affected by this legislation.

This estimate, dated March 31, 2010 and intended for use only during the 2010 Legislative Session, is Fiscal Note No. 2010-126, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.