

2538

2009-2010 Regular Sessions

I N A S S E M B L Y

January 20, 2009

Introduced by M. of A. COLTON, CHRISTENSEN, CYMBROWITZ, AUBRY, ALFANO,
J. RIVERA -- Multi-Sponsored by -- M. of A. BARRA, CAHILL, CLARK,
COOK, DIAZ, ENGLEBRIGHT, JOHN, KOON, PHEFFER, QUINN, WALKER -- read
once and referred to the Committee on Governmental Employees

AN ACT to amend the retirement and social security law, in relation to
retirement benefits for certain employees

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
2 adding a new section 89-x to read as follows:
3 S 89-X. ALTERNATIVE RETIREMENT BENEFITS FOR PEACE OFFICERS IN THE
4 DIVISION OF PAROLE. A. DEFINITIONS. FOR PURPOSES OF THIS SECTION:
5 1. "QUALIFYING MEMBER" SHALL MEAN ANY MEMBER WHO IS IN SERVICE AS AN
6 EMPLOYEE OF THE NEW YORK STATE DIVISION OF PAROLE WHO IS A PEACE OFFICER
7 AS DEFINED IN ARTICLE TWO OF THE CRIMINAL PROCEDURE LAW.
8 2. "QUALIFYING CREDITABLE SERVICE" SHALL MEAN CREDITABLE SERVICE
9 RENDERED WHILE A MEMBER IS A MEMBER OF A PUBLIC RETIREMENT SYSTEM
10 EMPLOYED IN A POSITION WHICH IS DESIGNATED AS A POLICE OFFICER PURSUANT
11 TO ARTICLE ONE OF THE CRIMINAL PROCEDURE LAW OR AS A PEACE OFFICER
12 PURSUANT TO ARTICLE TWO OF THE CRIMINAL PROCEDURE LAW.
13 3. "PUBLIC RETIREMENT SYSTEM" SHALL MEAN THE NEW YORK STATE AND LOCAL
14 EMPLOYEES' RETIREMENT SYSTEM, THE NEW YORK STATE AND LOCAL POLICE AND
15 FIRE RETIREMENT SYSTEM, NEW YORK STATE TEACHERS' RETIREMENT SYSTEM, NEW
16 YORK CITY EMPLOYEES' RETIREMENT SYSTEM, NEW YORK CITY TEACHERS' RETIRE-
17 MENT SYSTEM, NEW YORK CITY POLICE PENSION FUND, NEW YORK CITY FIRE
18 DEPARTMENT PENSION FUND AND THE NEW YORK CITY BOARD OF EDUCATION RETIRE-
19 MENT SYSTEM.
20 B. ELIGIBILITY. 1. ANY QUALIFYING MEMBER, AS DEFINED IN SUBDIVISION A
21 OF THIS SECTION, SHALL BE ELIGIBLE TO RETIRE PURSUANT TO THE PROVISIONS
22 OF THIS SECTION. SUCH ELIGIBILITY SHALL BE AN ALTERNATIVE TO THE ELIGI-
23 BILITY PROVISIONS AVAILABLE UNDER ANY OTHER PLAN OF THIS ARTICLE TO

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

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1 WHICH SUCH MEMBER IS SUBJECT. THE COMPTROLLER MAY REQUEST CERTIFICATIONS
2 FROM AGENCY OFFICIALS, AS APPROPRIATE, TO IDENTIFY SUCH ELIGIBLE
3 MEMBERS.

4 2. ANY SUCH QUALIFYING MEMBER SHALL BE ENTITLED TO RETIRE AFTER THE
5 COMPLETION OF TWENTY-FIVE YEARS OF QUALIFYING CREDITABLE SERVICE BY
6 FILING AN APPLICATION THEREFOR IN A MANNER SIMILAR TO THAT PROVIDED IN
7 SECTION SEVENTY OF THIS ARTICLE; PROVIDED, HOWEVER, NO SUCH MEMBER SHALL
8 BE ELIGIBLE TO RETIRE UNTIL HE OR SHE HAS A MINIMUM OF TEN YEARS OF
9 QUALIFYING CREDITABLE SERVICE.

10 C. RETIREMENT ALLOWANCE. A MEMBER RETIRING UNDER THE PROVISIONS OF
11 THIS SECTION SHALL RECEIVE A RETIREMENT ALLOWANCE CONSISTING OF A
12 PENSION EQUAL TO ONE-FIFTIETH OF HIS OR HER FINAL AVERAGE SALARY FOR
13 EACH YEAR OF QUALIFYING CREDITABLE SERVICE. THIS RETIREMENT ALLOWANCE
14 SHALL NOT EXCEED FIFTY PERCENT OF SUCH MEMBER'S FINAL AVERAGE SALARY.

15 D. COMPUTATION OF SERVICE. IN COMPUTING THE TWENTY-FIVE YEARS OF
16 COMPLETED SERVICE OF A QUALIFYING MEMBER FOR PURPOSES OF THIS SECTION,
17 FULL CREDIT SHALL BE GIVEN AND FULL ALLOWANCE SHALL BE MADE FOR SERVICE
18 OF SUCH MEMBER IN WAR AFTER WORLD WAR I, AS DEFINED IN SUBDIVISION THIR-
19 TY OF SECTION TWO OF THIS CHAPTER, PROVIDED SUCH MEMBER AT THE TIME OF
20 HIS OR HER ENTRANCE INTO THE ARMED FORCES WAS IN STATE SERVICE.

21 E. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PREVENT A MEMBER, WHO
22 DOES NOT RETIRE PURSUANT TO THE PROVISIONS OF THIS SECTION, FROM UTILIZ-
23 ING SERVICE WHICH IS CREDITABLE SERVICE PURSUANT TO THE PROVISIONS OF
24 THIS SECTION FOR THE SERVICE CREDIT PURSUANT TO ANY OTHER PLAN OF THIS
25 ARTICLE TO WHICH SUCH MEMBER IS SUBJECT.

26 F. THE INCREASED COSTS OF THE BENEFITS PROVIDED FOR IN THIS SECTION
27 SHALL BE PAID FROM ADDITIONAL CONTRIBUTIONS MADE BY THE EMPLOYER.

28 G. THE PROVISIONS IN THIS SECTION SHALL BE CONTROLLING NOTWITHSTANDING
29 ANY OTHER PROVISION IN THIS ARTICLE TO THE CONTRARY.

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

33 a. No member of a retirement system who is subject to the provisions
34 of this article shall retire without regard to age, exclusive of retire-
35 ment for disability, unless he is a policeman, an investigator member of
36 the New York city employees' retirement system, fireman, correction
37 officer, a qualifying member as defined in section eighty-nine-t, as
38 added by chapter six hundred fifty-seven of the laws of nineteen hundred
39 ninety-eight, of this chapter, A QUALIFYING MEMBER AS DEFINED IN SECTION
40 EIGHTY-NINE-X OF THIS CHAPTER, sanitation man, a special officer
41 (including persons employed by the city of New York in the title urban
42 park ranger or associate urban park ranger), school safety agent, campus
43 peace officer or a taxi and limousine commission inspector member of the
44 New York city employees' retirement system or the New York city board of
45 education retirement system, a dispatcher member of the New York city
46 employees' retirement system, a police communications member of the New
47 York city employees' retirement system, an EMT member of the New York
48 city employees' retirement system, a deputy sheriff member of the New
49 York city employees' retirement system, a correction officer of the
50 Westchester county correction department as defined in section eighty-
51 nine-e of this chapter or employed in Suffolk county as a peace officer,
52 as defined in section eighty-nine-s, as added by chapter five hundred
53 eighty-eight of the laws of nineteen hundred ninety-seven, of this chap-
54 ter, employed in Suffolk county as a correction officer, as defined in
55 section eighty-nine-f of this chapter, or employed in Nassau county as a
56 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 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

1 forty-five-f of this article and subdivision c of section four hundred
2 forty-five-h of this article, a member in such a plan and such an occu-
3 pation, other than a policeman or investigator member of the New York
4 city employees' retirement system or a fireman, shall not be permitted
5 to retire prior to the completion of twenty-five years of credited
6 service; provided, however, if such a member in such an occupation is in
7 a plan which permits retirement upon completion of twenty years of
8 service regardless of age, he may retire upon completion of twenty years
9 of credited service and prior to the completion of twenty-five years of
10 service, but in such event the benefit provided from funds other than
11 those based on such a member's own contributions shall not exceed two
12 per centum of final average salary per each year of credited service.

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

15 T. THE SERVICE RETIREMENT BENEFIT SPECIFIED IN SECTION SIX HUNDRED
16 FOUR OF THIS ARTICLE SHALL BE PAYABLE WITHOUT REGARD TO AGE TO QUALIFY-
17 ING MEMBERS, AS DEFINED IN SUBDIVISION A OF SECTION EIGHTY-NINE-X OF
18 THIS CHAPTER, WITH TWENTY-FIVE YEARS OF QUALIFYING SERVICE AS DEFINED IN
19 SUCH SECTION, IF SUCH MEMBERS HAVE MET THE MINIMUM SERVICE REQUIREMENTS
20 UPON RETIREMENT. ANY SUCH MEMBER SHALL BE ENTITLED TO RETIRE AFTER THE
21 COMPLETION OF TWENTY-FIVE YEARS OF QUALIFYING CREDITABLE SERVICE BY
22 FILING AN APPLICATION THEREFOR IN A MANNER SIMILAR TO THAT PROVIDED IN
23 SECTION SEVENTY OF THIS CHAPTER.

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

26 U. THE EARLY SERVICE RETIREMENT BENEFIT FOR A MEMBER WHO IS A QUALIFY-
27 ING MEMBER AS DEFINED IN SUBDIVISION A OF SECTION EIGHTY-NINE-X OF THIS
28 CHAPTER SHALL BE A PENSION EQUAL TO ONE-FIFTIETH OF FINAL AVERAGE SALARY
29 TIMES YEARS OF QUALIFYING SERVICE, AS DEFINED IN SECTION EIGHTY-NINE-X
30 OF THIS CHAPTER, AT THE COMPLETION OF TWENTY-FIVE YEARS OF SUCH SERVICE,
31 BUT NOT EXCEEDING ONE-HALF OF HIS OR HER FINAL AVERAGE SALARY.

32 S 5. Implementation provisions. (a) Amortization of past service cost.
33 The comptroller shall prepare and file with the director of the budget
34 an estimate of the past service cost resulting from implementation of
35 this act, at the same time and in the same manner as the annual esti-
36 mates required under section 16 of the retirement and social security
37 law, on the first such annual date for which it is practicable to
38 provide such an estimate. Notwithstanding section 430 of the retirement
39 and social security law, the past service cost as so determined shall be
40 paid by the state, with interest as defined in section 16 of the retire-
41 ment and social security law, in ten equal annual installments. Such
42 payments shall be made at the same time and in the same manner as other
43 payments by the state pursuant to section 16 of the retirement and
44 social security law, beginning with the first payment date that is at
45 least 60 days after the preparation and filing of the estimate of past
46 service cost with the director of the budget.

47 (b) Increased employer contributions. All other contribution
48 increases resulting from implementation of this act (exclusive of those
49 resulting from past service cost) shall also be estimated by the comp-
50 troller and paid by the state at the same time and in the same manner as
51 contributions are estimated and paid under section 16 of the retirement
52 and social security law, notwithstanding provisions of section 430 of
53 the retirement and social security law to the contrary.

54 S 6. This act shall take effect immediately, provided, however that
55 the amendments to sections 603 and 604 of the retirement and social
56 security law made by sections three and four of this act shall expire on

1 the same date as such sections expire pursuant to section 615 of such
2 law.

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

This bill would allow Peace Officers employed by the State Division of Parole and Parole Revocation Specialists in the State Division of Parole to retire upon completion of twenty-five (25) years of creditable service. For all eligible officers, their benefit upon retirement would be an allowance of one-half final average salary. There would be no reduction for early service retirement.

If this bill is enacted, we anticipate that there will be an increase of approximately \$1.3 million in the annual contributions of the State of New York 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 \$15.4 million which would be borne by the State of New York. This estimate is based on the assumption that payment will be made on March 1, 2010. If this cost is amortized over a ten year period, the cost for the first year, including interest would be approximately \$2.1 million.

These estimated costs are based on 1,368 known affected officers having a total estimated annual salary for the fiscal year ending March 31, 2009 of approximately \$90.9 million.

This estimate, dated December 12, 2008 and intended for use only during the 2009 Legislative Session, is Fiscal Note No. 2009-45, prepared by the Actuary for the New York State and Local Employees' Retirement System.