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

2538--A

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, SCHROEDER -- Multi-Sponsored by -- M. of A. BARRA, CAHILL, CLARK, COOK, ENGLEBRIGHT, JOHN, KOON, PHEFFER -- read once and referred to the Committee on Governmental Employees -- recommitted to the Committee on Governmental Employees in accordance with Assembly Rule 3, sec. 2 -- 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 retirement benefits for certain employees

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. ALTERNATIVE RETIREMENT BENEFITS FOR PEACE OFFICERS IN THE DIVISION OF PAROLE. A. DEFINITIONS. FOR PURPOSES OF THIS SECTION:

1. "QUALIFYING MEMBER" SHALL MEAN ANY MEMBER WHO IS IN SERVICE AS AN EMPLOYEE OF THE NEW YORK STATE DIVISION OF PAROLE WHO IS A PEACE OFFICER AS DEFINED IN ARTICLE TWO OF THE CRIMINAL PROCEDURE LAW.

2. "QUALIFYING CREDITABLE SERVICE" SHALL MEAN CREDITABLE SERVICE RENDERED WHILE A MEMBER IS A MEMBER OF A PUBLIC RETIREMENT SYSTEM EMPLOYED IN A POSITION WHICH IS DESIGNATED AS A POLICE OFFICER PURSUANT TO ARTICLE ONE OF THE CRIMINAL PROCEDURE LAW OR AS A PEACE OFFICER PURSUANT TO ARTICLE TWO OF THE CRIMINAL PROCEDURE LAW.

3. "PUBLIC RETIREMENT SYSTEM" SHALL MEAN THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM, THE NEW YORK STATE AND LOCAL POLICE AND FIRE RETIREMENT SYSTEM, NEW YORK STATE TEACHERS' RETIREMENT SYSTEM, NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM, NEW YORK CITY TEACHERS' RETIREMENT SYSTEM, NEW YORK CITY POLICE PENSION FUND, NEW YORK CITY FIRE DEPARTMENT PENSION FUND AND THE NEW YORK CITY BOARD OF EDUCATION RETIREMENT SYSTEM.

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

LBD03958-04-0

B. ELIGIBILITY. 1. ANY QUALIFYING MEMBER, AS DEFINED IN SUBDIVISION A OF THIS SECTION, SHALL BE ELIGIBLE TO RETIRE PURSUANT TO THE PROVISIONS OF THIS SECTION. SUCH ELIGIBILITY SHALL BE AN ALTERNATIVE TO THE ELIGIBILITY PROVISIONS AVAILABLE UNDER ANY OTHER PLAN OF THIS ARTICLE TO WHICH SUCH MEMBER IS SUBJECT. THE COMPTROLLER MAY REQUEST CERTIFICATIONS FROM AGENCY OFFICIALS, AS APPROPRIATE, TO IDENTIFY SUCH ELIGIBLE MEMBERS.

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

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

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

E. 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 THE SERVICE CREDIT PURSUANT TO ANY OTHER PLAN OF THIS ARTICLE TO WHICH SUCH MEMBER IS SUBJECT.

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

G. THE PROVISIONS IN THIS SECTION SHALL BE CONTROLLING NOTWITHSTANDING ANY OTHER PROVISION IN THIS ARTICLE 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 is a policeman, an investigator member of the New York city employees' retirement system, fireman, 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, A QUALIFYING MEMBER AS DEFINED IN SECTION EIGHTY-NINE-X OF THIS CHAPTER, sanitation man, 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 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 or investigator member of the New York city employees' retirement system or a fireman, 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 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 u to read as follows:

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

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 A QUALIFYING MEMBER AS DEFINED IN SUBDIVISION A OF SECTION EIGHTY-NINE-X OF THIS CHAPTER SHALL BE A PENSION EQUAL TO ONE-FIFTIETH OF FINAL AVERAGE SALARY TIMES YEARS OF QUALIFYING SERVICE, AS DEFINED IN SECTION EIGHTY-NINE-X OF THIS CHAPTER, AT THE COMPLETION OF TWENTY-FIVE YEARS OF SUCH SERVICE, BUT NOT EXCEEDING ONE-HALF OF HIS OR HER FINAL AVERAGE SALARY.

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

(b) Increased employer contributions. All other contribution increases resulting from implementation of this act (exclusive of those resulting from past service cost) shall also be estimated by the comptroller and paid by the state at the same time and in the same manner as contributions are estimated and paid under section 16 of the retirement

and social security law, notwithstanding provisions of section 430 of the retirement and social security law to the contrary.

S 6. This act shall take effect immediately.

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 $2.8 million in the annual contributions of the State of New York for the fiscal year ending March 31, 2011.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately $13.6 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, 2011. If this cost is amortized over a ten year period, the cost for the first year, including interest would be approximately $1.9 million.

These estimated costs are based on 1,308 known affected officers having a total estimated annual salary for the fiscal year ending March 31, 2010 of approximately $99.4 million.

This estimate, dated December 11, 2009 and intended for use only during the 2010 Legislative Session, is Fiscal Note No. 2010-13, prepared by the Actuary for the New York State and Local Employees' Retirement System.