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

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2009-2010 Regular Sessions

I N A S S E M B L Y

March 3, 2009

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

AN ACT to provide a line of duty death benefit for certain police and peace officers

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

Section 1. Legislative intent. The legislature finds and declares that retired public servants who return to public service under the auspices of article 7 of the retirement and social security law in police officer or peace officer titles provide valuable safety and security services to the people of this state, bringing professional knowledge and expertise to the jobs, often filling hard-to-fill positions in New York state agencies. The legislature further finds and declares that although these individuals are statutorily recognized as police officers or peace officers, and bear the same risks of physical injury and death as other police officers or peace officers, they are not eligible for comparable death benefits to those received by police officers and peace officers similarly employed who die in the line of duty. The legislature declares that it is appropriate and fair public policy to provide those who return to service pursuant to article 7 of the retirement and social security law as police officers and peace officers a death benefit comparable to that payable to the beneficiaries of other deceased police officers or peace officers.

S 2. Special equitable death benefit for certain police officers and peace officers. Any other provision of any other general, special or local law to the contrary notwithstanding, the beneficiary of an individual who has returned to public service pursuant to article 7 of the retirement and social security law in a police officer or peace officer title in the employ of the state or an agency thereof, shall be eligible for the special equitable death benefit described in this section.

1. Definitions. For purposes of this act:

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

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a. A "returnee employee" means an individual who has returned to public service pursuant to article 7 of the retirement and social security law in a police officer or peace officer title in the employ of the state or an agency thereof.

b. "System" means the New York state and local employees' retirement system or the New York state and local police and fire retirement system, as appropriate to an employee.

c. "Special equitable death benefit" means a death benefit equal to the salary of the returnee employee upon completion of one year of employment from the time the returnee employee re-entered employment with the employer agency, two years' salary upon completion of two years of employment, and three years' salary upon completion of three years of service.

d. "Employer agency" means any "state agency," "covered authority," or the "judiciary," as such terms are defined in section 2-a of the state finance law, which employs a returnee employee.

e. "Beneficiary" means the beneficiary designated by the returnee employee upon registration as provided in this section, or if there is no beneficiary, the member's estate.

2. Conditions. Payment of the special equitable death benefit shall additionally be subject to the following conditions:

a. Such returnee employee was still at the time of death in the employ of the state, or an agency thereof, as a police officer or peace officer pursuant to article 7 of the retirement and social security law.

b. No special equitable death benefit shall be paid pursuant to this act if the death of the returnee employee was caused by intentional or reckless misconduct on the part of the decedent.

c. The amount of the special equitable death benefit shall be reduced by any post-retirement death benefit.

3. Registration. The returnee employee shall register with the office of the state comptroller in a form and manner determined by the comptroller. Such registration shall include designation of a beneficiary for the special equitable death benefit provided by this act, and shall take place at the time of hiring on and after the effective date of this act for any new returnee employee, and shall take place within 90 days of the effective date of this act for any returnee employee already employed by the state or an agency thereof. A returnee employee who fails to register shall not be deemed a returnee employee pursuant to this act, and shall not be eligible for the special equitable death benefit created in this act.

4. Reimbursement. The special equitable death benefit shall be paid by the system appropriate to the title and membership of the returnee employee, and the system shall be reimbursed for payment of such benefit and for the costs of administering and implementing the benefit, as provided in this section, from monies made available therefor from the general fund of the state of New York upon audit and warrant of the comptroller, after certification by the employer agency, and after review by the division of the budget. The director of the budget shall allocate such sums as shall be necessary for such reimbursement. The state comptroller may enter into agreement with other agencies to perform such duties as may be necessary to implement the provisions of this section. The special equitable death benefit program is exclusively a state program which provides benefits that are separate and distinct from the retirement benefits provided under the retirement and social security law. Accordingly, the program created by this act will have a separate cost basis than the other benefits administered by the New York

state and local employees' retirement system and the New York state and local police and fire retirement system. Costs for administering and implement the special equitable death benefit program shall be paid from the state purposes account of the general fund rather than from retirement system funds of the New York state and local employees' retirement system and the New York state and local police and fire retirement system.

5. Coordination and non-impairment. The special equitable death benefit provided for in this act shall not reduce, limit, or otherwise impair a death benefit or special death benefit otherwise payable to an eligible police officer or peace officer.

6. Duties of the comptroller. The comptroller shall promulgate rules and regulations regarding forms, payment, claiming and payment of benefits, and such other matters as are in keeping with the spirit and intent of this act, and shall establish such fund or funds within the general or special revenue funds of the state and the New York state and local employees' retirement system or the New York state and local police and fire retirement system as shall be necessary to implement the provisions of this act in an appropriate manner.

S 3. This act shall take effect immediately.