

7075

2009-2010 Regular Sessions

I N A S S E M B L Y

March 19, 2009

Introduced by M. of A. McENENY, CANESTRARI, CAHILL, BRADLEY, WRIGHT, SCHROEDER, GUNTHER, FIELDS, JAFFEE, RAMOS -- Multi-Sponsored by -- M. of A. BOYLAND, BRODSKY, BROOK-KRASNY, COLTON, CUSICK, DIAZ, DINOWITZ, HEASTIE, HOOPER, LATIMER, LIFTON, MILLER, PERALTA, PERRY, PHEFFER, SPANO, SWEENEY, WEINSTEIN, WEISENBERG -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the retirement and social security law, in relation to benefits of members subject to article 11 and article 15 who retire prior to the normal retirement age with twenty-five years of service

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

1 Section 1. Paragraph 1 of subdivision b of section 442 of the retire-
2 ment and social security law, as amended by chapter 306 of the laws of
3 1996, is amended to read as follows:
4 1. A member who is a peace officer employed by the unified court
5 system or a member of a teacher's retirement system or a member of the
6 New York state and local employees' retirement system OR A MEMBER OF THE
7 NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM OR A MEMBER OF THE NEW YORK
8 CITY BOARD OF EDUCATION RETIREMENT SYSTEM may retire without reduction
9 of his OR HER retirement benefit upon his OR HER attainment of at least
10 fifty-five years of age and completion of [thirty] TWENTY-FIVE or more
11 years of service; and
12 S 2. Paragraph 1 of subdivision d of section 445-d of the retirement
13 and social security law, as amended by chapter 509 of the laws of 2001,
14 is amended to read as follows:
15 1. In addition to the member contributions required by section 13-125
16 or 13-162 of the administrative code or section eight or thirty of the
17 BERS rules and regulations, each participant in the age fifty-five
18 improved benefit retirement program shall contribute, subject to the
19 applicable provisions of section 13-125.2 of the administrative code or
20 subdivision nineteen of section twenty-five hundred seventy-five of the

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

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education law, an additional percentage or additional percentages of his or her compensation to the retirement system of which he or she is a member in accordance with the following schedule:

(i) (A) each such participant shall contribute an additional four and thirty-five one-hundredths percent of his or her compensation earned from all credited CPP qualifying service (whether or not in a physically taxing position) rendered on and after the starting date of the age fifty-five improved benefit retirement program and prior to the commencement date of the first payroll period which begins after January first, nineteen hundred ninety-eight (1) while such person is a participant in such program; and (2) before such person becomes such a participant pursuant to paragraph one or two of subdivision b of this section (whether or not rendered in a New York city eligible position); and (3) after such person ceases to be a participant, but before he or she again becomes such a participant pursuant to paragraph five of such subdivision b (whether or not rendered in a New York city eligible position); and

(B) each such participant shall contribute an additional two and eighty-five one-hundredths percent of his or her compensation earned from all credited CPP qualifying service (whether or not in a physically taxing position) rendered on and after the commencement date of the first payroll period which begins after January first, nineteen hundred ninety-eight and prior to the commencement date of the first payroll period which begins subsequent to the effective date of [the] chapter FIVE HUNDRED NINE of the laws of two thousand one which amended this item AND PRIOR TO THE COMMENCEMENT DATE OF THE FIRST PAYROLL PERIOD WHICH BEGINS AFTER JULY FIRST, TWO THOUSAND NINE (1) while such person is a participant in such program; and (2) before such person becomes such a participant pursuant to paragraph one or two of subdivision b of this section (whether or not rendered in a New York city eligible position); and (3) after such person ceases to be a participant, but before he or she again becomes such a participant pursuant to paragraph five of such subdivision b (whether or not rendered in a New York city eligible position); and

(C) each such participant shall contribute an additional one and eighty-five one-hundredths percent of his or her compensation earned from all credited CPP qualifying service (whether or not in a physically taxing position) rendered on and after the commencement date of the first payroll period which begins subsequent to the effective date of [the] chapter FIVE HUNDRED NINE of the laws of two thousand one which added this item (1) while such person is a participant in such program; and (2) before such person becomes such a participant pursuant to paragraph one or two of subdivision b of this section (whether or not rendered in a New York city eligible position); and (3) after such person ceases to be a participant, but before he or she again becomes such a participant pursuant to paragraph five of such subdivision b (whether or not rendered in a New York city eligible position); and

(ii) each such participant who is employed in a physically taxing position (as defined in paragraph eleven of subdivision a of this section) shall contribute, in addition to the additional member contributions required to be made at the percentage of compensation specified in subparagraph (i) of this paragraph for the credited CPP qualifying service specified in such subparagraph (i), an additional one and ninety-eight one-hundredths percent of his or her compensation earned from that portion of such credited CPP qualifying service which is rendered in a physically taxing position on and after the starting date of the

1 age fifty-five improved benefit retirement program (A) while such person
2 is a participant in such program; and (B) before such person becomes
3 such a participant pursuant to paragraph one or two of subdivision b of
4 this section; and (C) after such person ceases to be a participant, but
5 before he or she again becomes such a participant pursuant to paragraph
6 five of such subdivision b.

7 S 3. Subdivision a of section 603 of the retirement and social securi-
8 ty law, as amended by section 3 of chapter 19 of the laws of 2008, is
9 amended to read as follows:

10 a. The service retirement benefit specified in section six hundred
11 four of this article shall be payable to members who have met the mini-
12 mum service requirements upon retirement and attainment of age sixty-
13 two, other than members who are eligible for early service retirement
14 pursuant to subdivision c of section six hundred four-b of this article,
15 subdivision c of section six hundred four-c of this article, SUCH
16 SECTION AS ADDED BY CHAPTER FOUR HUNDRED SEVENTY-TWO OF THE LAWS OF
17 NINETEEN HUNDRED NINETY-FIVE, subdivision d of section six hundred
18 four-d of this article, subdivision c of section six hundred four-e of
19 this article, subdivision c of section six hundred four-f of this arti-
20 cle, subdivision c of section six hundred four-g of this article, subdi-
21 vision c of section six hundred four-h of this article or subdivision c
22 of section six hundred four-i of this article, provided, however, a
23 member who is a peace officer employed by the unified court system or a
24 member of a teachers' retirement system or the New York state and local
25 employees' retirement system OR THE NEW YORK CITY EMPLOYEES' RETIREMENT
26 SYSTEM OR THE NEW YORK CITY BOARD OF EDUCATION RETIREMENT SYSTEM may
27 retire without reduction of his or her retirement benefit upon attain-
28 ment of at least fifty-five years of age and completion of [thirty]
29 TWENTY-FIVE or more years of service.

30 S 3-a. Subdivision a of section 603 of the retirement and social secu-
31 rity law, as amended by section 3-a of chapter 19 of the laws of 2008,
32 is amended to read as follows:

33 a. The service retirement benefit specified in section six hundred
34 four of this article shall be payable to members who have met the mini-
35 mum service requirements upon retirement and attainment of age sixty-
36 two, other than members who are eligible for early service retirement
37 pursuant to subdivision c of section six hundred four-b of this article,
38 subdivision c of section six hundred four-c of this article, SUCH
39 SECTION AS ADDED BY CHAPTER FOUR HUNDRED SEVENTY-TWO OF THE LAWS OF
40 NINETEEN HUNDRED NINETY-FIVE, subdivision d of section six hundred
41 four-d of this article, subdivision c of section six hundred four-e of
42 this article, subdivision c of section six hundred four-f of this arti-
43 cle, subdivision c of section six hundred four-g of this article, subdi-
44 vision c of section six hundred four-h of this article or subdivision c
45 of section six hundred four-i of this article provided, however, a
46 member who is a peace officer employed by the unified court system or a
47 member of a teachers' retirement system or the New York state and local
48 employees' retirement system OR THE NEW YORK CITY EMPLOYEES' RETIREMENT
49 SYSTEM OR THE NEW YORK CITY BOARD OF EDUCATION RETIREMENT SYSTEM may
50 retire without reduction of his or her retirement benefit upon attain-
51 ment of at least fifty-five years of age and completion of [thirty]
52 TWENTY-FIVE or more years of service.

53 S 4. Paragraph 1 of subdivision i of section 603 of the retirement and
54 social security law, as amended by chapter 19 of the laws of 2008, is
55 amended to read as follows:

1 1. A member of a teachers' retirement system or the New York state and
2 local employees' retirement system who has met the minimum service
3 requirements but who has less than [thirty] TWENTY-FIVE years of credit-
4 ed service may retire prior to normal retirement age, but no earlier
5 than attainment of age fifty-five, in which event, unless such person is
6 a member of the New York city teachers' retirement system who is other-
7 wise eligible for early service retirement pursuant to subdivision c of
8 section six hundred four-i of this article, the amount of his or her
9 retirement benefit otherwise computed without optional modification
10 shall be reduced in accordance with the following schedule:

11 (i) for each of the first twenty-four full months that retirement
12 predates age sixty-two, one-half of one per centum per month; and

13 (ii) for each full month that retirement predates age sixty, one-quar-
14 ter of one per centum per month, but in no event shall retirement be
15 permitted prior to attainment of age fifty-five.

16 S 5. Paragraph 1 of subdivision d of section 604-c of the retirement
17 and social security law, as amended by chapter 509 of the laws of 2001,
18 is amended to read as follows:

19 1. In addition to the member contributions required by section six
20 hundred thirteen of this article, each participant in the twenty-five-
21 year early retirement program shall contribute (subject to the applica-
22 ble provisions of subdivision d of section six hundred thirteen of this
23 article) an additional percentage or additional percentages of his or
24 her compensation to the retirement system of which he or she is a member
25 in accordance with the following schedule:

26 (i) (A) each such participant shall contribute an additional four and
27 thirty-five one-hundredths percent of his or her compensation earned
28 from all credited service (whether or not in a physically taxing posi-
29 tion) rendered on and after the starting date of the twenty-five-year
30 early retirement program and prior to the commencement date of the first
31 payroll period which begins after January first, nineteen hundred nine-
32 ty-eight (1) while such person is a participant in such program; and (2)
33 before such person becomes such a participant pursuant to paragraph one
34 or two of subdivision b of this section (whether or not rendered in a
35 New York city eligible position); and (3) after such person ceases to be
36 a participant, but before he or she again becomes such a participant
37 pursuant to paragraph five of such subdivision b (whether or not
38 rendered in a New York city eligible position); and

39 (B) each such participant shall contribute an additional two and
40 eighty-five one-hundredths percent of his or her compensation earned
41 from all credited service (whether or not in a physically taxing posi-
42 tion) rendered on and after the commencement date of the first payroll
43 period which begins after January first, nineteen hundred ninety-eight
44 and prior to the commencement date of the first payroll period which
45 begins subsequent to the effective date of [the] chapter FIVE HUNDRED
46 NINE of the laws of two thousand one which amended this item AND PRIOR
47 TO THE COMMENCEMENT DATE OF THE FIRST PAYROLL PERIOD WHICH BEGINS AFTER
48 JULY FIRST, TWO THOUSAND NINE (1) while such person is a participant in
49 such program; and (2) before such person becomes such a participant
50 pursuant to paragraph one or two of subdivision b of this section
51 (whether or not rendered in a New York city eligible position); and (3)
52 after such person ceases to be a participant, but before he or she again
53 becomes such a participant pursuant to paragraph five of such subdivi-
54 sion b (whether or not rendered in a New York city eligible position);
55 and

1 (C) each such participant shall contribute an additional one and
2 eighty-five one-hundredths percent of his or her compensation earned
3 from all credited service (whether or not in a physically taxing posi-
4 tion) rendered on and after the commencement date of the first payroll
5 period which begins subsequent to the effective date of [the] chapter
6 FIVE HUNDRED NINE of the laws of two thousand one which added this item
7 (1) while such person is a participant in such program; and (2) before
8 such person becomes such a participant pursuant to paragraph one or two
9 of subdivision b of this section (whether or not rendered in a New York
10 city eligible position); and (3) after such person ceases to be a
11 participant, but before he or she again becomes such a participant
12 pursuant to paragraph five of such subdivision b (whether or not
13 rendered in a New York city eligible position); and

14 (ii) each such participant who is employed in a physically taxing
15 position (as defined in paragraph eleven of subdivision a of this
16 section) shall contribute, in addition to the additional member contrib-
17 utions required to be made at the percentage of compensation specified
18 in subparagraph (i) of this paragraph for the credited service specified
19 in such subparagraph (i), an additional one and ninety-eight one-hun-
20 dredths percent of his or her compensation earned from that portion of
21 such credited service which is rendered in a physically taxing position
22 on and after the starting date of the twenty-five-year early retirement
23 program (A) while such person is a participant in such program; and (B)
24 before such person becomes such a participant pursuant to paragraph one
25 or two of subdivision b of this section; and (C) after such person ceas-
26 es to be a participant, but before he or she again becomes such a
27 participant pursuant to paragraph five of such subdivision b.

28 (iii) notwithstanding the provisions of subparagraphs (i) and (ii) of
29 this paragraph, a person who becomes a participant in the twenty-five-
30 year early retirement program provided by this section, who prior to
31 such membership was subject to the provisions of section six hundred
32 four-b of this article, shall not be required to pay the additional
33 member contributions required by subparagraphs (i) and (ii) of this
34 paragraph for any period of credited service before which such person
35 became a participant pursuant to paragraph one or two of subdivision b
36 of this section and during which such participant was subject to the
37 provisions of such section six hundred four-b and no additional employee
38 contributions were required of such member.

39 S 6. Paragraph 1 of subdivision f of section 604-d of the retirement
40 and social security law, as amended by chapter 509 of the laws of 2001,
41 is amended to read as follows:

42 1. In addition to the member contributions required by section six
43 hundred thirteen of this article, each participant in the age fifty-sev-
44 en retirement program shall contribute (subject to the applicable
45 provisions of subdivision d of section six hundred thirteen of this
46 article) an additional percentage or additional percentages of his or
47 her compensation to the retirement system of which he or she is a member
48 in accordance with the following schedule:

49 (i) (A) each such participant shall contribute an additional four and
50 thirty-five one-hundredths percent of his or her compensation earned
51 from all credited service (whether or not in a physically taxing posi-
52 tion) rendered prior to the commencement date of the first payroll peri-
53 od which begins after January first, nineteen hundred ninety-eight (1)
54 while such person is a participant in such program; and (2) before such
55 person becomes such a participant pursuant to paragraph one or three of
56 subdivision c of this section (whether or not rendered in a New York

city eligible position, and whether rendered before or after the enactment date of the age fifty-seven retirement program); and (3) after such person ceases to be a participant, but before he or she again becomes such a participant pursuant to paragraph five of such subdivision c (whether or not rendered in a New York city eligible position); and

(B) each such participant shall contribute an additional two and eighty-five one-hundredths percent of his or her compensation earned from all credited service (whether or not in a physically taxing position) rendered on and after the commencement date of the first payroll period which begins after January first, nineteen hundred ninety-eight and prior to the commencement date of the first payroll period which begins subsequent to the effective date of [the] chapter FIVE HUNDRED NINE of the laws of two thousand one which amended this item AND PRIOR TO THE COMMENCEMENT DATE OF THE FIRST PAYROLL PERIOD WHICH BEGINS AFTER JULY FIRST, TWO THOUSAND NINE (1) while such person is a participant in such program; and (2) before such person becomes such a participant pursuant to paragraph one or three of subdivision c of this section (whether or not rendered in a New York city eligible position); and (3) after such person ceases to be a participant, but before he or she again becomes such a participant pursuant to paragraph five of such subdivision c (whether or not rendered in a New York city eligible position); and

(C) each such participant shall contribute an additional one and eighty-five one-hundredths percent of his or her compensation earned from all credited service (whether or not in a physically taxing position) rendered on and after the commencement date of the first payroll period which begins subsequent to the effective date of [the] chapter FIVE HUNDRED NINE of the laws of two thousand one which added this item (1) while such person is a participant in such program; and (2) before such person becomes such a participant pursuant to paragraph one or three of subdivision c of this section (whether or not rendered in a New York city eligible position); and (3) after such person ceases to be a participant, but before he or she again becomes such a participant pursuant to paragraph five of such subdivision c (whether or not rendered in A New York city eligible position); and

(ii) each such participant who is employed in a physically taxing position (as defined in paragraph eleven of subdivision a of section six hundred four-c of this article) shall contribute, in addition to the additional member contributions required to be made at the percentage of compensation specified in subparagraph (i) of this paragraph for the credited service specified in such subparagraph (i), an additional one and ninety-eight one-hundredths percent of his or her compensation earned from that portion of such credited service which is rendered in a physically taxing position (A) while such person is a participant in such program; and (B) before such person becomes such a participant pursuant to paragraph one or three of subdivision c of this section (whether rendered before or after the enactment date of the age fifty-seven retirement program); and (C) after such person ceases to be a participant, but before he or she again becomes such a participant pursuant to paragraph five of such subdivision c.

(iii) notwithstanding the provisions of subparagraphs (i) and (ii) of this paragraph, a person who becomes a participant in the age fifty-seven early retirement program provided by this section, who prior to such membership was subject to the provisions of section six hundred four-b of this article, shall not be required to pay the additional member contributions required by subparagraphs (i) and (ii) of this paragraph

1 for any period of credited service before which such person became a
2 participant pursuant to paragraph one or three of subdivision c of this
3 section and during which such participant was subject to the provisions
4 of such section six hundred four-b and no additional employee contrib-
5 utions were required of such member.

6 S 7. This act shall take effect immediately and shall be deemed to
7 have been in full force and effect on and after June 30, 2009; provided,
8 however, that the amendments to subdivisions a and i of section 603,
9 paragraph 1 of subdivision d of section 604-c and paragraph 1 of subdivi-
10 sion f of section 604-d of the retirement and social security law made
11 by sections three, three-a, four, five and six of this act shall not
12 affect the expiration of and shall expire on the same date as article 15
13 of such law, pursuant to section 615 of the retirement and social secu-
14 rity law; and provided, further, that the amendments to subdivision a of
15 section 603 of the retirement and social security law made by section
16 three of this act shall be subject to the expiration and reversion of
17 such subdivision pursuant to section 13 of chapter 682 of the laws of
18 2003, as amended, when upon such date the provisions of section three-a
19 of this act shall take effect.

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

This bill would allow Tier 2, 3 and 4 members of the New York State and Local Employees' Retirement System and certain other public retirement systems to retire without a benefit reduction due to early retirement upon the attainment of age fifty-five (55) and the completion of at least twenty-five (25) years of service. It would also amend the employee contribution payment schedule for certain members of the New York City Employees' Retirement System who are covered under the Optional Age Fifty-Five Improved Retirement Benefit Program. This bill would be deemed to be in effect on June 30, 2009.

Insofar as this bill would affect the New York State and Local Employees' Retirement System, if it is enacted, we anticipate that there would be estimated additional annual contributions of approximately \$67 million to the State of New York and \$95 million to the participating employers in the New York State and Local Employees' Retirement System.

This estimate, dated December 1, 2008 and intended for use only during the 2009 Legislative Session, is Fiscal Note No. 2009-19, prepared by the Actuary for the New York State and Local Employees' Retirement System.