

7075--A

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, HYER-SPENCER -- Multi-Sponsored by -- M. of A. BOYLAND, BRODSKY, BROOK-KRASNY, COLTON, CUSICK, DINOWITZ, HEASTIE, HOOPER, LATIMER, LIFTON, MILLER, PERALTA, PERRY, PHEFFER, SPANO, SWEENEY, WEINSTEIN, WEISENBERG -- read once and referred to the Committee on Governmental Employees -- 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 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

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

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1 applicable provisions of section 13-125.2 of the administrative code or
2 subdivision nineteen of section twenty-five hundred seventy-five of the
3 education law, an additional percentage or additional percentages of his
4 or her compensation to the retirement system of which he or she is a
5 member in accordance with the following schedule:

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

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

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

50 (ii) each such participant who is employed in a physically taxing
51 position (as defined in paragraph eleven of subdivision a of this
52 section) shall contribute, in addition to the additional member contrib-
53 utions required to be made at the percentage of compensation specified
54 in subparagraph (i) of this paragraph for the credited CPP qualifying
55 service specified in such subparagraph (i), an additional one and nine-
56 ty-eight one-hundredths percent of his or her compensation earned from

1 that portion of such credited CPP qualifying service which is rendered
2 in a physically taxing position on and after the starting date of the
3 age fifty-five improved benefit retirement program (A) while such person
4 is a participant in such program; and (B) before such person becomes
5 such a participant pursuant to paragraph one or two of subdivision b of
6 this section; and (C) after such person ceases to be a participant, but
7 before he or she again becomes such a participant pursuant to paragraph
8 five of such subdivision b.

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

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

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

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

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

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

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

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

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

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

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

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

sion 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 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 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 on and after the starting date of the twenty-five-year early retirement program (A) while such person is a participant in such program; and (B) before such person becomes such a participant pursuant to paragraph one or two of subdivision b of this section; 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 b.

(iii) notwithstanding the provisions of subparagraphs (i) and (ii) of this paragraph, a person who becomes a participant in the twenty-five-year 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 for any period of credited service before which such person became a participant pursuant to paragraph one or two of subdivision b of this section and during which such participant was subject to the provisions of such section six hundred four-b and no additional employee contributions were required of such member.

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

1. In addition to the member contributions required by section six hundred thirteen of this article, each participant in the age fifty-seven retirement program shall contribute (subject to the applicable provisions of subdivision d of section six hundred thirteen of this article) 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 service (whether or not in a physically taxing position) rendered 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

1 person becomes such a participant pursuant to paragraph one or three of
2 subdivision c of this section (whether or not rendered in a New York
3 city eligible position, and whether rendered before or after the enact-
4 ment date of the age fifty-seven retirement program); and (3) after such
5 person ceases to be a participant, but before he or she again becomes
6 such a participant pursuant to paragraph five of such subdivision c
7 (whether or not rendered in a New York city eligible position); and

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

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

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

53 (iii) notwithstanding the provisions of subparagraphs (i) and (ii) of
54 this paragraph, a person who becomes a participant in the age fifty-sev-
55 en early retirement program provided by this section, who prior to such
56 membership was subject to the provisions of section six hundred four-b

1 of this article, shall not be required to pay the additional member
2 contributions required by subparagraphs (i) and (ii) of this paragraph
3 for any period of credited service before which such person became a
4 participant pursuant to paragraph one or three of subdivision c of this
5 section and during which such participant was subject to the provisions
6 of such section six hundred four-b and no additional employee contrib-
7 utions were required of such member.

8 S 7. This act shall take effect immediately and shall be deemed to
9 have been in full force and effect on and after June 30, 2009; provided,
10 however, that the amendments to subdivisions a and i of section 603,
11 paragraph 1 of subdivision d of section 604-c and paragraph 1 of subdi-
12 vision f of section 604-d of the retirement and social security law made
13 by sections three, three-a, four, five and six of this act shall not
14 affect the expiration of and shall expire on the same date as article 15
15 of such law, pursuant to section 615 of the retirement and social secu-
16 rity law; and provided, further, that the amendments to subdivision a of
17 section 603 of the retirement and social security law made by section
18 three of this act shall be subject to the expiration and reversion of
19 such subdivision pursuant to section 13 of chapter 682 of the laws of
20 2003, as amended, when upon such date the provisions of section three-a
21 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.

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

This bill would permit members of the New York State Teachers' Retirement System who joined after June 30, 1973 to retire without reduction in retirement benefit upon attainment of at least age 55 with 25 years of service credit. Currently 30 years of service credit and attainment of at least age 55 are required in order to retire without an early retirement reduction. Retirement without reduction is always permitted upon attainment of age 62 with 5 years of service credit.

The annual cost to the employers of members of the New York State Teachers' Retirement System for this benefit is estimated to be \$200.0 million or 1.36% of payroll if this bill is enacted.

The source of this estimate is Fiscal Note 2009-68 dated May 22, 2009 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2009 Legislative Session.