

7075--B

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, 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, J. 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 -- 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 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 TEN (1) while such person is
30 a participant in such program; and (2) before such person becomes such a
31 participant pursuant to paragraph one or two of subdivision b of this
32 section (whether or not rendered in a New York city eligible position);
33 and (3) after such person ceases to be a participant, but before he or
34 she again becomes such a participant pursuant to paragraph five of such
35 subdivision b (whether or not rendered in a New York city eligible posi-
36 tion); 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 7 of part B of chapter 504 of the laws of
11 2009, is 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 of a teachers' retirement system or the New York state and local
26 employees' retirement system who first joins such system before January
27 first, two thousand ten or a member who is a uniformed court officer or
28 peace officer employed by the unified court system OR THE NEW YORK CITY
29 EMPLOYEES' RETIREMENT SYSTEM OR THE NEW YORK CITY BOARD OF EDUCATION
30 RETIREMENT SYSTEM may retire without reduction of his or her retirement
31 benefit upon attainment of at least fifty-five years of age and
32 completion of [thirty] TWENTY-FIVE or more years of service, provided,
33 however, that a uniformed court officer or peace officer employed by the
34 unified court system who first becomes a member of the New York state
35 and local employees' retirement system on or after January first, two
36 thousand ten and retires without reduction of his or her retirement
37 benefit upon attainment of at least fifty-five years of age and
38 completion of [thirty] TWENTY-FIVE or more years of service pursuant to
39 this section shall be required to make the member contributions required
40 by subdivision f of section six hundred thirteen of this article for all
41 years of credited and creditable service.

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

45 a. The service retirement benefit specified in section six hundred
46 four of this article shall be payable to members who have met the mini-
47 mum service requirements upon retirement and attainment of age sixty-
48 two, other than members who are eligible for early service retirement
49 pursuant to subdivision c of section six hundred four-b of this article,
50 subdivision c of section six hundred four-c of this article, SUCH
51 SECTION AS ADDED BY CHAPTER FOUR HUNDRED SEVENTY-TWO OF THE LAWS OF
52 NINETEEN HUNDRED NINETY-FIVE, subdivision d of section six hundred
53 four-d of this article, subdivision c of section six hundred four-e of
54 this article, subdivision c of section six hundred four-f of this arti-
55 cle, subdivision c of section six hundred four-g of this article, subdi-
56 vision c of section six hundred four-h of this article or subdivision c

1 of section six hundred four-i of this article provided, however, a
2 member who is a peace officer employed by the unified court system or a
3 member of a teachers' retirement system or the New York state and local
4 employees' retirement system OR THE NEW YORK CITY EMPLOYEES' RETIREMENT
5 SYSTEM OR THE NEW YORK CITY BOARD OF EDUCATION RETIREMENT SYSTEM may
6 retire without reduction of his or her retirement benefit upon attain-
7 ment of at least fifty-five years of age and completion of [thirty]
8 TWENTY-FIVE or more years of service.

9 S 4. Paragraph 1 of subdivision i of section 603 of the retirement and
10 social security law, as amended by section 8 of part B of chapter 504 of
11 the laws of 2009, is amended to read as follows:

12 1. A member of a teachers' retirement system or the New York state and
13 local employees' retirement system who has met the minimum service
14 requirements but who has less than [thirty] TWENTY-FIVE years of credit-
15 ed service or a member who first joins the New York state and local
16 employees' retirement system or the New York state teachers' retirement
17 system on or after January first, two thousand ten may retire prior to
18 normal retirement age, but no earlier than attainment of age fifty-five,
19 in which event, unless such person is a member of the New York city
20 teachers' retirement system who is otherwise eligible for early service
21 retirement pursuant to subdivision c of section six hundred four-i of
22 this article, the amount of his or her retirement benefit otherwise
23 computed without optional modification shall be reduced in accordance
24 with the following schedule:

25 (i) for each of the first twenty-four full months that retirement
26 predates age sixty-two, one-half of one per centum per month; provided,
27 however, that for members who first join the New York state and local
28 employees' retirement system or the New York state teachers' retirement
29 system on or after January first, two thousand ten, such amounts shall
30 be equal to one-fifteenth per year; and

31 (ii) for each full month that retirement predates age sixty, one-quar-
32 ter of one per centum per month; provided, however, that for members who
33 first join the New York state and local employees' retirement system or
34 the New York state teachers' retirement system on or after January
35 first, two thousand ten, such amounts shall be equal to one-twentieth
36 per year, but in no event shall retirement be permitted prior to attain-
37 ment of age fifty-five.

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

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

48 (i) (A) each such participant shall contribute an additional four and
49 thirty-five one-hundredths percent of his or her compensation earned
50 from all credited service (whether or not in a physically taxing posi-
51 tion) rendered on and after the starting date of the twenty-five-year
52 early retirement program and prior to the commencement date of the first
53 payroll period which begins after January first, nineteen hundred nine-
54 ty-eight (1) while such person is a participant in such program; and (2)
55 before such person becomes such a participant pursuant to paragraph one
56 or two of subdivision b of this section (whether or not rendered in a

1 New York city eligible position); and (3) after such person ceases to be
2 a participant, but before he or she again becomes such a participant
3 pursuant to paragraph five of such subdivision b (whether or not
4 rendered in a New York city eligible position); and

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

22 (C) each such participant shall contribute an additional one and
23 eighty-five one-hundredths percent of his or her compensation earned
24 from all credited service (whether or not in a physically taxing posi-
25 tion) rendered on and after 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 added this item
28 (1) while such person is a participant in such program; and (2) before
29 such person becomes such a participant pursuant to paragraph one or two
30 of subdivision b of this section (whether or not rendered in a New York
31 city eligible position); and (3) after such person ceases to be a
32 participant, but before he or she again becomes such a participant
33 pursuant to paragraph five of such subdivision b (whether or not
34 rendered in a New York city eligible position); and

35 (ii) each such participant who is employed in a physically taxing
36 position (as defined in paragraph eleven of subdivision a of this
37 section) shall contribute, in addition to the additional member contrib-
38 utions required to be made at the percentage of compensation specified
39 in subparagraph (i) of this paragraph for the credited service specified
40 in such subparagraph (i), an additional one and ninety-eight one-hun-
41 dredths percent of his or her compensation earned from that portion of
42 such credited service which is rendered in a physically taxing position
43 on and after the starting date of the twenty-five-year early retirement
44 program (A) while such person is a participant in such program; and (B)
45 before such person becomes such a participant pursuant to paragraph one
46 or two of subdivision b of this section; and (C) after such person ceas-
47 es to be a participant, but before he or she again becomes such a
48 participant pursuant to paragraph five of such subdivision b.

49 (iii) notwithstanding the provisions of subparagraphs (i) and (ii) of
50 this paragraph, a person who becomes a participant in the twenty-five-
51 year early retirement program provided by this section, who prior to
52 such membership was subject to the provisions of section six hundred
53 four-b of this article, shall not be required to pay the additional
54 member contributions required by subparagraphs (i) and (ii) of this
55 paragraph for any period of credited service before which such person
56 became a participant pursuant to paragraph one or two of subdivision b

1 of this section and during which such participant was subject to the
2 provisions of such section six hundred four-b and no additional employee
3 contributions were required of such member.

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

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

14 (i) (A) each such participant shall contribute an additional four and
15 thirty-five one-hundredths percent of his or her compensation earned
16 from all credited service (whether or not in a physically taxing posi-
17 tion) rendered prior to the commencement date of the first payroll peri-
18 od which begins after January first, nineteen hundred ninety-eight (1)
19 while such person is a participant in such program; and (2) before such
20 person becomes such a participant pursuant to paragraph one or three of
21 subdivision c of this section (whether or not rendered in a New York
22 city eligible position, and whether rendered before or after the enact-
23 ment date of the age fifty-seven retirement program); and (3) after such
24 person ceases to be a participant, but before he or she again becomes
25 such a participant pursuant to paragraph five of such subdivision c
26 (whether or not rendered in a New York city eligible position); and

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

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

1 (ii) each such participant who is employed in a physically taxing
2 position (as defined in paragraph eleven of subdivision a of section six
3 hundred four-c of this article, SUCH SECTION AS ADDED BY CHAPTER NINE-
4 TY-SIX OF THE LAWS OF NINETEEN HUNDRED NINETY-FIVE) shall contribute, in
5 addition to the additional member contributions required to be made at
6 the percentage of compensation specified in subparagraph (i) of this
7 paragraph for the credited service specified in such subparagraph (i),
8 an additional one and ninety-eight one-hundredths percent of his or her
9 compensation earned from that portion of such credited service which is
10 rendered in a physically taxing position (A) while such person is a
11 participant in such program; and (B) before such person becomes such a
12 participant pursuant to paragraph one or three of subdivision c of this
13 section (whether rendered before or after the enactment date of the age
14 fifty-seven retirement program); and (C) after such person ceases to be
15 a participant, but before he or she again becomes such a participant
16 pursuant to paragraph five of such subdivision c.

17 (iii) notwithstanding the provisions of subparagraphs (i) and (ii) of
18 this paragraph, a person who becomes a participant in the age fifty-sev-
19 en early retirement program provided by this section, who prior to such
20 membership was subject to the provisions of section six hundred four-b
21 of this article, shall not be required to pay the additional member
22 contributions required by subparagraphs (i) and (ii) of this paragraph
23 for any period of credited service before which such person became a
24 participant pursuant to paragraph one or three of subdivision c of this
25 section and during which such participant was subject to the provisions
26 of such section six hundred four-b and no additional employee contrib-
27 utions were required of such member.

28 S 7. This act shall take effect immediately and shall be deemed to
29 have been in full force and effect on and after June 30, 2010; provided,
30 that the amendments to subdivision a of section 603 of the retirement
31 and social security law made by section three of this act shall be
32 subject to the expiration and reversion of such subdivision pursuant to
33 section 13 of chapter 682 of the laws of 2003, as amended, when upon
34 such date the provisions of section three-a of this act shall take
35 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, 2010.

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 \$69 million to the State of New York and \$98 million to the participating employers in the New York State and Local Employees' Retirement System.

This estimate, dated December 21, 2009 and intended for use only during the 2010 Legislative Session, is Fiscal Note No. 2010-14, prepared by the Actuary for the New York State and Local Employees' Retirement System.