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2009-2010 Regular Sessions

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March 31, 2009

Introduced by M. of A. TOWNS, ERRIGO, ALFANO, RAIA, CAHILL, BOYLAND, PHEFFER -- Multi-Sponsored by -- M. of A. BARCLAY, CROUCH, DelMONTE, DenDEKKER, DESTITO, GIGLIO, MAGEE, OAKS, TOBACCO -- 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 -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the retirement and social security law, in relation to providing credit to members of public retirement systems of the state for military service

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

Section 1. Section 1000 of the retirement and social security law, as added by chapter 548 of the laws of 2000 and subdivision 9 as added by chapter 547 of the laws of 2002, is amended to read as follows:

S 1000. Military service credit. Notwithstanding any law to the contrary, a member of a public retirement system of the state, as defined in subdivision twenty-three of section five hundred one of this chapter, shall be eligible for credit for military service as hereinafter provided:

1. A member, upon application to such retirement system, may obtain a total not to exceed three years of service credit for up to three years of military duty, as defined in section two hundred forty-three of the military law, if the member was honorably discharged from the military [and all or part of such military service was rendered during the following periods: (a) commencing December seventh, nineteen hundred forty-one and terminating December thirty-first, nineteen hundred forty-six; (b) commencing June twenty-seventh, nineteen hundred fifty

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

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and terminating January thirty-first, nineteen hundred fifty-five; or (c) commencing February twenty-eighth, nineteen hundred sixty-one and terminating May seventh, nineteen hundred seventy-five;

2. A member, upon application to such retirement system, may obtain a total not to exceed three years of service credit for up to three years of military duty, as defined in section two hundred forty-three of the military law, if honorably discharged therefrom, if all or part of such services was rendered in the military conflicts referenced below, as follows:

(a) hostilities participated in by the military forces of the United States in Lebanon, from the first day of June, nineteen hundred eighty-three to the first day of December, nineteen hundred eighty-seven, as established by receipt of the armed forces expeditionary medal, the navy expeditionary medal, or the marine corps expeditionary medal;

(b) hostilities participated in by the military forces of the United States in Grenada, from the twenty-third day of October, nineteen hundred eighty-three to the twenty-first day of November, nineteen hundred eighty-three, as established by receipt of the armed forces expeditionary medal, the navy expeditionary medal, or the marine corps expeditionary medal;

(c) hostilities participated in by the military forces of the United States in Panama, from the twentieth day of December, nineteen hundred eighty-nine to the thirty-first day of January, nineteen hundred ninety, as established by receipt of the armed forces expeditionary medal, the navy expeditionary medal, or the marine corps expeditionary medal; or

(d) hostilities participated in by the military forces of the United States, from the second day of August, nineteen hundred ninety, to the end of such hostilities in case of a veteran who served in the theater of operations including Iraq, Kuwait, Saudi Arabia, Bahrain, Qatar, the United Arab Emirates, Oman, the Gulf of Aden, the Gulf of Oman, the Persian Gulf, the Red Sea, and the airspace above these locations].

[3] 2. A member must have at least [five] TWO years of credited service (not including service granted hereunder) to be eligible to receive credit under this section.

[4] 3. To obtain such credit, a member shall pay such retirement system, for deposit in the fund used to accumulate employer contributions, a sum equal to the product of the number of years of military service being claimed and three percent of such member's compensation earned during the twelve months of credited service immediately preceding the date that the member made application for credit pursuant to this section. If permitted by rule or regulation of the applicable retirement system, the member may pay such member costs by payroll deduction for a period which shall not exceed the time period of military service to be credited pursuant to this section. In the event the member leaves the employer payroll prior to completion of payment, he or she shall forward all remaining required payments to the appropriate retirement system prior to the effective date of retirement. If the full amount of such member costs is not paid to the appropriate retirement system prior to the member's retirement, the amount of service credited shall be proportional to the total amount of the payments made prior to retirement.

[5] 4. In no event shall the credit granted pursuant to this section, when added to credit granted for military service with any retirement system of this state pursuant to this or any other provision of law, exceed a total of three years.

[6] 5. To be eligible to receive credit for military service under this section, a member must make application for such credit before the effective date of retirement. Notwithstanding the foregoing provisions of this subdivision, an individual who retired on or after December twenty-first, nineteen hundred ninety-eight and before the effective date of this section may make application for credit pursuant to this section within one year following the effective date of this section, in which event, the cost to the retiree would be based on the twelve month period immediately preceding retirement.

[7] 6. All costs for service credited to a member pursuant to this section, other than the member costs set forth in subdivision three of this section, shall be paid by the state and all employers which participate in the retirement system in which such member is granted credit.

[8] 7. A member who has purchased military service credit pursuant to section two hundred forty-four-a of the military law shall be entitled to a refund of the difference between the amount paid by the member for such purchase and the amount that would be payable if service had been purchased pursuant to this section.

[9] 8. Notwithstanding any other provision of law, in the event of death prior to retirement, amounts paid by the member for the purchase of military service credit pursuant to this section shall be refunded, with interest, to the extent the military service purchased with such amounts does not produce a greater death benefit than would have been payable had the member not purchased such credit.

Notwithstanding any other provision of law, in the event of retirement, amounts paid by the member for the purchase of military service credit pursuant to this section shall be refunded, with interest, to the extent the military service purchased with such amounts does not produce a greater retirement allowance than would have been payable had the member not purchased such credit.

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after December 21, 1998.

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

This bill would allow up to three (3) years of service credit for military duty by removing all existing requirements that such military service be performed during certain war periods, during certain hostilities while in the theater of operations or upon the receipt of an expeditionary medal. However, the total service credit granted for active and peacetime military service shall not exceed three (3) years. The member would be required to make a payment of three percent of current compensation per year of additional service credit granted by this bill. Members must have at least two (2) years of credited service (not including military service). This last provision could provide vested retirement benefits to members who may otherwise not be eligible.

This bill would also give those who retired from public retirement systems in New York State on or after December 21, 1998 up to three (3) years of service credit for military service who were not eligible in the past because such service didn't meet existing requirements. However, the total service credit granted for active and peacetime military service shall not exceed three (3) years. Retirees who have already received credit in public retirement systems other than those in New York State will be allowed to receive credit for these same years of military service in the New York State and Local Employees' Retirement System (ERS) and the New York State and Local Police and Fire Retirement System (PFRS). The recalculated annual allowance will be retroactive to the date of retirement. Affected retires would be required to make a

payment of three percent of the compensation earned immediately prior to retirement per year of additional service credit granted by this bill.

Insofar as this bill affects the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System, if this bill were enacted there would be an estimated first year cost of approximately $8 million to the State of New York, $10 million to participating employers in the New York State and Local Employees' Retirement System and $3 million to the participating employers in the New York State and Local Police and Fire Retirement System.

In addition to the above costs, there would be additional costs for future members of the Retirement Systems who have such military service.

This estimate, dated December 4, 2009 and intended for use only during the 2010 Legislative Session, is Fiscal Note No. 2010-21, prepared by the Actuary for the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System.

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

This bill would amend Article 20 of the Retirement and Social Security Law to allow members of public retirement systems of New York State to claim service credit for up to three years of military service, regardless of when it was performed. Currently members can receive service credit for military service performed during specified periods of war. A member must have at least two years of credited service to be eligible and make application for such credit before the effective date of retirement. To obtain such credit, a member must deposit in the pension accumulation fund three percent of his or her current annual full-time rate of compensation per year of military service claimed. A member who retired on or after December 21, 1998 may apply for credit pursuant to this section within one year of the effective date of this act. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after December 21, 1998.

The annual cost to the employers of members of the New York State Teachers' Retirement System for this benefit is estimated to be $10.7 million or .07% of payroll if this bill is enacted.

The source of this estimate is Fiscal Note 2010-60 dated May 28, 2010 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2010 Legislative Session.