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

7652--C

2009-2010 Regular Sessions

I N A S S E M B L Y

April 17, 2009

Introduced by M. of A. TOWNS, ESPAILLAT, McDONOUGH, TOWNSEND, COOK, ERRIGO, LUPARDO -- Multi-Sponsored by -- M. of A. BARRON, McENENY -- 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, the education law and the administrative code of the city of New York, in relation to supplemental military retirement allowances for members of public retirement systems of the state

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 is amended by adding a new subdivision 8-a to read as follows:

8-A. A PERSON WHO RETIRED PRIOR TO DECEMBER TWENTY-FIRST, NINETEEN HUNDRED NINETY-EIGHT AND WHO WOULD HAVE BEEN ENTITLED TO THE PROVISIONS OF THIS SECTION, MAY MAKE APPLICATION TO SUCH RETIREMENT SYSTEM NO LATER THAN DECEMBER THIRTY-FIRST, TWO THOUSAND ELEVEN FOR A SUPPLEMENTAL MILITARY RETIREMENT ALLOWANCE PURSUANT TO THIS SUBDIVISION. THE SUPPLEMENTAL RETIREMENT ALLOWANCE PROVIDED BY THIS SUBDIVISION SHALL BE IN LIEU OF ANY BENEFIT OTHERWISE PROVIDED PURSUANT TO THIS SECTION AND ANY CREDIT GRANTED FOR MILITARY SERVICE WITH ANY RETIREMENT SYSTEM OF THIS STATE PURSUANT TO ANY OTHER SECTION OF LAW. UPON RECEIPT OF AN APPLICATION, THE RETIREMENT SYSTEM SHALL DETERMINE THE AMOUNT OF SERVICE CREDIT SUCH PERSON WOULD HAVE BEEN ENTITLED TO RECEIVE PURSUANT TO SUBDIVISIONS ONE AND TWO OF THIS SECTION, SUBJECT TO THE LIMITATIONS CONTAINED IN THIS SECTION. THE SUPPLEMENTAL MILITARY RETIREMENT ALLOWANCE SHALL EQUAL

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

LBD10242-08-0

THE RETIREMENT ALLOWANCE OF SUCH PERSON, COMPUTED WITHOUT OPTIONAL MODIFICATION AND NOT TO EXCEED FIFTEEN THOUSAND DOLLARS, MULTIPLIED BY TWENTY-FIVE ONE HUNDREDTHS OF ONE PERCENT PER MONTH OF THE SERVICE CREDIT AS DETERMINED PURSUANT TO THIS SUBDIVISION. ONE-TWELFTH OF THE SUPPLEMENTAL MILITARY RETIREMENT ALLOWANCE SHALL BE ADDED TO THE RETIREMENT ALLOWANCE OF SUCH PERSON EACH MONTH. THE BENEFIT PAYABLE PURSUANT TO THIS SECTION SHALL COMMENCE ON THE NEXT RETIREMENT ALLOWANCE PAYABLE AT LEAST THIRTY DAYS AFTER THE RECEIPT OF AN APPLICATION FROM SUCH PERSON. FOR THE PURPOSES OF THIS SUBDIVISION, RETIREMENT ALLOWANCE SHALL EXCLUDE ANY ANNUITY DERIVED FROM VOLUNTARY CONTRIBUTIONS MADE BY THE INDIVIDUAL, EXCEPT THOSE MADE PURSUANT TO ELECTIONS UNDER SUBDIVISION ONE OF SECTION FIVE HUNDRED ELEVEN-A OR PARAGRAPH C OF SUBDIVISION THREE OF SECTION FIVE HUNDRED SIXTEEN OF THE EDUCATION LAW, BUT SHALL INCLUDE ANY COST OF LIVING ADJUSTMENT DERIVED FROM SECTIONS SEVENTY-EIGHT-A AND THREE HUNDRED SEVENTY-EIGHT-A OF THIS CHAPTER OR SECTION FIVE HUNDRED THIRTY-TWO-A OF THE EDUCATION LAW, AS APPLICABLE. THE BENEFIT PAYABLE PURSUANT TO THIS SUBDIVISION SHALL BE PAYABLE FOR THE LIFE OF THE RETIRED MEMBER ONLY, EXCEPT THAT THE SURVIVING SPOUSE OF A DECEASED MEMBER WHO RETIRED UNDER AN OPTION PROVIDING A BENEFIT TO BE CONTINUED FOR LIFE TO THE SURVIVING SPOUSE AFTER THE DEATH OF THE MEMBER SHALL BE ENTITLED TO RECEIVE FIFTY PERCENT OF THE MONTHLY BENEFIT THAT THE RETIRED MEMBER WOULD BE RECEIVING PURSUANT TO THIS SUBDIVISION, IF LIVING, COMMENCING WITH THE NEXT RETIREMENT ALLOWANCE PAYABLE AT LEAST THIRTY DAYS AFTER RECEIPT OF AN APPLICATION FROM THE RETIRED MEMBER FOR THE BENEFIT OR PAYABLE AFTER THE DEATH OF THE RETIRED MEMBER, WHICHEVER IS LATER.

S 2. Subdivision b of section 78-a of the retirement and social security law, as added by chapter 125 of the laws of 2000, is amended to read as follows:

b. Said cost-of-living adjustment shall be a percentage of the annual retirement allowance otherwise payable, computed without optional modification, but including any benefit derived from subdivision f of this section [and], any prior year's cost-of-living adjustment derived from this section AND THE AMOUNT OF ANY SUPPLEMENTAL MILITARY RETIREMENT ALLOWANCE DERIVED FROM SUBDIVISION EIGHT-A OF SECTION ONE THOUSAND OF THIS CHAPTER. Said percentage is set forth in subdivision d of this section.

S 3. Subdivision b of section 378-a of the retirement and social security law, as added by chapter 125 of the laws of 2000, is amended to read as follows:

b. Said cost-of-living adjustment shall be a percentage of the annual retirement allowance otherwise payable, computed without optional modification, but including any benefit derived from subdivision f of this section [and], any prior year's cost-of-living adjustment derived from this section AND THE AMOUNT OF ANY SUPPLEMENTAL MILITARY RETIREMENT ALLOWANCE DERIVED FROM SUBDIVISION EIGHT-A OF SECTION ONE THOUSAND OF THIS CHAPTER. Said percentage is set forth in subdivision d of this section.

S 4. Subdivision b of section 532-a of the education law, as added by chapter 125 of the laws of 2000, is amended to read as follows:

b. Said cost-of-living adjustment shall be a percentage of the annual retirement allowance otherwise payable, computed without optional modification, excluding any annuity derived from voluntary contributions made by members, except those made pursuant to elections under subdivision one of section five hundred eleven-a or paragraph c of subdivision three of section five hundred sixteen of this article, but including any

benefit derived from subdivision f of this section [and], any prior year's cost-of-living adjustment derived from this section AND THE AMOUNT OF ANY SUPPLEMENTAL MILITARY RETIREMENT ALLOWANCE DERIVED FROM SUBDIVISION EIGHT-A OF SECTION ONE THOUSAND OF THE RETIREMENT AND SOCIAL SECURITY LAW. Said percentage is set forth in subdivision d of this section.

S 5. Subdivision b of section 13-696 of the administrative code of the city of New York, as added by chapter 125 of the laws of 2000, is amended to read as follows:

b. Said cost-of-living adjustment shall be a percentage of the annual fixed retirement allowance otherwise payable, computed without optional modification, but including any benefit derived from subdivision f of this section [and], any prior year's cost-of-living adjustment derived from this section AND THE AMOUNT OF ANY SUPPLEMENTAL MILITARY ALLOWANCE DERIVED FROM SUBDIVISION EIGHT-A OF SECTION ONE THOUSAND OF THE RETIREMENT AND SOCIAL SECURITY LAW. Said percentage is set forth in subdivision d of this section.

S 6. This act shall take effect immediately.

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

This bill would amend Section 1000 of the Retirement and Social Security Law to give veterans who retired prior to December 21, 1998 or the surviving spouse of such a retired veteran who chose a continued life benefit to the spouse, a supplemental pension based on their first $15,000 of single life allowance by allowing additional benefits for up to three (3) years of service credit for military service performed during certain periods of military conflicts for certain retirees of public retirement systems in New York State. 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 annual allowance will be recalculated as of the date of enactment of this legislation. There would not be any payment required by an affected retiree for such service. Such retiree may make application for such supplemental pension no later than December 31, 2011.

If this bill is enacted, insofar as this proposal affects the ERS and the PFRS, there would be additional costs which would generate increases in annual contributions of approximately $5.9 million to the State of New York, $7.6 million to the participating employers in the ERS and $2.1 million to participating employers in the PFRS.

This estimate, dated December 4, 2009 and intended for use only during the 2010 Legislative Session, is Fiscal Note No. 2010-19, 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 section 1000 of the Retirement and Social Security Law by adding a new subdivision 8-a to allow eligible retired members of public retirement systems of New York State to receive a supplemental military retirement allowance based upon the retirement allowance of such member and up to three years of military service credit. The annual supplemental military retirement allowance shall be equal to the retirement allowance of such person, computed without optional modification and not to exceed fifteen thousand dollars, multiplied by twenty-five one hundredths of one percent per month of military service

claimed. The surviving spouse of a deceased member who retired under an option which provides them with a continuing lifetime benefit would be entitled to receive fifty percent of the supplemental military retirement allowance that the retired member would have received. A member must have retired prior to December 21, 1998 and make application prior to December 31, 2011. This benefit is prospective only and shall commence at least 30 days after the receipt of said application.

The annual cost to the employers of members of the New York State Teachers' Retirement System for this benefit is estimated to be $7.2 million or .05% of payroll if this bill is enacted.

The source of this estimate is Fiscal Note 2010-58 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.