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

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2009-2010 Regular Sessions

I N A S S E M B L Y

April 30, 2009

Introduced by M. of A. ABBATE, McENENY, COLTON -- (at request of the State Comptroller) -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the retirement and social security law, in relation to bringing certain provisions of such law into accordance with the requirements of the federal older workers' benefit protection act (OWBPA)

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

Section 1. Declaration of legislative intent. This act is intended to bring the statutory provisions pertaining to the New York state and local employees' retirement system and the New York state and local police and fire retirement system into compliance with the Federal Older Workers' Benefit Protection Act, P.L. 101-433, by providing death and disability benefits for which the cost incurred on behalf of an older member is no less than that incurred on behalf of a younger member of such systems, as permissible under section 1625.10 of Title 29 of the Code of Federal Regulations.

S 2. Paragraph 1 of subdivision b of section 62 of the retirement and social security law, as amended by chapter 1087 of the laws of 1969, is amended to read as follows:

1. If the member has attained age sixty when such retirement becomes effective, his OR HER retirement allowance shall be equal to that which he OR SHE would receive in the case of superannuation retirement, UNLESS THE MEMBER IS ENROLLED IN A PLAN PROVIDED UNDER SECTION SEVENTY-A, SEVENTY-ONE-A OR SEVENTY-FIVE OF THIS ARTICLE, IN WHICH CASE THE BENEFIT SHALL BE CALCULATED IN THE MANNER DESCRIBED IN CLAUSE TWO OF SUBPARAGRAPH (C) OF PARAGRAPH TWO OF THIS SUBDIVISION.

S 3. Paragraph 1 of subdivision b of section 362 of the retirement and social security law, as amended by chapter 1087 of the laws of 1969, is amended to read as follows:

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

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1. If a member has attained age sixty when such retirement becomes effective, his OR HER retirement allowance shall be equal to that which he OR SHE would receive in the case of superannuation retirement, UNLESS THE MEMBER IS ENROLLED IN A PLAN PROVIDED UNDER SECTION THREE HUNDRED SEVENTY-A, THREE HUNDRED SEVENTY-ONE-A OR THREE HUNDRED SEVENTY-FIVE OF THIS ARTICLE, IN WHICH CASE THE BENEFIT SHALL BE CALCULATED IN THE MANNER DESCRIBED IN CLAUSE TWO OF SUBPARAGRAPH (C) OF PARAGRAPH TWO OF THIS SUBDIVISION.

S 4. Paragraph 2 of subdivision a of section 448 of the retirement and social security law, as amended by chapter 559 of the laws of 2005, is amended to read as follows:

2. A benefit upon the death of a member in service equal to the member's salary upon his OR HER completion of one year of service, two years' salary upon completion of two years of service, and three years' salary upon completion of three years of service. In the case of a member of a retirement system other than the New York state teachers' retirement system, the New York city employees' retirement system, the New York city board of education retirement system [or], the New York city teachers' retirement system, THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM OR THE NEW YORK STATE AND LOCAL POLICE AND FIRE RETIREMENT SYSTEM, such benefit shall be subject to the following limitations:

(a) If the member last joined the retirement system prior to attainment of age fifty-two, the maximum benefit shall be three years' salary;

(b) If the member was age fifty-two when he OR SHE last joined the retirement system, the maximum benefit shall be two and one-half times annual salary;

(c) If the member was age fifty-three when he OR SHE last joined the retirement system, the maximum benefit shall be two years' salary;

(d) If the member was age fifty-four when he OR SHE last joined the retirement system, the maximum benefit shall be one and one-half times annual salary;

(e) If the member was age fifty-five or older but under age sixty-five when he OR SHE last joined the retirement system, the maximum benefit shall be one year's salary; and

(f) If the member was age sixty-five or older when he OR SHE last joined the retirement system, the maximum benefit shall be one thousand dollars.

In the case of a member of a retirement system other than the New York state teachers' retirement system, the New York city employees' retirement system, the New York city board of education retirement system [or], the New York city teachers' retirement system, THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM OR THE NEW YORK STATE AND LOCAL POLICE AND FIRE RETIREMENT SYSTEM, commencing upon attainment of age sixty-one, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety [percentum] PER CENTUM of the benefit otherwise payable and each year thereafter the benefit payable shall be reduced by an amount equal to ten [percentum] PER CENTUM per year of the original benefit otherwise payable, but not below ten [percentum] PER CENTUM of the original benefit otherwise payable.

In the case of a member of the New York state teachers' retirement system, commencing upon attainment of age sixty-one, the benefit otherwise provided pursuant to this paragraph [two] shall be reduced while the member is in service to ninety-six per centum of the benefit otherwise payable and each year thereafter the benefit payable shall be

reduced by an amount equal to four per centum per year of the original benefit otherwise payable, but not below sixty per centum of the original benefit otherwise payable. In the case of a member of the New York city employees' retirement system, the New York city board of education retirement system or the New York city teachers' retirement system, commencing upon attainment of age sixty-one, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety-five per centum of the benefit otherwise payable and each year thereafter the benefit payable shall be reduced by an amount equal to five per centum per year of the original benefit otherwise payable, but not below fifty per centum of the original benefit otherwise payable. IN THE CASE OF ANY MEMBER OF THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM WHO IS PERMITTED TO RETIRE WITHOUT REGARD TO AGE OR A MEMBER OF THE NEW YORK STATE AND LOCAL POLICE AND FIRE RETIREMENT SYSTEM, COMMENCING UPON ATTAINMENT OF AGE SIXTY-ONE, THE BENEFIT OTHERWISE PROVIDED PURSUANT TO THIS PARAGRAPH SHALL BE REDUCED WHILE THE MEMBER IS IN SERVICE TO NINETY-SEVEN PER CENTUM OF THE BENEFIT OTHERWISE PAYABLE, AND EACH YEAR THEREAFTER THE BENEFIT PAYABLE SHALL BE REDUCED BY AN AMOUNT EQUAL TO THREE PER CENTUM PER YEAR OF THE ORIGINAL BENEFIT OTHERWISE PAYABLE, BUT NOT BELOW SEVENTY PER CENTUM OF THE ORIGINAL BENEFIT OTHERWISE PAYABLE. IN THE CASE OF ANY OTHER MEMBER OF THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM, COMMENCING UPON ATTAINMENT OF AGE SIXTY-ONE, THE BENEFIT OTHERWISE PROVIDED PURSUANT TO THIS PARAGRAPH SHALL BE REDUCED WHILE THE MEMBER IS IN SERVICE TO NINETY-SIX PER CENTUM OF THE BENEFIT OTHERWISE PAYABLE, AND EACH YEAR THEREAFTER THE BENEFIT PAYABLE SHALL BE REDUCED BY AN AMOUNT EQUAL TO FOUR PER CENTUM PER YEAR OF THE ORIGINAL BENEFIT OTHERWISE PAYABLE, BUT NOT BELOW SIXTY PER CENTUM OF THE ORIGINAL BENEFIT OTHERWISE PAYABLE. Upon retirement from any retirement system, the benefit in force shall be reduced by fifty [percentum] PER CENTUM; upon completion of the first year of retirement, the benefit in force at the time of retirement shall be reduced by an additional twenty-five [percentum] PER CENTUM, and upon commencement of the third year of retirement, the benefit shall be ten [percentum] PER CENTUM of the benefit in force at age sixty, if any, or at the time of retirement if retirement preceded such age; provided, however, the benefit in retirement shall not be reduced below ten [percentum] PER CENTUM of the benefit in force at age sixty, if any, or at the time of retirement if retirement preceded such age. NOTWITHSTANDING ANY OTHER PROVISION OF THIS PARAGRAPH TO THE CONTRARY, THE BENEFIT FOR A RETIREE FROM THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM SHALL NOT BE REDUCED BELOW TEN PER CENTUM OF THE BENEFIT IN FORCE AT THE TIME OF RETIREMENT.

S 5. Subdivision a of section 506 of the retirement and social security law, as amended by chapter 559 of the laws of 2005, is amended to read as follows:

a. A member in active service who is not eligible for a normal retirement benefit shall, upon completing five years or more of service, be eligible for the ordinary disability benefit described in subdivision b of this section if such member has been determined to be eligible for primary social security disability benefits; provided, however, that no member of the New York state teachers' retirement system, the New York city employees' retirement system, the New York city board of education retirement system [or], the New York city teachers' retirement system OR THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM who is otherwise eligible for ordinary disability benefits pursuant to this section

shall be deemed to be ineligible for such benefits because such member is eligible for a normal service retirement benefit.

S 6. Subdivision a of section 507 of the retirement and social security law, as amended by chapter 489 of the laws of 2008, is amended to read as follows:

a. A member in active service, or a vested member incapacitated as the result of a qualifying World Trade Center condition as defined in section two of this chapter, who is not eligible for a normal service retirement benefit shall be eligible for the accidental disability benefit described in subdivision c of this section if such member has been determined to be eligible for primary social security disability benefits and was disabled as the natural and proximate result of an accident sustained in such active service and not caused by such member's own willful negligence; provided, however, that no member of the New York state teachers' retirement system, the New York city employees' retirement system, the New York city board of education retirement system [or], the New York city teachers' retirement system OR THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM who is otherwise eligible for accidental disability benefits pursuant to this section shall be deemed to be ineligible for such benefits because such member is eligible for a normal service retirement benefit.

S 6-a. Subdivision c of section 507 of the retirement and social security law, as amended by chapter 559 of the laws of 2005, is amended to read as follows:

c. In the case of a member of a retirement system other than THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM, the New York state teachers' retirement system, the New York city employees' retirement system, the New York city board of education retirement system or the New York city teachers' retirement system, the accidental disability benefit hereunder shall be a pension equal to two percent of final average salary times years of credited service which such member would have attained if employment had continued until such member's full escalation date, not in excess of the maximum years of service creditable for the normal service retirement benefit, less (i) fifty percent of the primary social security disability benefit, if any, as provided in section five hundred eleven of this article, and (ii) one hundred percent of any workers' compensation benefits payable.

In the case of a member of THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM, the New York state teachers' retirement system, the New York city employees' retirement system, the New York city board of education retirement system or the New York city teachers' retirement system, the accidental disability benefit hereunder shall be a pension equal to sixty percent of final average salary, less (i) fifty percent of the primary social security disability benefit, if any, as provided in section five hundred eleven of this article, and (ii) one hundred percent of any workers' compensation benefits payable. In the event a disability retiree from any retirement system is not eligible for the primary social security disability benefit and continues to be eligible for disability benefits hereunder, such disability benefit shall be reduced by one-half of such retiree's primary social security retirement benefit, commencing at age sixty-two, in the same manner as provided for service retirement benefits under section five hundred eleven of this article.

S 7. Paragraph 2 of subdivision a of section 508 of the retirement and social security law, as amended by chapter 559 of the laws of 2005, is amended to read as follows:

2. A benefit upon the death of a member in service equal to the member's salary upon his OR HER completion of one year of service, two years' salary upon completion of two years of service, and three years' salary upon completion of three years of service. In the case of a member of a retirement system other than the New York state teachers' retirement system, the New York city employees' retirement system, the New York city board of education retirement system [or], the New York city teachers' retirement system, OR THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM, such benefit shall be subject to the following limitations:

(a) If the member last joined the retirement system prior to attainment of age fifty-two, the maximum benefit shall be three years' salary;

(b) If the member was age fifty-two when he OR SHE last joined the retirement system, the maximum benefit shall be two and one-half times annual salary;

(c) If the member was age fifty-three when he OR SHE last joined the retirement system, the maximum benefit shall be two years' salary;

(d) If the member was age fifty-four when he OR SHE last joined the retirement system, the maximum benefit shall be one and one-half times annual salary;

(e) If the member was age fifty-five or older but under age sixty-five when he OR SHE last joined the retirement system, the maximum benefit shall be one year's salary; and

(f) If the member was age sixty-five or older when he OR SHE last joined the retirement system, the maximum benefit shall be one thousand dollars.

In the case of a member of a retirement system other than the New York state teachers' retirement system, the New York city employees' retirement system, the New York city board of education retirement system [or], the New York city teachers' retirement system, OR THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM, commencing upon attainment of age sixty-one, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety [percentum] PER CENTUM of the benefit otherwise payable and each year thereafter the benefit payable shall be reduced by an amount equal to ten [percentum] PER CENTUM per year of the original benefit otherwise payable, but not below ten [percentum] PER CENTUM of the original benefit otherwise payable.

Notwithstanding any other provision of this paragraph, in the case of a member of the New York state teachers' retirement system, commencing upon attainment of age sixty-one, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety-six per centum of the benefit otherwise payable, and each year thereafter the benefit payable shall be reduced by an amount equal to four per centum per year of the original benefit otherwise payable, but not below sixty per centum of the original benefit otherwise payable. In the case of a member of the New York city employees' retirement system, the New York city board of education retirement system or the New York city teachers' retirement system, commencing upon attainment of age sixty-one, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety-five per centum of the benefit otherwise payable and each year thereafter the benefit payable shall be reduced by an amount equal to five per centum per year of the original benefit otherwise payable, but not below fifty per centum of the original benefit otherwise payable. IN THE CASE OF ANY MEMBER OF THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM

WHO IS PERMITTED TO RETIRE WITHOUT REGARD TO AGE, COMMENCING UPON ATTAINMENT OF AGE SIXTY-ONE, THE BENEFIT OTHERWISE PROVIDED PURSUANT TO THIS PARAGRAPH SHALL BE REDUCED WHILE THE MEMBER IS IN SERVICE TO NINETY-SEVEN PER CENTUM OF THE BENEFIT OTHERWISE PAYABLE, AND EACH YEAR THEREAFTER THE BENEFIT PAYABLE SHALL BE REDUCED BY AN AMOUNT EQUAL TO THREE PER CENTUM PER YEAR OF THE ORIGINAL BENEFIT OTHERWISE PAYABLE, BUT NOT BELOW SEVENTY PER CENTUM OF THE ORIGINAL BENEFIT OTHERWISE PAYABLE. IN THE CASE OF ANY OTHER MEMBER OF THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM, COMMENCING UPON ATTAINMENT OF AGE SIXTY-ONE, THE BENEFIT OTHERWISE PROVIDED PURSUANT TO THIS PARAGRAPH SHALL BE REDUCED WHILE THE MEMBER IS IN SERVICE TO NINETY-SIX PER CENTUM OF THE BENEFIT OTHERWISE PAYABLE, AND EACH YEAR THEREAFTER THE BENEFIT PAYABLE SHALL BE REDUCED BY AN AMOUNT EQUAL TO FOUR PER CENTUM PER YEAR OF THE ORIGINAL BENEFIT OTHERWISE PAYABLE, BUT NOT BELOW SIXTY PER CENTUM OF THE ORIGINAL BENEFIT OTHERWISE PAYABLE. Upon retirement from any retirement system, the benefit in force shall be reduced by fifty [percentum] PER CENTUM; upon completion of the first year of retirement, the benefit in force at the time of retirement shall be reduced by an additional twenty-five [percentum] PER CENTUM, and upon commencement of the third year of retirement, the benefit shall be ten [percentum] PER CENTUM of the benefit in force at age sixty, if any, or at the time of retirement if retirement preceded such age; provided, however, the benefit in retirement shall not be reduced below ten [percentum] PER CENTUM of the benefit in force at age sixty, if any, or at the time of retirement if retirement preceded such age. NOTWITHSTANDING ANY OTHER PROVISION OF THIS PARAGRAPH TO THE CONTRARY, THE BENEFIT FOR A RETIREE FROM THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM SHALL NOT BE REDUCED BELOW TEN PER CENTUM OF THE BENEFIT IN FORCE AT THE TIME OF RETIREMENT.

S 8. Section 508 of the retirement and social security law is amended by adding a new subdivision f to read as follows:

F. WITH RESPECT TO A MEMBER OF THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM WHO WAS COVERED BY PARAGRAPH TWO OF SUBDIVISION A OF THIS SECTION, AS ADDED BY CHAPTER EIGHT HUNDRED NINETY OF THE LAWS OF NINETEEN HUNDRED SEVENTY-SIX, PRIOR TO ITS REPEAL PURSUANT TO CHAPTER SIX HUNDRED SEVENTEEN OF THE LAWS OF NINETEEN HUNDRED EIGHTY-SIX AND WHO IS ENTITLED UNDER THE STATE CONSTITUTION TO HAVE BENEFITS CALCULATED UNDER SUCH PROVISION AS IT READ PRIOR TO SUCH NINETEEN HUNDRED EIGHTY-SIX AMENDMENT, THE LUMP SUM DEATH BENEFIT SHALL BE DETERMINED PURSUANT TO SUBDIVISION A OF THIS SECTION. WITH RESPECT TO A MEMBER OF THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM WHO WAS COVERED BY SUBDIVISION B OF THIS SECTION, AS ADDED BY CHAPTER EIGHT HUNDRED NINETY OF THE LAWS OF NINETEEN HUNDRED SEVENTY-SIX, PRIOR TO ITS REPEAL PURSUANT TO CHAPTER SIX HUNDRED SEVENTEEN OF THE LAWS OF NINETEEN HUNDRED EIGHTY-SIX AND WHO IS ENTITLED UNDER THE STATE CONSTITUTION TO HAVE BENEFITS CALCULATED UNDER SUCH PROVISION AS IT READ PRIOR TO SUCH NINETEEN HUNDRED EIGHTY-SIX AMENDMENT, THE LUMP SUM DEATH BENEFIT SHALL BE DETERMINED PURSUANT TO SUBDIVISION A OF THIS SECTION.

S 9. Subdivision d of section 605 of the retirement and social security law is amended by adding a new paragraph 4 to read as follows:

4. NOTWITHSTANDING THE PROVISIONS OF THIS SUBDIVISION, THE MINIMUM BENEFIT PAYABLE TO A MEMBER OF THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM WHO HAS BEEN DETERMINED TO BE PHYSICALLY OR MENTALLY INCAPACITATED FOR PERFORMANCE OF GAINFUL EMPLOYMENT AS THE NATURAL AND PROXIMATE RESULT OF AN ACCIDENT NOT CAUSED BY WILLFUL NEGLIGENCE SUSTAINED IN THE PERFORMANCE OF DUTIES IN ACTIVE SERVICE WHILE ACTUALLY

A MEMBER OF THE RETIREMENT SYSTEM SHALL BE A PENSION OF ONE-THIRD OF SUCH MEMBER'S FINAL AVERAGE SALARY.

S 10. Paragraph 2 of subdivision a of section 606 of the retirement and social security law, as amended by chapter 559 of the laws of 2005, is amended to read as follows:

2. A benefit upon the death of a member in service equal to the member's salary upon his OR HER completion of one year of service, two years' salary upon completion of two years of service, and three years' salary upon completion of three years of service. In the case of a member of a retirement system other than the New York state teachers' retirement system, the New York city employees' retirement system, the New York city board of education retirement system [or], the New York city teachers' retirement system OR THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM, such benefit shall be subject to the following limitations:

(a) If the member last joined the retirement system prior to attainment of age fifty-two, the maximum benefit shall be three years' salary;

(b) If the member was age fifty-two when he OR SHE last joined the retirement system, the maximum benefit shall be two and one-half times annual salary;

(c) If the member was age fifty-three when he OR SHE last joined the retirement system, the maximum benefit shall be two years' salary;

(d) If the member was age fifty-four when he OR SHE last joined the retirement system, the maximum benefit shall be one and one-half times annual salary;

(e) If the member was age fifty-five or older but under age sixty-five when he OR SHE last joined the retirement system, the maximum benefit shall be one year's salary; and

(f) If the member was age sixty-five or older when he OR SHE last joined the retirement system, the maximum benefit shall be one thousand dollars.

In the case of a member of a retirement system other than the New York state teachers' retirement system, the New York city employees' retirement system, the New York city board of education retirement system [or], the New York city teachers' retirement system OR THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM, commencing upon attainment of age sixty-one, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety [percentum] PER CENTUM of the benefit otherwise payable and each year thereafter the benefit payable shall be reduced by an amount equal to ten [percentum] PER CENTUM per year of the original benefit otherwise payable, but not below ten [percentum] PER CENTUM of the original benefit otherwise payable.

In the case of a member of the New York state teachers' retirement system, commencing upon attainment of age sixty-one, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety-six per centum of the benefit otherwise payable, and each year thereafter the benefit payable shall be reduced by an amount equal to four per centum per year of the original benefit otherwise payable, but not below sixty per centum of the original benefit otherwise payable. In the case of a member of the New York city employees' retirement system, the New York city board of education retirement system or the New York city teachers' retirement system, commencing upon attainment of age sixty-one, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety-five per centum of the benefit otherwise payable

and each year thereafter the benefit payable shall be reduced by an amount equal to five per centum per year of the original benefit otherwise payable, but not below fifty per centum of the original benefit otherwise payable. IN THE CASE OF ANY MEMBER OF THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM WHO IS PERMITTED TO RETIRE WITHOUT REGARD TO AGE, COMMENCING UPON ATTAINMENT OF AGE SIXTY-ONE, THE BENEFIT OTHERWISE PROVIDED PURSUANT TO THIS PARAGRAPH SHALL BE REDUCED WHILE THE MEMBER IS IN SERVICE TO NINETY-SEVEN PER CENTUM OF THE BENEFIT OTHERWISE PAYABLE, AND EACH YEAR THEREAFTER THE BENEFIT PAYABLE SHALL BE REDUCED BY AN AMOUNT EQUAL TO THREE PER CENTUM PER YEAR OF THE ORIGINAL BENEFIT OTHERWISE PAYABLE, BUT NOT BELOW SEVENTY PER CENTUM OF THE ORIGINAL BENEFIT OTHERWISE PAYABLE. IN THE CASE OF ANY OTHER MEMBER OF THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM, COMMENCING UPON ATTAINMENT OF AGE SIXTY-ONE, THE BENEFIT OTHERWISE PROVIDED PURSUANT TO THIS PARAGRAPH SHALL BE REDUCED WHILE THE MEMBER IS IN SERVICE TO NINETY-SIX PER CENTUM OF THE BENEFIT OTHERWISE PAYABLE, AND EACH YEAR THEREAFTER THE BENEFIT PAYABLE SHALL BE REDUCED BY AN AMOUNT EQUAL TO FOUR PER CENTUM PER YEAR OF THE ORIGINAL BENEFIT OTHERWISE PAYABLE, BUT NOT BELOW SIXTY PER CENTUM OF THE ORIGINAL BENEFIT OTHERWISE PAYABLE. Upon retirement, from any retirement system, the benefit in force shall be reduced by fifty [percentum] PER CENTUM; upon completion of the first year of retirement, the benefit in force at the time of retirement shall be reduced by an additional twenty-five [percentum] PER CENTUM, and upon commencement of the third year of retirement, the benefit shall be ten [percentum] PER CENTUM of the benefit in force at age sixty, if any, or at the time of retirement if retirement preceded such age; provided, however, the benefit in retirement shall not be reduced below ten [percentum] PER CENTUM of the benefit in force at age sixty, if any, or at the time of retirement if retirement preceded such age. NOTWITHSTANDING ANY OTHER PROVISION OF THIS PARAGRAPH TO THE CONTRARY, THE BENEFIT FOR A RETIREE FROM THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM SHALL NOT BE REDUCED BELOW TEN PER CENTUM OF THE BENEFIT IN FORCE AT THE TIME OF RETIREMENT.

S 11. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after October 16, 1992, provided, however, that: (i) this act shall not apply to any payment of benefits which became payable prior to October 16, 1992; (ii) sections seven and eight of this act shall be effective if and, in such case, only to the extent section 1 of chapter 617 of the laws of 1986 is unconstitutional insofar as it abrogates the rights pursuant to section 508 of the retirement and social security law as added by section 1 of chapter 890 of the laws of 1976, of public employees who became members of the New York state and local employees' retirement system on or after July 27, 1976 and before September 1, 1983; and (iii) the amendments to sections 506, 507, 508, 605 and 606 of the retirement and social security law made by sections five, six, six-a, seven, eight, nine and ten of this act, shall not affect the expiration of such sections, as provided by section 615 of the retirement and social security law, and shall expire therewith.

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

This bill would change the Retirement and Social Security Law as it affects the New York State and Local Employees' Retirement System (NYSLERS) and the New York State and Local Police and Fire Retirement System (NYSLPFRS) to comply with the requirements of the Federal Older Workers' Benefit Protection Act ("OWBPA"). Provisions relating to disability benefits, ordinary death benefits, and post-retirement death

benefits would be modified to be consistent with the benefits currently being paid by the Retirement Systems, as required by OWBPA.

If this bill is enacted, there will be no increase in benefits being paid by the NYSLERS and NYSLPFRS to members or beneficiaries. Therefore, there will be no cost if this bill is enacted.

This estimate, dated March 17, 2009, and intended for use only during the 2009 Legislative Session, is Fiscal Note No. 2009-187 prepared by the Actuary for the New York State and Local Police and Fire Retirement System and the New York State and Local Employees' Retirement System.