

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

7972--A

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 -- Multi-Sponsored by --
M. of A. WEINSTEIN -- (at request of the State Comptroller) -- read
once and referred to the Committee on Governmental Employees --
committed to Governmental Employees -- committee discharged, bill
amended, ordered reprinted as amended and recommitted to said commit-
tee

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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

- 1 Section 1. Declaration of legislative intent. This act is intended to
2 bring the statutory provisions pertaining to the New York state and
3 local employees' retirement system and the New York state and local
4 police and fire retirement system into compliance with the Federal Older
5 Workers' Benefit Protection Act, P.L. 101-433, by providing death and
6 disability benefits for which the cost incurred on behalf of an older
7 member is no less than that incurred on behalf of a younger member of
8 such systems, as permissible under section 1625.10 of Title 29 of the
9 Code of Federal Regulations.
- 10 S 2. Paragraph 1 of subdivision b of section 62 of the retirement and
11 social security law, as amended by chapter 1087 of the laws of 1969, is
12 amended to read as follows:
- 13 1. If the member has attained age sixty when such retirement becomes
14 effective, his OR HER retirement allowance shall be equal to that which
15 he OR SHE would receive in the case of superannuation retirement, UNLESS
16 THE MEMBER IS ENROLLED IN A PLAN PROVIDED UNDER SECTION SEVENTY-A,
17 SEVENTY-ONE-A OR SEVENTY-FIVE OF THIS ARTICLE, IN WHICH CASE THE BENEFIT
18 SHALL BE CALCULATED IN THE MANNER DESCRIBED IN CLAUSE TWO OF SUBPARA-
19 GRAPH (C) OF PARAGRAPH TWO OF THIS SUBDIVISION.

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

LBD10320-03-0

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

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

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

15 2. A benefit upon the death of a member in service equal to the
16 member's salary upon his OR HER completion of one year of service, two
17 years' salary upon completion of two years of service, and three years'
18 salary upon completion of three years of service. In the case of a
19 member of a retirement system other than the New York state teachers'
20 retirement system, the New York city employees' retirement system, the
21 New York city board of education retirement system [or], the New York
22 city teachers' retirement system, THE NEW YORK STATE AND LOCAL EMPLOY-
23 EES' RETIREMENT SYSTEM OR THE NEW YORK STATE AND LOCAL POLICE AND FIRE
24 RETIREMENT SYSTEM, such benefit shall be subject to the following limi-
25 tations:

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

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

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

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

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

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

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

55 In the case of a member of the New York state teachers' retirement
56 system, commencing upon attainment of age sixty-one, the benefit other-

1 wise provided pursuant to this paragraph [two] shall be reduced while
2 the member is in service to ninety-six per centum of the benefit other-
3 wise payable and each year thereafter the benefit payable shall be
4 reduced by an amount equal to four per centum per year of the original
5 benefit otherwise payable, but not below sixty per centum of the
6 original benefit otherwise payable. In the case of a member of the New
7 York city employees' retirement system, the New York city board of
8 education retirement system or the New York city teachers' retirement
9 system, commencing upon attainment of age sixty-one, the benefit other-
10 wise provided pursuant to this paragraph shall be reduced while the
11 member is in service to ninety-five per centum of the benefit otherwise
12 payable and each year thereafter the benefit payable shall be reduced by
13 an amount equal to five per centum per year of the original benefit
14 otherwise payable, but not below fifty per centum of the original bene-
15 fit otherwise payable. IN THE CASE OF ANY MEMBER OF THE NEW YORK STATE
16 AND LOCAL EMPLOYEES' RETIREMENT SYSTEM WHO IS PERMITTED TO RETIRE WITH-
17 OUT REGARD TO AGE OR A MEMBER OF THE NEW YORK STATE AND LOCAL POLICE AND
18 FIRE RETIREMENT SYSTEM, COMMENCING UPON ATTAINMENT OF AGE SIXTY-ONE, THE
19 BENEFIT OTHERWISE PROVIDED PURSUANT TO THIS PARAGRAPH SHALL BE REDUCED
20 WHILE THE MEMBER IS IN SERVICE TO NINETY-SEVEN PER CENTUM OF THE BENEFIT
21 OTHERWISE PAYABLE, AND EACH YEAR THEREAFTER THE BENEFIT PAYABLE SHALL BE
22 REDUCED BY AN AMOUNT EQUAL TO THREE PER CENTUM PER YEAR OF THE ORIGINAL
23 BENEFIT OTHERWISE PAYABLE, BUT NOT BELOW SEVENTY PER CENTUM OF THE
24 ORIGINAL BENEFIT OTHERWISE PAYABLE. IN THE CASE OF ANY OTHER MEMBER OF
25 THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM, COMMENCING
26 UPON ATTAINMENT OF AGE SIXTY-ONE, THE BENEFIT OTHERWISE PROVIDED PURSU-
27 ANT TO THIS PARAGRAPH SHALL BE REDUCED WHILE THE MEMBER IS IN SERVICE TO
28 NINETY-SIX PER CENTUM OF THE BENEFIT OTHERWISE PAYABLE, AND EACH YEAR
29 THEREAFTER THE BENEFIT PAYABLE SHALL BE REDUCED BY AN AMOUNT EQUAL TO
30 FOUR PER CENTUM PER YEAR OF THE ORIGINAL BENEFIT OTHERWISE PAYABLE, BUT
31 NOT BELOW SIXTY PER CENTUM OF THE ORIGINAL BENEFIT OTHERWISE PAYABLE.
32 Upon retirement from any retirement system, the benefit in force shall
33 be reduced by fifty [percentum] PER CENTUM; upon completion of the first
34 year of retirement, the benefit in force at the time of retirement shall
35 be reduced by an additional twenty-five [percentum] PER CENTUM, and upon
36 commencement of the third year of retirement, the benefit shall be ten
37 [percentum] PER CENTUM of the benefit in force at age sixty, if any, or
38 at the time of retirement if retirement preceded such age; provided,
39 however, the benefit in retirement shall not be reduced below ten
40 [percentum] PER CENTUM of the benefit in force at age sixty, if any, or
41 at the time of retirement if retirement preceded such age. NOTWITH-
42 STANDING ANY OTHER PROVISION OF THIS PARAGRAPH TO THE CONTRARY, THE
43 BENEFIT FOR A RETIREE FROM THE NEW YORK STATE AND LOCAL EMPLOYEES'
44 RETIREMENT SYSTEM SHALL NOT BE REDUCED BELOW TEN PER CENTUM OF THE BENE-
45 FIT IN FORCE AT THE TIME OF RETIREMENT.

46 S 5. Subdivision a of section 506 of the retirement and social securi-
47 ty law, as amended by chapter 559 of the laws of 2005, is amended to
48 read as follows:

49 a. A member in active service who is not eligible for a normal retire-
50 ment benefit shall, upon completing five years or more of service, be
51 eligible for the ordinary disability benefit described in subdivision b
52 of this section if such member has been determined to be eligible for
53 primary social security disability benefits; provided, however, that no
54 member of the New York state teachers' retirement system, the New York
55 city employees' retirement system, the New York city board of education
56 retirement system [or], the New York city teachers' retirement system OR

1 THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM who is other-
2 wise eligible for ordinary disability benefits pursuant to this section
3 shall be deemed to be ineligible for such benefits because such member
4 is eligible for a normal service retirement benefit.

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

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

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

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

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

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

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

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

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

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

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

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

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

30 In the case of a member of a retirement system other than the New York
31 state teachers' retirement system, the New York city employees' retire-
32 ment system, the New York city board of education retirement system
33 [or], the New York city teachers' retirement system, OR THE NEW YORK
34 STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM, commencing upon attainment
35 of age sixty-one, the benefit otherwise provided pursuant to this para-
36 graph shall be reduced while the member is in service to ninety [percen-
37 tum] PER CENTUM of the benefit otherwise payable and each year thereaft-
38 er the benefit payable shall be reduced by an amount equal to ten
39 [percentum] PER CENTUM per year of the original benefit otherwise paya-
40 ble, but not below ten [percentum] PER CENTUM of the original benefit
41 otherwise payable.

42 Notwithstanding any other provision of this paragraph, in the case of
43 a member of the New York state teachers' retirement system, commencing
44 upon attainment of age sixty-one, the benefit otherwise provided pursu-
45 ant to this paragraph shall be reduced while the member is in service to
46 ninety-six per centum of the benefit otherwise payable, and each year
47 thereafter the benefit payable shall be reduced by an amount equal to
48 four per centum per year of the original benefit otherwise payable, but
49 not below sixty per centum of the original benefit otherwise payable. In
50 the case of a member of the New York city employees' retirement system,
51 the New York city board of education retirement system or the New York
52 city teachers' retirement system, commencing upon attainment of age
53 sixty-one, the benefit otherwise provided pursuant to this paragraph
54 shall be reduced while the member is in service to ninety-five per
55 centum of the benefit otherwise payable and each year thereafter the
56 benefit payable shall be reduced by an amount equal to five per centum

1 per year of the original benefit otherwise payable, but not below fifty
2 per centum of the original benefit otherwise payable. IN THE CASE OF
3 ANY MEMBER OF THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM
4 WHO IS PERMITTED TO RETIRE WITHOUT REGARD TO AGE, COMMENCING UPON
5 ATTAINMENT OF AGE SIXTY-ONE, THE BENEFIT OTHERWISE PROVIDED PURSUANT TO
6 THIS PARAGRAPH SHALL BE REDUCED WHILE THE MEMBER IS IN SERVICE TO NINE-
7 TY-SEVEN PER CENTUM OF THE BENEFIT OTHERWISE PAYABLE, AND EACH YEAR
8 THEREAFTER THE BENEFIT PAYABLE SHALL BE REDUCED BY AN AMOUNT EQUAL TO
9 THREE PER CENTUM PER YEAR OF THE ORIGINAL BENEFIT OTHERWISE PAYABLE, BUT
10 NOT BELOW SEVENTY PER CENTUM OF THE ORIGINAL BENEFIT OTHERWISE PAYABLE.
11 IN THE CASE OF ANY OTHER MEMBER OF THE NEW YORK STATE AND LOCAL EMPLOY-
12 EES' RETIREMENT SYSTEM, COMMENCING UPON ATTAINMENT OF AGE SIXTY-ONE, THE
13 BENEFIT OTHERWISE PROVIDED PURSUANT TO THIS PARAGRAPH SHALL BE REDUCED
14 WHILE THE MEMBER IS IN SERVICE TO NINETY-SIX PER CENTUM OF THE BENEFIT
15 OTHERWISE PAYABLE, AND EACH YEAR THEREAFTER THE BENEFIT PAYABLE SHALL BE
16 REDUCED BY AN AMOUNT EQUAL TO FOUR PER CENTUM PER YEAR OF THE ORIGINAL
17 BENEFIT OTHERWISE PAYABLE, BUT NOT BELOW SIXTY PER CENTUM OF THE
18 ORIGINAL BENEFIT OTHERWISE PAYABLE. Upon retirement from any retirement
19 system, the benefit in force shall be reduced by fifty [percentum] PER
20 CENTUM; upon completion of the first year of retirement, the benefit in
21 force at the time of retirement shall be reduced by an additional twen-
22 ty-five [percentum] PER CENTUM, and upon commencement of the third year
23 of retirement, the benefit shall be ten [percentum] PER CENTUM of the
24 benefit in force at age sixty, if any, or at the time of retirement if
25 retirement preceded such age; provided, however, the benefit in retire-
26 ment shall not be reduced below ten [percentum] PER CENTUM of the bene-
27 fit in force at age sixty, if any, or at the time of retirement if
28 retirement preceded such age. NOTWITHSTANDING ANY OTHER PROVISION OF
29 THIS PARAGRAPH TO THE CONTRARY, THE BENEFIT FOR A RETIREE FROM THE NEW
30 YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM SHALL NOT BE REDUCED
31 BELOW TEN PER CENTUM OF THE BENEFIT IN FORCE AT THE TIME OF RETIREMENT.

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

34 F. WITH RESPECT TO A MEMBER OF THE NEW YORK STATE AND LOCAL EMPLOYEES'
35 RETIREMENT SYSTEM WHO WAS COVERED BY PARAGRAPH TWO OF SUBDIVISION A OF
36 THE FORMER SECTION FIVE HUNDRED EIGHT OF THIS CHAPTER, AS ADDED BY CHAP-
37 TER EIGHT HUNDRED NINETY OF THE LAWS OF NINETEEN HUNDRED SEVENTY-SIX,
38 PRIOR TO ITS REPEAL PURSUANT TO CHAPTER SIX HUNDRED SEVENTEEN OF THE
39 LAWS OF NINETEEN HUNDRED EIGHTY-SIX AND WHO IS ENTITLED UNDER THE STATE
40 CONSTITUTION TO HAVE BENEFITS CALCULATED UNDER SUCH PROVISION AS IT READ
41 PRIOR TO SUCH NINETEEN HUNDRED EIGHTY-SIX AMENDMENT, THE LUMP SUM DEATH
42 BENEFIT SHALL BE DETERMINED PURSUANT TO SUBDIVISION A OF THIS SECTION.
43 WITH RESPECT TO A MEMBER OF THE NEW YORK STATE AND LOCAL EMPLOYEES'
44 RETIREMENT SYSTEM WHO WAS COVERED BY SUBDIVISION B OF THE FORMER SECTION
45 FIVE HUNDRED EIGHT OF THIS CHAPTER, AS ADDED BY CHAPTER EIGHT HUNDRED
46 NINETY OF THE LAWS OF NINETEEN HUNDRED SEVENTY-SIX, PRIOR TO ITS REPEAL
47 PURSUANT TO CHAPTER SIX HUNDRED SEVENTEEN OF THE LAWS OF NINETEEN
48 HUNDRED EIGHTY-SIX AND WHO IS ENTITLED UNDER THE STATE CONSTITUTION TO
49 HAVE BENEFITS CALCULATED UNDER SUCH PROVISION AS IT READ PRIOR TO SUCH
50 NINETEEN HUNDRED EIGHTY-SIX AMENDMENT, THE LUMP SUM DEATH BENEFIT SHALL
51 BE DETERMINED PURSUANT TO SUBDIVISION A OF THIS SECTION.

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

54 4. NOTWITHSTANDING THE PROVISIONS OF THIS SUBDIVISION, THE MINIMUM
55 BENEFIT PAYABLE TO A MEMBER OF THE NEW YORK STATE AND LOCAL EMPLOYEES'
56 RETIREMENT SYSTEM WHO HAS BEEN DETERMINED TO BE PHYSICALLY OR MENTALLY

1 INCAPACITATED FOR PERFORMANCE OF GAINFUL EMPLOYMENT AS THE NATURAL AND
2 PROXIMATE RESULT OF AN ACCIDENT NOT CAUSED BY WILLFUL NEGLIGENCE
3 SUSTAINED IN THE PERFORMANCE OF DUTIES IN ACTIVE SERVICE WHILE ACTUALLY
4 A MEMBER OF THE RETIREMENT SYSTEM SHALL BE A PENSION OF ONE-THIRD OF
5 SUCH MEMBER'S FINAL AVERAGE SALARY.

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

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

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

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

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

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

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

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

35 In the case of a member of a retirement system other than the New York
36 state teachers' retirement system, the New York city employees' retire-
37 ment system, the New York city board of education retirement system
38 [or], the New York city teachers' retirement system OR THE NEW YORK
39 STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM, commencing upon attainment
40 of age sixty-one, the benefit otherwise provided pursuant to this para-
41 graph shall be reduced while the member is in service to ninety [percen-
42 tum] PER CENTUM of the benefit otherwise payable and each year thereaft-
43 er the benefit payable shall be reduced by an amount equal to ten
44 [percentum] PER CENTUM per year of the original benefit otherwise paya-
45 ble, but not below ten [percentum] PER CENTUM of the original benefit
46 otherwise payable.

47 In the case of a member of the New York state teachers' retirement
48 system, commencing upon attainment of age sixty-one, the benefit other-
49 wise provided pursuant to this paragraph shall be reduced while the
50 member is in service to ninety-six per centum of the benefit otherwise
51 payable, and each year thereafter the benefit payable shall be reduced
52 by an amount equal to four per centum per year of the original benefit
53 otherwise payable, but not below sixty per centum of the original bene-
54 fit otherwise payable. In the case of a member of the New York city
55 employees' retirement system, the New York city board of education
56 retirement system or the New York city teachers' retirement system,

1 commencing upon attainment of age sixty-one, the benefit otherwise
2 provided pursuant to this paragraph shall be reduced while the member is
3 in service to ninety-five per centum of the benefit otherwise payable
4 and each year thereafter the benefit payable shall be reduced by an
5 amount equal to five per centum per year of the original benefit other-
6 wise payable, but not below fifty per centum of the original benefit
7 otherwise payable. IN THE CASE OF ANY MEMBER OF THE NEW YORK STATE AND
8 LOCAL EMPLOYEES' RETIREMENT SYSTEM WHO IS PERMITTED TO RETIRE WITHOUT
9 REGARD TO AGE, COMMENCING UPON ATTAINMENT OF AGE SIXTY-ONE, THE BENEFIT
10 OTHERWISE PROVIDED PURSUANT TO THIS PARAGRAPH SHALL BE REDUCED WHILE THE
11 MEMBER IS IN SERVICE TO NINETY-SEVEN PER CENTUM OF THE BENEFIT OTHERWISE
12 PAYABLE, AND EACH YEAR THEREAFTER THE BENEFIT PAYABLE SHALL BE REDUCED
13 BY AN AMOUNT EQUAL TO THREE PER CENTUM PER YEAR OF THE ORIGINAL BENEFIT
14 OTHERWISE PAYABLE, BUT NOT BELOW SEVENTY PER CENTUM OF THE ORIGINAL
15 BENEFIT OTHERWISE PAYABLE. IN THE CASE OF ANY OTHER MEMBER OF THE NEW
16 YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM, COMMENCING UPON
17 ATTAINMENT OF AGE SIXTY-ONE, THE BENEFIT OTHERWISE PROVIDED PURSUANT TO
18 THIS PARAGRAPH SHALL BE REDUCED WHILE THE MEMBER IS IN SERVICE TO NINE-
19 TY-SIX PER CENTUM OF THE BENEFIT OTHERWISE PAYABLE, AND EACH YEAR THERE-
20 AFTER THE BENEFIT PAYABLE SHALL BE REDUCED BY AN AMOUNT EQUAL TO FOUR
21 PER CENTUM PER YEAR OF THE ORIGINAL BENEFIT OTHERWISE PAYABLE, BUT NOT
22 BELOW SIXTY PER CENTUM OF THE ORIGINAL BENEFIT OTHERWISE PAYABLE. Upon
23 retirement, from any retirement system, the benefit in force shall be
24 reduced by fifty [percentum] PER CENTUM; upon completion of the first
25 year of retirement, the benefit in force at the time of retirement shall
26 be reduced by an additional twenty-five [percentum] PER CENTUM, and upon
27 commencement of the third year of retirement, the benefit shall be ten
28 [percentum] PER CENTUM of the benefit in force at age sixty, if any, or
29 at the time of retirement if retirement preceded such age; provided,
30 however, the benefit in retirement shall not be reduced below ten
31 [percentum] PER CENTUM of the benefit in force at age sixty, if any, or
32 at the time of retirement if retirement preceded such age. NOTWITH-
33 STANDING ANY OTHER PROVISION OF THIS PARAGRAPH TO THE CONTRARY, THE
34 BENEFIT FOR A RETIREE FROM THE NEW YORK STATE AND LOCAL EMPLOYEES'
35 RETIREMENT SYSTEM SHALL NOT BE REDUCED BELOW TEN PER CENTUM OF THE BENE-
36 FIT IN FORCE AT THE TIME OF RETIREMENT.

37 S 11. This act shall take effect immediately and shall be deemed to
38 have been in full force and effect on and after October 16, 1992,
39 provided, however, that: (i) this act shall not apply to any payment of
40 benefits which became payable prior to October 16, 1992; and (ii)
41 sections seven and eight of this act shall be effective if and, in such
42 case, only to the extent section 1 of chapter 617 of the laws of 1986 is
43 unconstitutional insofar as it abrogates the rights pursuant to section
44 508 of the retirement and social security law as added by section 1 of
45 chapter 890 of the laws of 1976, of public employees who became members
46 of the New York state and local employees' retirement system on or after
47 July 27, 1976 and before September 1, 1983.

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 January 29, 2010, and intended for use only during the 2010 Legislative Session, is Fiscal Note No. 2010-111 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.