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

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I N A S S E M B L Y

May 26, 2009

Introduced by M. of A. ABBATE, PHEFFER, COLTON -- Multi-Sponsored by -- M. of A. SALADINO -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the retirement and social security law, in relation to creditable service

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

Section 1. Paragraph 1 of subdivision i of section 41 of the retirement and social security law is amended by adding a new subparagraph (e) to read as follows:

(E) A MEMBER OF A RETIREMENT SYSTEM WHO IS SUBJECT TO THIS ARTICLE PLACED ON AN AUTHORIZED LEAVE WITHOUT PAY DURING THE COURSE OF AN ABSENCE RESULTING FROM AN OCCUPATIONAL INJURY OR DISEASE FOUND TO BE COMPENSABLE BY THE WORKERS' COMPENSATION BOARD SHALL BE ELIGIBLE FOR RETIREMENT CREDIT FOR SERVICE WHILE ON SAID LEAVE.

THE RETIREMENT CREDIT PROVIDED FOR BY THIS SUBPARAGRAPH SHALL APPLY TO A PERIOD OF AUTHORIZED LEAVE WITHOUT PAY OCCURRING DURING THE FIRST TWELVE MONTHS OF ABSENCE RELATED TO SUCH OCCUPATIONAL INJURY OR DISEASE.

S 2. Paragraph 1 of subdivision i of section 341 of the retirement and social security law is amended by adding a new subparagraph (e) to read as follows:

(E) A MEMBER OF A RETIREMENT SYSTEM WHO IS SUBJECT TO THIS ARTICLE PLACED ON AN AUTHORIZED LEAVE WITHOUT PAY DURING THE COURSE OF AN ABSENCE RESULTING FROM AN OCCUPATIONAL INJURY OR DISEASE FOUND TO BE COMPENSABLE BY THE WORKERS' COMPENSATION BOARD SHALL BE ELIGIBLE FOR RETIREMENT CREDIT FOR SERVICE WHILE ON SAID LEAVE.

THE RETIREMENT CREDIT PROVIDED FOR BY THIS SUBPARAGRAPH SHALL APPLY TO A PERIOD OF AUTHORIZED LEAVE WITHOUT PAY OCCURRING DURING THE FIRST TWELVE MONTHS OF ABSENCE RELATED TO SUCH OCCUPATIONAL INJURY OR DISEASE.

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

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S 3. Subdivision c of section 446 of the retirement and social security law, as amended by chapter 426 of the laws of 1974 and as relettered by chapter 465 of the laws of 1980, is amended to read as follows:

c. Creditable service. 1. A member of a retirement system who is subject to the provisions of this article shall not be eligible to obtain retirement credit for service with a public employer other than the state of New York, a political subdivision thereof, a public benefit corporation, or a participating employer; provided, however, military service with the federal government may be credited pursuant to section two hundred forty-three of the military law up to a maximum of four years; and further provided that retirement credit may be granted for service with an agency located within the state of New York currently specified in the law as providing retirement credit for service.

2. A MEMBER OF A RETIREMENT SYSTEM WHO IS SUBJECT TO THIS ARTICLE PLACED ON AN AUTHORIZED LEAVE WITHOUT PAY DURING THE COURSE OF AN ABSENCE RESULTING FROM AN OCCUPATIONAL INJURY OR DISEASE FOUND TO BE COMPENSABLE BY THE WORKERS' COMPENSATION BOARD SHALL BE ELIGIBLE FOR RETIREMENT CREDIT FOR SERVICE WHILE ON SAID LEAVE. THE RETIREMENT CREDIT PROVIDED FOR BY THIS PARAGRAPH SHALL APPLY TO A PERIOD OF AUTHORIZED LEAVE WITHOUT PAY OCCURRING DURING THE FIRST TWELVE MONTHS OF ABSENCE RELATED TO SUCH OCCUPATIONAL INJURY OR DISEASE.

S 4. Subdivision c of section 513 of the retirement and social security law is amended by adding a new paragraph 3 to read as follows:

3. A MEMBER PLACED ON AN AUTHORIZED LEAVE WITHOUT PAY DURING THE COURSE OF AN ABSENCE RESULTING FROM AN OCCUPATIONAL INJURY OR DISEASE FOUND TO BE COMPENSABLE BY THE WORKERS' COMPENSATION BOARD SHALL BE ELIGIBLE TO OBTAIN CREDIT FOR SERVICE WHILE ON SAID LEAVE.

(I) ANY REQUIRED EMPLOYEE CONTRIBUTION RELATING TO THE RETIREMENT CREDIT PROVIDED BY THIS PARAGRAPH SHALL BE PAID DIRECTLY BY SUCH EMPLOYEE TO THE RETIREMENT SYSTEM PURSUANT TO THE RULES AND REGULATIONS OF THE COMPTROLLER.

(II) THE RETIREMENT CREDIT PROVIDED FOR BY THIS PARAGRAPH SHALL APPLY TO A PERIOD OF AUTHORIZED LEAVE WITHOUT PAY OCCURRING DURING THE FIRST TWELVE MONTHS OF ABSENCE RELATED TO SUCH OCCUPATIONAL INJURY OR DISEASE.

S 5. Subdivision c of section 609 of the retirement and social security law, as added by chapter 414 of the laws of 1983, is amended to read as follows:

c. Creditable service. 1. Other than previous service, a member shall only be eligible to obtain credit for active service with a participating employer; provided, however, military service with the federal government may be credited pursuant to section two hundred forty-three of the military law up to a maximum of four years.

2. A MEMBER PLACED ON AUTHORIZED LEAVE WITHOUT PAY DURING THE COURSE OF AN ABSENCE RESULTING FROM AN OCCUPATIONAL INJURY OR DISEASE FOUND TO BE COMPENSABLE BY THE WORKERS' COMPENSATION BOARD SHALL BE DEEMED TO BE IN ACTIVE SERVICE FOR PURPOSES OF OBTAINING CREDIT FOR SERVICE WHILE ON SAID LEAVE.

(I) ANY REQUIRED EMPLOYEE CONTRIBUTION RELATING TO THE RETIREMENT CREDIT PROVIDED BY THIS PARAGRAPH SHALL BE PAID DIRECTLY BY SUCH EMPLOYEE TO THE RETIREMENT SYSTEM PURSUANT TO THE RULES AND REGULATIONS OF THE COMPTROLLER.

(II) THE RETIREMENT CREDIT PROVIDED FOR BY THIS PARAGRAPH SHALL APPLY TO A PERIOD OF AUTHORIZED LEAVE WITHOUT PAY OCCURRING DURING THE FIRST TWELVE MONTHS OF ABSENCE RELATED TO SUCH OCCUPATIONAL INJURY OR DISEASE.

S 6. This act shall take effect immediately provided that paragraph 3 of subdivision c of section 513 of the retirement and social security

law as added by section four of this act and the amendment to subdivision c of section 609 of such law made by section five of this act shall expire on the same date as such sections expire pursuant to section 615 of such law.

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

This bill would allow certain members of the New York State and Local Employees' Retirement System (NYS&LERS) and the New York State and Local Police and Fire Retirement System (NYS&LPFRS) who are placed on authorized leave without pay during the course of an injury or disease found to be compensable by the Workers' Compensation Board to receive service credit for the first 12 months of such leave. This benefit is currently available to all Tier 1 members, and Tiers 2, 3 and 4 members who are employed by New York State.

If this bill is enacted, assuming full salary will be reported by the employers of affected Tiers 2, 3 and 4 non-state members, there would be an increase in the annual billing of those employers based on the salary that would have been earned as if the members who are on Workers' Compensation were on the payroll. In addition, non-state Tiers 3 and 4 members with less than 10 years of membership would be required to make 3% member contributions as though they were still earning salary for the first 12 months of such leave.

This estimate, dated May 13, 2009, and intended for use only during the 2009 Legislative Session, is Fiscal Note No. 2009-251, prepared by the Actuary for the NYS&LERS and the NYS&LPFRS.