

4069

2009-2010 Regular Sessions

I N S E N A T E

April 8, 2009

Introduced by Sens. FLANAGAN, SEWARD, VOLKER -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to amend the retirement and social security law, in relation to benefits of members subject to article 11 and article 15 who retire prior to the normal retirement age with twenty-five years of service

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

1 Section 1. Paragraph 1 of subdivision b of section 442 of the retire-
2 ment and social security law, as amended by chapter 306 of the laws of
3 1996, is amended to read as follows:
4 1. A member who is a peace officer employed by the unified court
5 system or a member of a teacher's retirement system or a member of the
6 New York state and local employees' retirement system OR A MEMBER OF THE
7 NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM OR A MEMBER OF THE NEW YORK
8 CITY BOARD OF EDUCATION RETIREMENT SYSTEM may retire without reduction
9 of his OR HER retirement benefit upon his OR HER attainment of at least
10 fifty-five years of age and completion of [thirty] TWENTY-FIVE or more
11 years of service; and
12 S 2. Paragraph 1 of subdivision d of section 445-d of the retirement
13 and social security law, as amended by chapter 509 of the laws of 2001,
14 is amended to read as follows:
15 1. In addition to the member contributions required by section 13-125
16 or 13-162 of the administrative code or section eight or thirty of the
17 BERS rules and regulations, each participant in the age fifty-five
18 improved benefit retirement program shall contribute, subject to the
19 applicable provisions of section 13-125.2 of the administrative code or
20 subdivision nineteen of section twenty-five hundred seventy-five of the
21 education law, an additional percentage or additional percentages of his
22 or her compensation to the retirement system of which he or she is a
23 member in accordance with the following schedule:

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

LBD00702-03-9

1 (i) (A) each such participant shall contribute an additional four and
2 thirty-five one-hundredths percent of his or her compensation earned
3 from all credited CPP qualifying service (whether or not in a physically
4 taxing position) rendered on and after the starting date of the age
5 fifty-five improved benefit retirement program and prior to the
6 commencement date of the first payroll period which begins after January
7 first, nineteen hundred ninety-eight (1) while such person is a partic-
8 ipant in such program; and (2) before such person becomes such a partic-
9 ipant pursuant to paragraph one or two of subdivision b of this section
10 (whether or not rendered in a New York city eligible position); and (3)
11 after such person ceases to be a participant, but before he or she again
12 becomes such a participant pursuant to paragraph five of such subdivi-
13 sion b (whether or not rendered in a New York city eligible position);
14 and

15 (B) each such participant shall contribute an additional two and
16 eighty-five one-hundredths percent of his or her compensation earned
17 from all credited CPP qualifying service (whether or not in a physically
18 taxing position) rendered on and after the commencement date of the
19 first payroll period which begins after January first, nineteen hundred
20 ninety-eight and prior to the commencement date of the first payroll
21 period which begins subsequent to the effective date of [the] chapter
22 FIVE HUNDRED NINE of the laws of two thousand one which amended this
23 item AND PRIOR TO THE COMMENCEMENT DATE OF THE FIRST PAYROLL PERIOD
24 WHICH BEGINS AFTER JULY FIRST, TWO THOUSAND NINE (1) while such person
25 is a participant in such program; and (2) before such person becomes
26 such a participant pursuant to paragraph one or two of subdivision b of
27 this section (whether or not rendered in a New York city eligible posi-
28 tion); and (3) after such person ceases to be a participant, but before
29 he or she again becomes such a participant pursuant to paragraph five of
30 such subdivision b (whether or not rendered in a New York city eligible
31 position); and

32 (C) each such participant shall contribute an additional one and
33 eighty-five one-hundredths percent of his or her compensation earned
34 from all credited CPP qualifying service (whether or not in a physically
35 taxing position) rendered on and after the commencement date of the
36 first payroll period which begins subsequent to the effective date of
37 [the] chapter FIVE HUNDRED NINE of the laws of two thousand one which
38 added this item (1) while such person is a participant in such program;
39 and (2) before such person becomes such a participant pursuant to para-
40 graph one or two of subdivision b of this section (whether or not
41 rendered in a New York city eligible position); and (3) after such
42 person ceases to be a participant, but before he or she again becomes
43 such a participant pursuant to paragraph five of such subdivision b
44 (whether or not rendered in a New York city eligible position); and

45 (ii) each such participant who is employed in a physically taxing
46 position (as defined in paragraph eleven of subdivision a of this
47 section) shall contribute, in addition to the additional member contrib-
48 utions required to be made at the percentage of compensation specified
49 in subparagraph (i) of this paragraph for the credited CPP qualifying
50 service specified in such subparagraph (i), an additional one and nine-
51 ty-eight one-hundredths percent of his or her compensation earned from
52 that portion of such credited CPP qualifying service which is rendered
53 in a physically taxing position on and after the starting date of the
54 age fifty-five improved benefit retirement program (A) while such person
55 is a participant in such program; and (B) before such person becomes
56 such a participant pursuant to paragraph one or two of subdivision b of

1 this section; and (C) after such person ceases to be a participant, but
2 before he or she again becomes such a participant pursuant to paragraph
3 five of such subdivision b.

4 S 3. Subdivision a of section 603 of the retirement and social securi-
5 ty law, as amended by section 3 of chapter 19 of the laws of 2008, is
6 amended to read as follows:

7 a. The service retirement benefit specified in section six hundred
8 four of this article shall be payable to members who have met the mini-
9 mum service requirements upon retirement and attainment of age sixty-
10 two, other than members who are eligible for early service retirement
11 pursuant to subdivision c of section six hundred four-b of this article,
12 subdivision c of section six hundred four-c of this article, SUCH
13 SECTION AS ADDED BY CHAPTER FOUR HUNDRED SEVENTY-TWO OF THE LAWS OF
14 NINETEEN HUNDRED NINETY-FIVE, subdivision d of section six hundred
15 four-d of this article, subdivision c of section six hundred four-e of
16 this article, subdivision c of section six hundred four-f of this arti-
17 cle, subdivision c of section six hundred four-g of this article, subdi-
18 vision c of section six hundred four-h of this article or subdivision c
19 of section six hundred four-i of this article, provided, however, a
20 member who is a peace officer employed by the unified court system or a
21 member of a teachers' retirement system or the New York state and local
22 employees' retirement system OR THE NEW YORK CITY EMPLOYEES' RETIREMENT
23 SYSTEM OR THE NEW YORK CITY BOARD OF EDUCATION RETIREMENT SYSTEM may
24 retire without reduction of his or her retirement benefit upon attain-
25 ment of at least fifty-five years of age and completion of [thirty]
26 TWENTY-FIVE or more years of service.

27 S 3-a. Subdivision a of section 603 of the retirement and social secu-
28 rity law, as amended by section 3-a of chapter 19 of the laws of 2008,
29 is amended to read as follows:

30 a. The service retirement benefit specified in section six hundred
31 four of this article shall be payable to members who have met the mini-
32 mum service requirements upon retirement and attainment of age sixty-
33 two, other than members who are eligible for early service retirement
34 pursuant to subdivision c of section six hundred four-b of this article,
35 subdivision c of section six hundred four-c of this article, SUCH
36 SECTION AS ADDED BY CHAPTER FOUR HUNDRED SEVENTY-TWO OF THE LAWS OF
37 NINETEEN HUNDRED NINETY-FIVE, subdivision d of section six hundred
38 four-d of this article, subdivision c of section six hundred four-e of
39 this article, subdivision c of section six hundred four-f of this arti-
40 cle, subdivision c of section six hundred four-g of this article, subdi-
41 vision c of section six hundred four-h of this article or subdivision c
42 of section six hundred four-i of this article provided, however, a
43 member who is a peace officer employed by the unified court system or a
44 member of a teachers' retirement system or the New York state and local
45 employees' retirement system OR THE NEW YORK CITY EMPLOYEES' RETIREMENT
46 SYSTEM OR THE NEW YORK CITY BOARD OF EDUCATION RETIREMENT SYSTEM may
47 retire without reduction of his or her retirement benefit upon attain-
48 ment of at least fifty-five years of age and completion of [thirty]
49 TWENTY-FIVE or more years of service.

50 S 4. Paragraph 1 of subdivision i of section 603 of the retirement and
51 social security law, as amended by chapter 19 of the laws of 2008, is
52 amended to read as follows:

53 1. A member of a teachers' retirement system or the New York state and
54 local employees' retirement system who has met the minimum service
55 requirements but who has less than [thirty] TWENTY-FIVE years of credit-
56 ed service may retire prior to normal retirement age, but no earlier

than attainment of age fifty-five, in which event, unless such person is a member of the New York city teachers' retirement system who is otherwise eligible for early service retirement pursuant to subdivision c of section six hundred four-i of this article, the amount of his or her retirement benefit otherwise computed without optional modification shall be reduced in accordance with the following schedule:

(i) for each of the first twenty-four full months that retirement predates age sixty-two, one-half of one per centum per month; and

(ii) for each full month that retirement predates age sixty, one-quarter of one per centum per month, but in no event shall retirement be permitted prior to attainment of age fifty-five.

S 5. Paragraph 1 of subdivision d of section 604-c of the retirement and social security law, as amended by chapter 509 of the laws of 2001, is amended to read as follows:

1. In addition to the member contributions required by section six hundred thirteen of this article, each participant in the twenty-five-year early retirement program shall contribute (subject to the applicable provisions of subdivision d of section six hundred thirteen of this article) an additional percentage or additional percentages of his or her compensation to the retirement system of which he or she is a member in accordance with the following schedule:

(i) (A) each such participant shall contribute an additional four and thirty-five one-hundredths percent of his or her compensation earned from all credited service (whether or not in a physically taxing position) rendered on and after the starting date of the twenty-five-year early retirement program and prior to the commencement date of the first payroll period which begins after January first, nineteen hundred ninety-eight (1) while such person is a participant in such program; and (2) before such person becomes such a participant pursuant to paragraph one or two of subdivision b of this section (whether or not rendered in a New York city eligible position); and (3) after such person ceases to be a participant, but before he or she again becomes such a participant pursuant to paragraph five of such subdivision b (whether or not rendered in a New York city eligible position); and

(B) each such participant shall contribute an additional two and eighty-five one-hundredths percent of his or her compensation earned from all credited service (whether or not in a physically taxing position) rendered on and after the commencement date of the first payroll period which begins after January first, nineteen hundred ninety-eight and prior to the commencement date of the first payroll period which begins subsequent to the effective date of [the] chapter FIVE HUNDRED NINE of the laws of two thousand one which amended this item AND PRIOR TO THE COMMENCEMENT DATE OF THE FIRST PAYROLL PERIOD WHICH BEGINS AFTER JULY FIRST, TWO THOUSAND NINE (1) while such person is a participant in such program; and (2) before such person becomes such a participant pursuant to paragraph one or two of subdivision b of this section (whether or not rendered in a New York city eligible position); and (3) after such person ceases to be a participant, but before he or she again becomes such a participant pursuant to paragraph five of such subdivision b (whether or not rendered in a New York city eligible position); and

(C) each such participant shall contribute an additional one and eighty-five one-hundredths percent of his or her compensation earned from all credited service (whether or not in a physically taxing position) rendered on and after the commencement date of the first payroll period which begins subsequent to the effective date of [the] chapter

1 FIVE HUNDRED NINE of the laws of two thousand one which added this item
2 (1) while such person is a participant in such program; and (2) before
3 such person becomes such a participant pursuant to paragraph one or two
4 of subdivision b of this section (whether or not rendered in a New York
5 city eligible position); and (3) after such person ceases to be a
6 participant, but before he or she again becomes such a participant
7 pursuant to paragraph five of such subdivision b (whether or not
8 rendered in a New York city eligible position); and

9 (ii) each such participant who is employed in a physically taxing
10 position (as defined in paragraph eleven of subdivision a of this
11 section) shall contribute, in addition to the additional member contrib-
12 utions required to be made at the percentage of compensation specified
13 in subparagraph (i) of this paragraph for the credited service specified
14 in such subparagraph (i), an additional one and ninety-eight one-hun-
15 dredths percent of his or her compensation earned from that portion of
16 such credited service which is rendered in a physically taxing position
17 on and after the starting date of the twenty-five-year early retirement
18 program (A) while such person is a participant in such program; and (B)
19 before such person becomes such a participant pursuant to paragraph one
20 or two of subdivision b of this section; and (C) after such person ceas-
21 es to be a participant, but before he or she again becomes such a
22 participant pursuant to paragraph five of such subdivision b.

23 (iii) notwithstanding the provisions of subparagraphs (i) and (ii) of
24 this paragraph, a person who becomes a participant in the twenty-five-
25 year early retirement program provided by this section, who prior to
26 such membership was subject to the provisions of section six hundred
27 four-b of this article, shall not be required to pay the additional
28 member contributions required by subparagraphs (i) and (ii) of this
29 paragraph for any period of credited service before which such person
30 became a participant pursuant to paragraph one or two of subdivision b
31 of this section and during which such participant was subject to the
32 provisions of such section six hundred four-b and no additional employee
33 contributions were required of such member.

34 S 6. Paragraph 1 of subdivision f of section 604-d of the retirement
35 and social security law, as amended by chapter 509 of the laws of 2001,
36 is amended to read as follows:

37 1. In addition to the member contributions required by section six
38 hundred thirteen of this article, each participant in the age fifty-sev-
39 en retirement program shall contribute (subject to the applicable
40 provisions of subdivision d of section six hundred thirteen of this
41 article) an additional percentage or additional percentages of his or
42 her compensation to the retirement system of which he or she is a member
43 in accordance with the following schedule:

44 (i) (A) each such participant shall contribute an additional four and
45 thirty-five one-hundredths percent of his or her compensation earned
46 from all credited service (whether or not in a physically taxing posi-
47 tion) rendered prior to the commencement date of the first payroll peri-
48 od which begins after January first, nineteen hundred ninety-eight (1)
49 while such person is a participant in such program; and (2) before such
50 person becomes such a participant pursuant to paragraph one or three of
51 subdivision c of this section (whether or not rendered in a New York
52 city eligible position, and whether rendered before or after the enact-
53 ment date of the age fifty-seven retirement program); and (3) after such
54 person ceases to be a participant, but before he or she again becomes
55 such a participant pursuant to paragraph five of such subdivision c
56 (whether or not rendered in a New York city eligible position); and

1 (B) each such participant shall contribute an additional two and
2 eighty-five one-hundredths percent of his or her compensation earned
3 from all credited service (whether or not in a physically taxing posi-
4 tion) rendered on and after the commencement date of the first payroll
5 period which begins after January first, nineteen hundred ninety-eight
6 and prior to the commencement date of the first payroll period which
7 begins subsequent to the effective date of [the] chapter FIVE HUNDRED
8 NINE of the laws of two thousand one which amended this item AND PRIOR
9 TO THE COMMENCEMENT DATE OF THE FIRST PAYROLL PERIOD WHICH BEGINS AFTER
10 JULY FIRST, TWO THOUSAND NINE (1) while such person is a participant in
11 such program; and (2) before such person becomes such a participant
12 pursuant to paragraph one or three of subdivision c of this section
13 (whether or not rendered in a New York city eligible position); and (3)
14 after such person ceases to be a participant, but before he or she again
15 becomes such a participant pursuant to paragraph five of such subdivi-
16 sion c (whether or not rendered in a New York city eligible position);
17 and

18 (C) each such participant shall contribute an additional one and
19 eighty-five one-hundredths percent of his or her compensation earned
20 from all credited service (whether or not in a physically taxing posi-
21 tion) rendered on and after the commencement date of the first payroll
22 period which begins subsequent to the effective date of [the] chapter
23 FIVE HUNDRED NINE of the laws of two thousand one which added this item
24 (1) while such person is a participant in such program; and (2) before
25 such person becomes such a participant pursuant to paragraph one or
26 three of subdivision c of this section (whether or not rendered in a New
27 York city eligible position); and (3) after such person ceases to be a
28 participant, but before he or she again becomes such a participant
29 pursuant to paragraph five of such subdivision c (whether or not
30 rendered in A New York city eligible position); and

31 (ii) each such participant who is employed in a physically taxing
32 position (as defined in paragraph eleven of subdivision a of section six
33 hundred four-c of this article) shall contribute, in addition to the
34 additional member contributions required to be made at the percentage of
35 compensation specified in subparagraph (i) of this paragraph for the
36 credited service specified in such subparagraph (i), an additional one
37 and ninety-eight one-hundredths percent of his or her compensation
38 earned from that portion of such credited service which is rendered in a
39 physically taxing position (A) while such person is a participant in
40 such program; and (B) before such person becomes such a participant
41 pursuant to paragraph one or three of subdivision c of this section
42 (whether rendered before or after the enactment date of the age fifty-
43 seven retirement program); and (C) after such person ceases to be a
44 participant, but before he or she again becomes such a participant
45 pursuant to paragraph five of such subdivision c.

46 (iii) notwithstanding the provisions of subparagraphs (i) and (ii) of
47 this paragraph, a person who becomes a participant in the age fifty-sev-
48 en early retirement program provided by this section, who prior to such
49 membership was subject to the provisions of section six hundred four-b
50 of this article, shall not be required to pay the additional member
51 contributions required by subparagraphs (i) and (ii) of this paragraph
52 for any period of credited service before which such person became a
53 participant pursuant to paragraph one or three of subdivision c of this
54 section and during which such participant was subject to the provisions
55 of such section six hundred four-b and no additional employee contrib-
56 utions were required of such member.

1 S 7. This act shall take effect immediately and shall be deemed to
2 have been in full force and effect on and after June 30, 2009; provided,
3 however, that the amendments to subdivisions a and i of section 603,
4 paragraph 1 of subdivision d of section 604-c and paragraph 1 of subdivi-
5 sion f of section 604-d of the retirement and social security law made
6 by sections three, three-a, four, five and six of this act shall not
7 affect the expiration of and shall expire on the same date as article 15
8 of such law, pursuant to section 615 of the retirement and social secu-
9 rity law; and provided, further, that the amendments to subdivision a of
10 section 603 of the retirement and social security law made by section
11 three of this act shall be subject to the expiration and reversion of
12 such subdivision pursuant to section 13 of chapter 682 of the laws of
13 2003, as amended, when upon such date the provisions of section three-a
14 of this act shall take effect.

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

This bill would allow Tier 2, 3 and 4 members of the New York State and Local Employees' Retirement System and certain other public retirement systems to retire without a benefit reduction due to early retirement upon the attainment of age fifty-five (55) and the completion of at least twenty-five (25) years of service. It would also amend the employee contribution payment schedule for certain members of the New York City Employees' Retirement System who are covered under the Optional Age Fifty-Five Improved Retirement Benefit Program. This bill would be deemed to be in effect on June 30, 2009.

Insofar as this bill would affect the New York State and Local Employees' Retirement System, if it is enacted, we anticipate that there would be estimated additional annual contributions of approximately \$67 million to the State of New York and \$95 million to the participating employers in the New York State and Local Employees' Retirement System.

This estimate, dated December 1, 2008 and intended for use only during the 2009 Legislative Session, is Fiscal Note No. 2009-19, prepared by the Actuary for the New York State and Local Employees' Retirement System.