

4184

2009-2010 Regular Sessions

I N   S E N A T E

April 15, 2009

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Introduced by Sens. FLANAGAN, 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  
the procedure for hiring of retired persons for public service posi-  
tions

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

1     Section 1. Paragraphs (a) and (b) of subdivision 2 of section 211 of  
2     the retirement and social security law, paragraph (a) as amended by  
3     chapter 753 of the laws of 1976, subparagraph 7 of paragraph (a) as  
4     amended by chapter 840 of the laws of 1983 and paragraph (b) as amended  
5     by chapter 640 of the laws of 2008, are amended to read as follows:  
6     (a) No retired person may be employed in a position in public service  
7     pursuant to subdivision one hereof except upon approval of THE HEAD OF  
8     THE RETIREMENT SYSTEM FROM WHICH THE PERSON RETIRED AND UPON APPROVAL OF  
9     (1) the state civil service commission; or  
10    (2) the commissioner of education if such person is to be employed in  
11    the unclassified service of a school district other than the city of New  
12    York, a board of cooperative educational services or a county vocational  
13    education and extension board; or  
14    (3) the municipal civil service commission of the city of New York if  
15    such person is to be employed in a position in the service of the city  
16    of New York or in the classified service in the board of education or  
17    board of higher education of such city; or  
18    (4) the chancellor of the city school district of the city of New York  
19    if such person is to be employed in the unclassified service under the  
20    board of education of the city of New York; or  
21    (5) the board of higher education of the city of New York if such  
22    person is to be employed in the unclassified service under the board of  
23    higher education of the city of New York; or

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

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1 (6) the chancellor of state university if such person is to be  
2 employed in the unclassified service of the state university of New  
3 York, or in the professional service at the state colleges of agricul-  
4 ture, home economics, veterinary medicine or industrial and labor  
5 relations, the state agricultural experiment station at Geneva or any  
6 other institution or agency under the management and control of Cornell  
7 university as representative of the board of trustees of state universi-  
8 ty of New York, or at the state college of ceramics under the management  
9 and control of Alfred university as representative of the board of trus-  
10 tees of state university of New York or in the unclassified service of a  
11 community college other than those in the city of New York; or

12 (7) the chief administrator of the courts if such person is to be  
13 employed in a judicial or nonjudicial position in the unified court  
14 system.

15 (b) Such approval may be granted only on the written request of the  
16 prospective employer of such retired person, which request shall state  
17 detailed reasons therefor related to the standards set forth herein, and  
18 on a finding, on evidence satisfactory to the appropriate officer or  
19 authority specified in paragraph (a) of this subdivision,

20 (1) that the retired person is duly qualified, competent and phys-  
21 ically fit for performance of the duties of the position in which he or  
22 she is to be employed and is properly certified where such certification  
23 is required;

24 (2) that he or she will earn more than one thousand dollars in one  
25 year, including compensation earned in such position under other  
26 provisions of this article that there are not readily available for  
27 recruitment persons qualified to perform the duties of such position;  
28 [and (4);]

29 (3) that the prospective employer has prepared a detailed recruitment  
30 plan to fill such vacancy on a permanent basis;

31 (4) that his or her employment is in the best interests of the govern-  
32 ment service; [and]

33 (5)(i) that there is an urgent need for his or her services in such  
34 position as a result of an unplanned, unpredictable and unexpected  
35 vacancy where sufficient time is not available to recruit a qualified  
36 individual and that such hiring shall be deemed as non-permanent rather  
37 than a final filling of such position; or

38 (ii) that the prospective employer has undertaken extensive recruit-  
39 ment efforts to fill such vacancy and as a result thereof, has deter-  
40 mined that there are no available non-retired persons qualified to  
41 perform the duties of such position[.]; AND

42 (6) THAT THE EMPLOYER ISSUED A PUBLIC ANNOUNCEMENT OF THE POSITION AT  
43 LEAST THIRTY DAYS PRIOR TO FILING A WRITTEN REQUEST FOR APPROVAL UNDER  
44 THIS SECTION AND ADVERTISED THE POSITION IN A SUFFICIENT MANNER DURING  
45 THOSE THIRTY DAYS; AND SUCH ANNOUNCEMENT AND ADVERTISING SET FORTH THE  
46 MINIMUM QUALIFICATIONS REQUIRED AND OTHER NECESSARY INFORMATION, INCLUD-  
47 ING BUT NOT LIMITED TO POSITION DESCRIPTION AND APPLICATION REQUIRE-  
48 MENTS.

49 Such approvals may be granted for periods not exceeding two years  
50 each, provided that such person may not return to work in the same or  
51 similar position for a period of one year following retirement. The  
52 authority or officer specified in paragraph (a) of this subdivision,  
53 upon approving employment of a retired person under this section, shall  
54 certify such approval to the retirement system or pension plan from  
55 which such person is receiving a retirement allowance.

56 S 2. This act shall take effect immediately.

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

This bill would amend section 211 of the Retirement and Social Security Law to require an employer issue a public announcement of any position to be filled with a public system retiree who would receive both a salary and pension. In addition, this bill would also require approval of such hiring from the head of the retirement system from which the person retired.

Insofar as this bill affects the New York State and Local Employees' Retirement System (ERS) and the New York State and Local Police and Fire Retirement System (PFRS), if this bill were enacted there would be small administrative costs to the Systems. These costs would be borne by the State of New York and the participating employers in the ERS and PFRS.

This estimate, dated April 3, 2009 and intended for use only during the 2009 Legislative Session, is Fiscal Note No. 2009-211, 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.