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

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2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. STEWART-COUSINS -- 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 retirement of detention officers employed by the city of Yonkers after twenty-five years of creditable service

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

Section 1. The retirement and social security law is amended by adding a new section 89-x to read as follows:

S 89-X. RETIREMENT OF DETENTION OFFICERS EMPLOYED BY THE CITY OF YONKERS. A. A MEMBER EMPLOYED AS A DETENTION OFFICER BY THE CITY OF YONKERS SHALL BE ELIGIBLE TO RETIRE PURSUANT TO THE PROVISIONS OF THIS SECTION IF HE OR SHE IS A DETENTION OFFICER OR HOLDS A JOB WITH RESPONSIBILITIES SIMILAR TO THOSE OF A DETENTION OFFICER, IN THE EVENT THAT THE JOB TITLE OF DETENTION OFFICER SHALL BE ABOLISHED. SUCH ELIGIBILITY SHALL BE AN ALTERNATIVE TO THE ELIGIBILITY PROVISIONS AVAILABLE UNDER ANY OTHER PLAN OF THIS ARTICLE TO WHICH SUCH MEMBER IS SUBJECT.

B. SUCH MEMBER SHALL BE ENTITLED TO RETIRE UPON THE COMPLETION OF TWENTY-FIVE YEARS OF TOTAL CREDITABLE SERVICE BY FILING AN APPLICATION THEREFOR IN THE MANNER PROVIDED FOR IN SECTION SEVENTY OF THIS ARTICLE.

C. UPON COMPLETION OF TWENTY-FIVE YEARS OF SUCH SERVICE AND UPON RETIREMENT, EACH SUCH MEMBER SHALL RECEIVE A PENSION WHICH, TOGETHER WITH AN ANNUITY WHICH SHALL BE THE ACTUARIAL EQUIVALENT OF HIS OR HER ACCUMULATED CONTRIBUTIONS AT THE TIME OF HIS OR HER RETIREMENT AND AN ADDITIONAL PENSION WHICH IS THE ACTUARIAL EQUIVALENT OF THE RESERVED-FOR-INCREASED-TAKE-HOME-PAY TO WHICH HE OR SHE MAY THEN BE ENTITLED SHALL BE SUFFICIENT TO PROVIDE HIM OR HER WITH A RETIREMENT ALLOWANCE EQUAL TO ONE-HALF OF HIS OR HER FINAL AVERAGE SALARY.

D. AS USED IN THIS SECTION "CREDITABLE SERVICE" SHALL INCLUDE ANY AND ALL SERVICES PERFORMED AS A DETENTION OFFICER WITH THE CITY OF YONKERS.

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

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E. CREDIT FOR SERVICE AS A MEMBER OR OFFICER OF THE STATE POLICE OR AS A PAID FIREFIGHTER, POLICE OFFICER OR OFFICER OF ANY ORGANIZED FIRE DEPARTMENT OR POLICE FORCE OR DEPARTMENT OF ANY COUNTY, CITY, VILLAGE, TOWN, FIRE DISTRICT OR POLICE DISTRICT, SHALL ALSO BE DEEMED TO BE CREDITABLE SERVICE AND SHALL BE INCLUDED IN COMPUTING YEARS OF TOTAL SERVICE FOR RETIREMENT PURSUANT TO THIS SECTION, PROVIDED SUCH SERVICE WAS PERFORMED BY THE MEMBER WHILE CONTRIBUTING TO THE RETIREMENT SYSTEM PURSUANT TO THE PROVISIONS OF THIS ARTICLE OR ARTICLE EIGHT OF THIS CHAPTER.

F. THE CITY OF YONKERS SHALL CERTIFY TO THE COMPTROLLER, PERIODICALLY AND AT SUCH INTERVALS OF TIME AS MAY BE REQUIRED AND IN SUCH FASHION AS MAY BE PRESCRIBED, THE IDENTITY OF THE DETENTION OFFICERS IN ITS EMPLOY.

G. A MEMBER CONTRIBUTING ON THE BASIS OF THIS SECTION AT THE TIME OF RETIREMENT, MAY RETIRE AFTER THE COMPLETION OF TWENTY-FIVE YEARS OF TOTAL CREDITABLE SERVICE. APPLICATION THEREFOR MAY BE FILED IN A MANNER SIMILAR TO THAT PROVIDED IN SECTION SEVENTY OF THIS ARTICLE. UPON COMPLETION OF TWENTY-FIVE YEARS OF SUCH SERVICE AND UPON RETIREMENT, EACH SUCH MEMBER SHALL RECEIVE A PENSION WHICH, TOGETHER WITH AN ANNUITY WHICH SHALL BE THE ACTUARIAL EQUIVALENT OF HIS OR HER ACCUMULATED CONTRIBUTIONS AT THE TIME OF HIS OR HER RETIREMENT AND AN ADDITIONAL PENSION WHICH IS THE ACTUARIAL EQUIVALENT OF THE RESERVED-FOR-INCREASED-TAKE-HOME-PAY TO WHICH HE OR SHE MAY THEN BE ENTITLED SHALL BE SUFFICIENT TO PROVIDE HIM OR HER WITH A RETIREMENT ALLOWANCE EQUAL TO ONE-HALF OF HIS OR HER FINAL AVERAGE SALARY.

H. IN COMPUTING THE TWENTY-FIVE YEARS OF TOTAL SERVICE OF A MEMBER PURSUANT TO THIS SECTION FULL CREDIT SHALL BE GIVEN AND FULL ALLOWANCE SHALL BE MADE FOR SERVICE OF SUCH MEMBER IN TIME OF WAR AFTER WORLD WAR I AS DEFINED IN SECTION TWO OF THIS CHAPTER, PROVIDED SUCH MEMBER AT THE TIME OF HIS OR HER ENTRANCE INTO THE ARMED FORCES WAS IN THE SERVICE OF THE CITY OF YONKERS.

I. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PREVENT A MEMBER, WHO DOES NOT RETIRE PURSUANT TO THE PROVISIONS OF THIS SECTION, FROM UTILIZING SERVICE WHICH IS CREDITABLE SERVICE PURSUANT TO THE PROVISIONS OF THIS SECTION FOR SERVICE CREDIT PURSUANT TO THE PROVISIONS OF ANY OTHER PLAN OF THIS ARTICLE TO WHICH SUCH MEMBER IS SUBJECT.

J. THE PROVISIONS OF THIS SECTION SHALL BE CONTROLLING NOTWITHSTANDING ANY OTHER PROVISION IN THIS ARTICLE TO THE CONTRARY.

S 2. Subdivision a of section 445 of the retirement and social security law, as amended by chapter 295 of the laws of 2007, is amended to read as follows:

a. No member of a retirement system who is subject to the provisions of this article shall retire without regard to age, exclusive of retirement for disability, unless he OR SHE is a [policeman] POLICE OFFICER, an investigator member of the New York city employees' retirement system, [fireman] FIREFIGHTER, correction officer, a qualifying member as defined in section eighty-nine-t, as added by chapter six hundred fifty-seven of the laws of nineteen hundred ninety-eight, of this chapter, sanitation [man] PERSON, a special officer (including persons employed by the city of New York in the title urban park ranger or associate urban park ranger), school safety agent, campus peace officer or a taxi and limousine commission inspector member of the New York city employees' retirement system or the New York city board of education retirement system, a dispatcher member of the New York city employees' retirement system, a police communications member of the New York city employees' retirement system, an EMT member of the New York city employees' retirement system, a deputy sheriff member of the New York city

employees' retirement system, a correction officer of the Westchester county correction department as defined in section eighty-nine-e of this chapter or employed in Suffolk county as a peace officer, as defined in section eighty-nine-s, as added by chapter five hundred eighty-eight of the laws of nineteen hundred ninety-seven, of this chapter, employed in Suffolk county as a correction officer, as defined in section eighty-nine-f of this chapter, or employed in Nassau county as a correction officer, uniformed correction division personnel, sheriff, undersheriff or deputy sheriff, as defined in section eighty-nine-g of this chapter, or employed in Nassau county as an ambulance medical technician, an ambulance medical technician/supervisor or a member who performs ambulance medical technician related services, as defined in section eighty-nine-s, as amended by chapter five hundred seventy-eight of the laws of nineteen hundred ninety-eight, of this chapter, or employed in Nassau county as a peace officer, as defined in section eighty-nine-s, as added by chapter five hundred ninety-five of the laws of nineteen hundred ninety-seven, of this chapter, or employed in Albany county as a sheriff, undersheriff, deputy sheriff, correction officer or identification officer, as defined in section eighty-nine-h of this chapter or is employed in St. Lawrence county as a sheriff, undersheriff, deputy sheriff or correction officer, as defined in section eighty-nine-i of this chapter or is employed in Orleans county as a sheriff, undersheriff, deputy sheriff or correction officer, as defined in section eighty-nine-l of this chapter or is employed in Jefferson county as a sheriff, undersheriff, deputy sheriff or correction officer, as defined in section eighty-nine-j of this chapter or is employed in Onondaga county as a deputy sheriff-jail division competitively appointed or as a correction officer, as defined in section eighty-nine-k of this chapter or is employed in a county which makes an election under subdivision j of section eighty-nine-p of this chapter as a sheriff, undersheriff, deputy sheriff or correction officer as defined in such section eighty-nine-p OF THIS CHAPTER or is employed in Broome County as a sheriff, undersheriff, deputy sheriff or correction officer, as defined in section eighty-nine-m of this chapter or is a Monroe county deputy sheriff-court security, or deputy sheriff-jailor as defined in section eighty-nine-n, as added by chapter five hundred ninety-seven of the laws of nineteen hundred ninety-one, of this chapter or is employed in Greene county as a sheriff, undersheriff, deputy sheriff or correction officer, as defined in section eighty-nine-o of this chapter or is a traffic officer with the town of Elmira as defined in section eighty-nine-q of this chapter or is employed by Suffolk county as a park police officer, as defined in section eighty-nine-r of this chapter or is a peace officer employed by a county probation department as defined in section eighty-nine-t, as added by chapter six hundred three of the laws of nineteen hundred ninety-eight, of this chapter or is employed in Rockland county as a deputy sheriff-civil as defined in section eighty-nine-v of this chapter as added by chapter four hundred forty-one of the laws of two thousand one, or is employed in Rockland county as a superior correction officer as defined in section eighty-nine-v of this chapter as added by chapter five hundred fifty-six of the laws of two thousand one or is a paramedic employed by the police department in the town of Tonawanda and retires under the provisions of section eighty-nine-v of this chapter, as added by chapter four hundred seventy-two of the laws of two thousand one, or is a county fire marshal, supervising fire marshal, fire marshal, assistant fire marshal, assistant chief fire marshal or chief fire marshal employed by the county of Nassau as

defined in section eighty-nine-w of this chapter, OR IS A DETENTION OFFICER EMPLOYED BY THE CITY OF YONKERS AND RETIRES UNDER THE PROVISIONS OF SECTION EIGHTY-NINE-X OF THIS CHAPTER, and is in a plan which permits immediate retirement upon completion of a specified period of service without regard to age. Except as provided in subdivision c of section four hundred forty-five-a of this article, subdivision c of section four hundred forty-five-b of this article, subdivision c of section four hundred forty-five-c of this article, subdivision c of section four hundred forty-five-d of this article, subdivision c of section four hundred forty-five-e of this article, subdivision c of section four hundred forty-five-f of this article and subdivision c of section four hundred forty-five-h of this article, a member in such a plan and such an occupation, other than a [policeman] POLICE OFFICER or investigator member of the New York city employees' retirement system or a [fireman] FIREFIGHTER, shall not be permitted to retire prior to the completion of twenty-five years of credited service; provided, however, if such a member in such an occupation is in a plan which permits retirement upon completion of twenty years of service regardless of age, he may retire upon completion of twenty years of credited service and prior to the completion of twenty-five years of service, but in such event the benefit provided from funds other than those based on such a member's own contributions shall not exceed two per centum of final average salary per each year of credited service.

S 3. Section 603 of the retirement and social security law is amended by adding a new subdivision t to read as follows:

T. THE SERVICE RETIREMENT BENEFIT SPECIFIED IN SECTION SIX HUNDRED FOUR OF THIS ARTICLE SHALL BE PAYABLE TO MEMBERS WITH TWENTY-FIVE YEARS OF CREDITABLE SERVICE, WITHOUT REGARD TO AGE, WHO ARE DETENTION OFFICERS EMPLOYED BY THE CITY OF YONKERS, AS DEFINED IN SECTION EIGHTY-NINE-X OF THIS CHAPTER, IF: (I) SUCH MEMBERS HAVE MET THE MINIMUM SERVICE REQUIREMENTS UPON RETIREMENT, AND (II) IN THE CASE OF A MEMBER SUBJECT TO THE PROVISIONS OF ARTICLE FOURTEEN OF THIS CHAPTER, SUCH MEMBER FILES AN ELECTION THEREFOR WHICH PROVIDES THAT HE OR SHE WILL BE SUBJECT TO THE PROVISIONS OF THIS ARTICLE AND NONE OF THE PROVISIONS OF SUCH ARTICLE FOURTEEN. SUCH ELECTION, WHICH SHALL BE IRREVOCABLE, SHALL BE IN WRITING, DULY EXECUTED AND SHALL BE FILED WITH THE COMPTROLLER ON OR BEFORE SEPTEMBER FIRST, TWO THOUSAND NINE. FOR THE PURPOSES OF THIS SUBDIVISION, THE TERM "CREDITABLE SERVICE" SHALL HAVE THE MEANING AS SO DEFINED IN BOTH SECTIONS EIGHTY-NINE-X AND SIX HUNDRED ONE OF THIS CHAPTER.

S 4. Section 604 of the retirement and social security law is amended by adding a new subdivision u to read as follows:

U. THE EARLY SERVICE RETIREMENT BENEFIT FOR A MEMBER WHO IS A DETENTION OFFICER EMPLOYED BY THE CITY OF YONKERS, AS DEFINED IN SECTION EIGHTY-NINE-X OF THIS CHAPTER, SHALL BE A PENSION EQUAL TO ONE-FIFTIETH OF FINAL AVERAGE SALARY TIMES YEARS OF CREDITED SERVICE AT THE COMPLETION OF TWENTY-FIVE YEARS OF SERVICE AS SUCH DETENTION OFFICER, BUT NOT EXCEEDING ONE-HALF OF HIS OR HER FINAL AVERAGE SALARY.

S 5. The cost attributable to the operation of this act shall be borne by the city of Yonkers and shall be paid as provided by applicable law over a ten year period commencing with the state fiscal year ending March 31, 2010.

S 6. This act shall take effect immediately; provided that the amendments to sections 603 and 604 of the retirement and social security law, made by sections three and four 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 permit detention officers employed by the city of Yonkers to retire upon the completion of twenty-five (25) years of creditable service if the employing city elects to provide this alternative. For all eligible Tier 3 officers who elect to forfeit their benefits under Article 14 and all eligible Tier 1, 2 and 4 officers, their benefit upon retirement would be an allowance of one-half final average salary. There would be no reduction due to early service retirement for these members.

If this bill is enacted, we anticipate that there will be an increase of approximately $39,700 in the annual contributions of the city of Yonkers.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately $376,000 which would be borne by the city of Yonkers. If this cost were amortized over a ten (10) year period, the cost for the first year including interest, would be approximately $51,900. This estimate is based on the assumption that payment will be made on February 1, 2010.

These estimated costs are based on twenty-two (22) known affected members having a total annual salary for the fiscal year ending March 31, 2009 of approximately $2.7 million.

This estimate, dated April 27, 2009 and intended for use only during the 2009 Legislative Session, is Fiscal Note No. 2009-233, prepared by the Actuary for the New York State and Local Employees' Retirement System.