

5097

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. SAVINO -- 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 and the civil service law, in relation to university police officers appointed by the state university

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

1 Section 1. Subdivision 11 of section 302 of the retirement and social
2 security law is amended by adding a new paragraph i to read as follows:
3 I. SERVICE AS A UNIVERSITY POLICE OFFICER APPOINTED BY THE STATE
4 UNIVERSITY PURSUANT TO PARAGRAPH L OF SUBDIVISION TWO OF SECTION THREE
5 HUNDRED FIFTY-FIVE OF THE EDUCATION LAW.
6 S 2. Subdivision d of section 375-f of the retirement and social secu-
7 rity law, as separately amended by chapters 674 and 677 of the laws of
8 1986, is amended to read as follows:
9 d. In addition to the retirement allowance provided pursuant to the
10 plans set forth in sections three hundred eighty-three, three hundred
11 eighty-three-a [and], three hundred eighty-three-b AND THREE HUNDRED
12 EIGHTY-THREE-D of this [chapter] ARTICLE, a member of either such plan
13 who retires on or after April first, nineteen hundred sixty-nine with
14 more than twenty-five years of total service shall be entitled to
15 receive, in addition to the benefits provided pursuant to [either] ANY
16 such section and notwithstanding the limitations of [either] ANY such
17 section, an additional retirement allowance for such years of service
18 rendered in excess of twenty-five. The additional retirement allowance
19 for such additional years of service shall be computed as if such member
20 had been eligible to have his OR HER retirement allowance computed
21 pursuant to the provisions of subdivision b of section three hundred
22 seventy-five-c and of paragraph one of subdivision a of section three
23 hundred seventy-five-d of this [chapter] TITLE.
24 S 3. The retirement and social security law is amended by adding a new
25 section 383-d to read as follows:
26 S 383-D. ALTERNATE RETIREMENT BENEFITS FOR UNIVERSITY POLICE OFFICERS
27 APPOINTED BY THE STATE UNIVERSITY. A. AS USED IN THIS SECTION, THE TERM

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

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1 "UNIVERSITY POLICE OFFICER" SHALL MEAN A PERSON WHO IS SO APPOINTED
2 PURSUANT TO PARAGRAPH L OF SUBDIVISION TWO OF SECTION THREE HUNDRED
3 FIFTY-FIVE OF THE EDUCATION LAW.

4 B. NOTWITHSTANDING ANY OTHER PROVISION OF LAW PROVIDING FOR TRANSFERS
5 BETWEEN RETIREMENT SYSTEMS, ANY UNIVERSITY POLICE OFFICER IN THE SERVICE
6 OF THE STATE UNIVERSITY WHO IS A MEMBER OF THE NEW YORK STATE AND LOCAL
7 EMPLOYEES' RETIREMENT SYSTEM MAY TRANSFER TO THE NEW YORK STATE AND
8 LOCAL POLICE AND FIRE RETIREMENT SYSTEM AND SHALL RECEIVE CREDIT PURSU-
9 ANT TO AND BE ENTITLED TO THE RETIREMENT BENEFITS AFFORDED IN ACCORDANCE
10 WITH THIS SECTION. UPON ANY SUCH TRANSFER THE MEMBER SHALL BE ENTITLED
11 TO THE AMOUNT OF SERVICE WHICH WOULD HAVE BEEN DEEMED CREDITABLE AND
12 SUCH MEMBER SHALL BE ENTITLED TO THE AMOUNT OF SERVICE WHICH WOULD HAVE
13 BEEN DEEMED CREDITABLE HAD SUCH MEMBER BEEN SUBJECT TO SUCH SYSTEM
14 DURING THE COURSE OF HIS OR HER MEMBERSHIP WITHIN SUCH SYSTEM. CONTRIB-
15 UTIONS TO SUCH SYSTEM SHALL BE MADE IN ACCORDANCE WITH APPROPRIATE
16 PROVISIONS OF LAW RELATING THERETO. APPLICATION FOR SUCH TRANSFER MUST
17 BE MADE TO THE STATE COMPTROLLER ON OR BEFORE DECEMBER THIRTY-FIRST, TWO
18 THOUSAND NINE. THE PROVISIONS OF SECTION THREE HUNDRED FORTY-THREE OF
19 THIS ARTICLE SHALL APPLY TO ANY MEMBER MAKING APPLICATION FOR TRANSFER
20 UNDER THIS SUBDIVISION.

21 C. ANY UNIVERSITY POLICE OFFICER IN THE SERVICE OF THE STATE UNIVERSI-
22 TY WHO ELECTS OR IS REQUIRED TO CONTRIBUTE UNDER THIS SECTION SHALL
23 CONTRIBUTE TO THE NEW YORK STATE AND LOCAL POLICE AND FIRE RETIREMENT
24 SYSTEM ON THE BASIS OF RETIREMENT UPON HIS OR HER:

25 1. COMPLETION OF TWENTY-FIVE YEARS OF TOTAL CREDITABLE SERVICE, OR
26 2. ATTAINMENT OF AGE SIXTY AS A UNIVERSITY POLICE OFFICER IN THE
27 SERVICE OF THE STATE UNIVERSITY, IF PRIOR THERETO, ON AN ALLOWANCE OF
28 ONE-FIFTIETH OF HIS OR HER FINAL AVERAGE SALARY FOR EACH YEAR OF TOTAL
29 CREDITABLE SERVICE NOT IN EXCESS OF TWENTY-FIVE YEARS. SUCH ELECTION
30 SHALL BE IN WRITING AND SHALL BE DULY EXECUTED AND FILED WITH THE COMP-
31 TROLLER.

32 D. EVERY EMPLOYEE ENTERING OR RE-ENTERING SERVICE AS A UNIVERSITY
33 POLICE OFFICER IN THE SERVICE OF THE STATE UNIVERSITY ON OR AFTER THE
34 EFFECTIVE DATE OF THIS SECTION SHALL CONTRIBUTE ON THE BASIS PROVIDED
35 FOR BY THIS SECTION.

36 E. A MEMBER WHO IS REQUIRED TO CONTRIBUTE IN ACCORDANCE WITH THIS
37 SECTION SHALL CONTRIBUTE, IN LIEU OF THE PROPORTION OF COMPENSATION AS
38 PROVIDED IN SECTION THREE HUNDRED TWENTY-ONE OF THIS ARTICLE, A PROPOR-
39 TION OF HIS OR HER COMPENSATION SIMILARLY DETERMINED. SUCH LATTER
40 PROPORTION SHALL BE COMPUTED TO PROVIDE AT THE TIME WHEN HE OR SHE SHALL
41 FIRST BECOME ELIGIBLE FOR RETIREMENT UNDER THIS SECTION, AN ANNUITY
42 EQUAL TO ONE-ONE HUNDREDTH OF HIS OR HER FINAL AVERAGE SALARY FOR EACH
43 YEAR OF SERVICE AS A MEMBER PRIOR TO THE ATTAINMENT OF THE AGE WHEN HE
44 OR SHE SHALL FIRST BECOME ELIGIBLE FOR RETIREMENT. SUCH MEMBER'S RATE OF
45 CONTRIBUTION PURSUANT TO THIS SECTION SHALL BE APPROPRIATELY REDUCED
46 PURSUANT TO SECTION THREE HUNDRED SEVENTY-A OF THIS ARTICLE FOR SUCH
47 PERIOD OF TIME AS HIS OR HER EMPLOYER CONTRIBUTES PURSUANT TO SUCH
48 SECTION TOWARD PENSIONS-PROVIDING-FOR-INCREASED-TAKE-HOME-PAY. NO SUCH
49 MEMBER SHALL BE REQUIRED TO CONTINUE CONTRIBUTIONS AFTER COMPLETING
50 TWENTY-FIVE YEARS OF SUCH SERVICE.

51 F. A MEMBER CONTRIBUTING ON THE BASIS OF THIS SECTION, AT THE TIME OF
52 RETIREMENT, SHALL BE ENTITLED TO RETIRE AFTER THE COMPLETION OF TWENTY-
53 FIVE YEARS OF TOTAL CREDITABLE SERVICE OR UPON THE ATTAINMENT OF AGE
54 SIXTY BY FILING AN APPLICATION THEREFOR IN A MANNER SIMILAR TO THAT
55 PROVIDED IN SECTION THREE HUNDRED SEVENTY OF THIS ARTICLE. HE OR SHE
56 SHALL RECEIVE, ON RETIREMENT, A RETIREMENT ALLOWANCE CONSISTING OF:

1 1. AN ANNUITY WHICH SHALL BE THE ACTUARIAL EQUIVALENT OF HIS OR HER
2 ACCUMULATED CONTRIBUTIONS AT THE TIME OF HIS OR HER RETIREMENT, PLUS

3 2. A PENSION WHICH, TOGETHER WITH SUCH ANNUITY AND A PENSION WHICH IS
4 THE ACTUARIAL EQUIVALENT OF THE RESERVE-FOR-INCREASED-TAKE-HOME-PAY TO
5 WHICH HE OR SHE MAY THEN BE ENTITLED, IF ANY, SHALL EQUAL ONE-FIFTIETH
6 OF HIS OR HER FINAL AVERAGE SALARY FOR EACH YEAR OF CREDITABLE SERVICE
7 IN SUCH DIVISION. THIS PENSION SHALL NOT EXCEED THE AMOUNT NEEDED TO
8 MAKE THE TOTAL AMOUNT OF THE BENEFITS PROVIDED UNDER THIS PARAGRAPH AND
9 PARAGRAPH ONE OF THIS SUBDIVISION EQUAL TO ONE-HALF OF FINAL AVERAGE
10 SALARY.

11 3. AN ADDITIONAL PENSION EQUAL TO THE PENSION FOR ANY CREDITABLE
12 SERVICE RENDERED WHILE NOT EMPLOYED AS A UNIVERSITY POLICE OFFICER IN
13 THE SERVICE OF THE STATE UNIVERSITY AS PROVIDED UNDER PARAGRAPHS TWO AND
14 THREE OF SUBDIVISION A OF SECTION THREE HUNDRED SEVENTY-FIVE OF THIS
15 ARTICLE. THIS PENSION SHALL:

16 (I) BE PAYABLE ONLY IF SUCH MEMBER HAS ATTAINED AGE SIXTY AT THE TIME
17 OF RETIREMENT AND HAS NOT COMPLETED TWENTY-FIVE YEARS OF SERVICE AS A
18 UNIVERSITY POLICE OFFICER IN THE SERVICE OF THE STATE UNIVERSITY FOR
19 WHICH HE OR SHE RECEIVES CREDIT UNDER THIS ARTICLE, AND

20 (II) NOT INCREASE THE TOTAL ALLOWANCE TO MORE THAN HE OR SHE WOULD
21 HAVE RECEIVED HAD HIS OR HER TOTAL SERVICE BEEN RENDERED AS A UNIVERSITY
22 POLICE OFFICER IN THE SERVICE OF THE STATE UNIVERSITY.

23 FOR THE PURPOSE ONLY OF DETERMINING THE AMOUNT OF THE PENSION PROVIDED
24 HEREIN, THE ANNUITY SHALL BE COMPUTED AS IT WOULD BE:

25 (A) IF NOT REDUCED BY THE ACTUARIAL EQUIVALENT OF ANY OUTSTANDING
26 LOAN, AND

27 (B) IF NOT INCREASED BY THE ACTUARIAL EQUIVALENT OF ANY ADDITIONAL
28 CONTRIBUTIONS, AND

29 (C) IF NOT REDUCED BY REASON OF THE MEMBER'S ELECTION TO DECREASE HIS
30 OR HER ANNUITY CONTRIBUTIONS TO THE RETIREMENT SYSTEMS IN ORDER TO APPLY
31 THE AMOUNT OF SUCH REDUCTION IN PAYMENT OF HIS OR HER CONTRIBUTIONS FOR
32 OLD-AGE AND SURVIVORS INSURANCE COVERAGE.

33 G. THE INCREASED PENSIONS TO A UNIVERSITY POLICE OFFICER IN THE
34 SERVICE OF THE STATE UNIVERSITY, AS PROVIDED BY THIS SECTION, SHALL BE
35 PAID FROM ADDITIONAL CONTRIBUTIONS MADE BY THE STATE ON ACCOUNT OF SUCH
36 MEMBERS. THE ACTUARY OF THE RETIREMENT SYSTEM SHALL COMPUTE THE ADDI-
37 TIONAL CONTRIBUTION OF EACH MEMBER WHO ELECTS TO RECEIVE THE SPECIAL
38 BENEFITS PROVIDED UNDER THIS SECTION. SUCH ADDITIONAL CONTRIBUTIONS
39 SHALL BE COMPUTED ON THE BASIS OF CONTRIBUTIONS DURING THE PROSPECTIVE
40 SERVICE OF SUCH MEMBER WHICH WILL COVER THE LIABILITY OF THE RETIREMENT
41 SYSTEM FOR SUCH EXTRA PENSIONS. UPON APPROVAL BY THE COMPTROLLER, SUCH
42 ADDITIONAL CONTRIBUTIONS SHALL BE CERTIFIED BY HIM OR HER TO THE CHAN-
43 CELLOR OF THE STATE UNIVERSITY. THE AMOUNT THEREOF SHALL BE INCLUDED IN
44 THE ANNUAL APPROPRIATION OF THE STATE FOR THE STATE UNIVERSITY. SUCH
45 AMOUNT SHALL BE PAID ON THE WARRANT OF THE COMPTROLLER TO THE PENSION
46 ACCUMULATION FUND OF THE RETIREMENT SYSTEM.

47 H. IN COMPUTING THE TWENTY-FIVE YEARS OF COMPLETED SERVICE OF A
48 UNIVERSITY POLICE OFFICER IN THE SERVICE OF THE STATE UNIVERSITY, FULL
49 CREDIT SHALL BE GIVEN AND FULL ALLOWANCE SHALL BE MADE FOR SERVICE OF
50 SUCH MEMBER IN WAR AFTER WORLD WAR I AS DEFINED IN SECTION TWO OF THIS
51 CHAPTER, PROVIDED SUCH MEMBER AT THE TIME OF HIS OR HER ENTRANCE INTO
52 THE ARMED FORCES WAS IN STATE SERVICE.

53 I. THE PROVISIONS OF THIS SECTION SHALL BE CONTROLLING NOTWITHSTANDING
54 ANY PROVISION IN THIS ARTICLE TO THE CONTRARY.

55 J. NOTWITHSTANDING ANY PROVISION OF SUBDIVISION D, E OR I OF THIS
56 SECTION TO THE CONTRARY, A MEMBER WHO IS IN THE COLLECTIVE NEGOTIATING

UNIT DESIGNATED AS THE AGENCY LAW ENFORCEMENT SERVICES UNIT AND ESTABLISHED PURSUANT TO ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW AND WHO HAS ELECTED OR IS REQUIRED TO CONTRIBUTE IN ACCORDANCE WITH THIS SECTION MAY, ON OR BEFORE MARCH THIRTY-FIRST, TWO THOUSAND TEN, ELECT TO COME UNDER THE PROVISIONS OF SECTION THREE HUNDRED SEVENTY-FIVE-H OF THIS ARTICLE. SUCH ELECTION SHALL BE DULY EXECUTED AND FILED WITH THE COMPTROLLER.

K. COMMENCING WITH THE EFFECTIVE DATE OF THIS SECTION AND IN A MANNER DETERMINED BY THE HEAD OF THE RETIREMENT SYSTEM, THE EMPLOYER SHALL MAKE CONTRIBUTIONS TO THE RETIREMENT SYSTEM TO FUND THE PAST SERVICE LIABILITY COSTS ASSOCIATED WITH THE IMPLEMENTATION OF THIS SECTION AS THOSE COSTS ARE CALCULATED BY THE RETIREMENT SYSTEM ACTUARY. SUCH CONTRIBUTIONS MAY BE MADE, AT THE ELECTION OF THE EMPLOYER, IN LEVEL DOLLAR INSTALLMENTS OVER A TEN YEAR PERIOD.

S 4. No employee contributions made to the New York state and local employees' retirement system by any state university police officer who elects to make a transfer pursuant to this act shall be returned to such officer. Such employee contributions shall be used to offset any past service costs incurred by operation of the provisions of this act.

S 5. Notwithstanding subdivision h of section 343 of the retirement and social security law, the provisions of subdivisions c and d of section 343 of the retirement and social security law shall apply and the employer contributions reserve shall be transferred from the appropriate fund or funds of the New York state and local employees' retirement system to the New York state and local police and fire retirement system.

S 6. Subdivisions 1, 2 and 3 and paragraphs (a) and (b) of subdivision 4 of section 58 of the civil service law, subdivision 1 as amended by chapter 560 of the laws of 1978, the opening paragraph of subdivision 1, subdivision 3 and paragraphs (a) and (b) of subdivision 4 as amended by chapter 435 of the laws of 1997, paragraph (a) of subdivision 1 as amended by chapter 346 of the laws of 2008 and subdivision 2 as amended by chapter 32 of the laws of 1999, are amended to read as follows:

1. Notwithstanding any other provision of this law or any general, special or local law to the contrary, no person shall be eligible for provisional or permanent appointment in the competitive class of the civil service as a police officer of any police force or police department of any county, city, town, village, housing authority [or], police district OR OF THE STATE UNIVERSITY OF NEW YORK unless he OR SHE shall satisfy the following basic requirements:

(a) he or she is not less than twenty years of age as of the date of appointment nor more than thirty-five years of age as of the date when the applicant takes the written examination, provided that the maximum age requirement of thirty-five years of age as set forth in this paragraph shall not apply to eligible lists finalized pursuant to an examination administered prior to May thirty-first, nineteen hundred ninety-nine FOR THE POLICE OFFICERS DESCRIBED IN THIS SUBDIVISION EXCEPT FOR POLICE OFFICERS OF THE STATE UNIVERSITY OF NEW YORK AND, WITH RESPECT TO STATE UNIVERSITY POLICE OFFICERS ONLY, THE MAXIMUM AGE REQUIREMENT OF THIRTY-FIVE YEARS OF AGE AS SET FORTH IN THIS PARAGRAPH SHALL NOT APPLY TO ELIGIBLE LISTS FINALIZED PURSUANT TO AN EXAMINATION ADMINISTERED PRIOR TO DECEMBER THIRTY-FIRST, TWO THOUSAND NINE, provided, however, that:

(i) time spent on military duty or on terminal leave, not exceeding a total of six years, shall be subtracted from the age of any applicant

1 who has passed his or her thirty-fifth birthday as provided in subdivi-
2 sion ten-a of section two hundred forty-three of the military law;

3 (ii) such maximum age requirement of thirty-five years shall not apply
4 to any police officer as defined in subdivision thirty-four of section
5 1.20 of the criminal procedure law, who was continuously employed by the
6 Buffalo municipal housing authority between January first, two thousand
7 five and June thirtieth, two thousand five and who takes the next writ-
8 ten exam offered after the effective date of this subparagraph by the
9 city of Buffalo civil service commission for employment as a police
10 officer in the city of Buffalo police department, or June thirtieth, two
11 thousand six, whichever is later; and

12 (iii) such maximum age requirement of thirty-five years shall not
13 apply to any police officer of any county, town, city or village police
14 force not otherwise provided for in this section if the eligible list
15 has been exhausted and there are no other eligible candidates; provided,
16 however, the police officer themselves are on the eligible list of such
17 county, town, city or village and meet all other requirements of merit
18 and fitness set forth by this chapter and do not exceed the maximum age
19 of thirty-nine;

20 (b) he OR SHE is a high school graduate or a holder of a high school
21 equivalency diploma issued by an education department of any of the
22 states of the United States or a holder of a comparable diploma issued
23 by any commonwealth, territory or possession of the United States or by
24 the Canal Zone or a holder of a report from the United States armed
25 forces certifying his OR HER successful completion of the tests of
26 general educational development, high school level;

27 (c) he OR SHE satisfies the height, weight and physical fitness
28 requirements prescribed by the municipal police training council pursu-
29 ant to the provisions of section eight hundred forty of the executive
30 law; and

31 (d) he OR SHE is of good moral character.

32 2. The provisions of this section shall not prevent any county, city,
33 town, village, housing authority, transit authority [or], police
34 district OR THE STATE UNIVERSITY OF NEW YORK from setting more restric-
35 tive requirements of eligibility for its police officers, except the
36 maximum age to be a police officer as provided in paragraph (a) of
37 subdivision one of this section.

38 3. As used in this section, the term "police officer" means a member
39 of the regional state park police, THE STATE UNIVERSITY OF NEW YORK
40 POLICE or a police force, police department, or other organization of a
41 county, city, town, village, housing authority, transit authority or
42 police district, who is responsible for the prevention and detection of
43 crime and the enforcement of the general criminal laws of the state, but
44 shall not include any person serving as such solely by virtue of his OR
45 HER occupying any other office or position, nor shall such term include
46 a sheriff, under-sheriff, commissioner of police, deputy or assistant
47 commissioner of police, chief of police, deputy or assistant chief of
48 police or any person having an equivalent title who is appointed or
49 employed to exercise equivalent supervisory authority.

50 (a) Any person who has received provisional or permanent appointment
51 in the competitive class of the civil service as a police officer of the
52 regional state park police, THE STATE UNIVERSITY OF NEW YORK POLICE or
53 any police force or police department of any county, city, town,
54 village, housing authority, transit authority or police district shall
55 be eligible to resign from any police force or police department, and to
56 be appointed as a police officer in the same or any other police force

1 or police department without satisfying the age requirements set forth
2 in paragraph (a) of subdivision one of this section at the time of such
3 second or subsequent appointment, provided such second or subsequent
4 appointment occurs within thirty days of the date of resignation.

5 (b) Any person who has received permanent appointment in the compet-
6 itive class of the civil service as a police officer of the regional
7 state park police, THE STATE UNIVERSITY OF NEW YORK POLICE or any police
8 force or police department of any county, city, town, village, housing
9 authority, transit authority or police district shall be eligible to
10 resign from any police force or police department and, subject to such
11 civil service rules as may be applicable, shall be eligible for rein-
12 statement in the same police force or police department or in any other
13 police force or police department to which he OR SHE was eligible for
14 transfer, without satisfying the age requirements set forth in paragraph
15 (a) of subdivision one of this section at the time of such rein-
16 statement, provided such reinstatement occurs within one year of the
17 date of resignation.

18 S 7. This act shall take effect immediately, provided, however, that
19 the provisions of subdivisions 1 and 2 of section 58 of the civil
20 service law, as amended by section six of this act, shall not apply to
21 university police officers in the service of the state university of New
22 York on or before such effective date.

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

This bill would allow State University Police Officers to transfer to the New York State and Local Police and Fire Retirement System and to be covered by the provisions of a new twenty-five (25) year half pay retirement plan, with additional one-sixtieths of final average salary for each year of service in excess of twenty-five (25) years, but not exceeding fifteen (15) such years. For Tier 2 members, the additional one-sixtieths can not exceed seven (7) such years. There will be no refund of Article 14 or Article 15 member contributions for officers who transfer to the Police and Fire Retirement system.

If this bill is enacted, we anticipate that there will be an increase of approximately \$1.6 million in the annual contributions of the State of New York for the fiscal year ending March 31, 2010.

In addition to the annual contributions discussed above, there will be an immediately past service cost of approximately \$4.80 million which would be borne by the State of New York. This estimate is based on the assumption that payment will be made on March 1, 2010. If this cost is amortized over ten (10) years, the cost for the first year, including interest, would be approximately \$663,000.

It should be noted that in addition to the increase in annual contributions given above, there would be increases in annual contributions for future State University Police Officers who would be Tier 2 members of the New York State and Local Police and Fire Retirement System rather than Tier 4 members of the New York State and Local Employees' Retirement System.

These estimated costs are based on five hundred twenty-two (522) State University Police Officers with a total estimated salary of approximately \$30.8 million for the fiscal year ending March 31, 2008.

This estimate, dated December 19, 2008 and intended for use only during the 2009 Legislative Session, is Fiscal Note No. 2009-15, 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.