

5533

2009-2010 Regular Sessions

I N S E N A T E

May 14, 2009

Introduced by Sen. SAVINO -- (at request of the State Comptroller) --
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
bringing certain provisions of such law into accordance with the
requirements of the federal older workers' benefit protection act
(OWBPA)

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

1 Section 1. Declaration of legislative intent. This act is intended to
2 bring the statutory provisions pertaining to the New York state and
3 local employees' retirement system and the New York state and local
4 police and fire retirement system into compliance with the Federal Older
5 Workers' Benefit Protection Act, P.L. 101-433, by providing death and
6 disability benefits for which the cost incurred on behalf of an older
7 member is no less than that incurred on behalf of a younger member of
8 such systems, as permissible under section 1625.10 of Title 29 of the
9 Code of Federal Regulations.
10 S 2. Paragraph 1 of subdivision b of section 62 of the retirement and
11 social security law, as amended by chapter 1087 of the laws of 1969, is
12 amended to read as follows:
13 1. If the member has attained age sixty when such retirement becomes
14 effective, his OR HER retirement allowance shall be equal to that which
15 he OR SHE would receive in the case of superannuation retirement, UNLESS
16 THE MEMBER IS ENROLLED IN A PLAN PROVIDED UNDER SECTION SEVENTY-A,
17 SEVENTY-ONE-A OR SEVENTY-FIVE OF THIS ARTICLE, IN WHICH CASE THE BENEFIT
18 SHALL BE CALCULATED IN THE MANNER DESCRIBED IN CLAUSE TWO OF SUBPARA-
19 GRAPH (C) OF PARAGRAPH TWO OF THIS SUBDIVISION.
20 S 3. Paragraph 1 of subdivision b of section 362 of the retirement and
21 social security law, as amended by chapter 1087 of the laws of 1969, is
22 amended to read as follows:

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

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1 1. If a member has attained age sixty when such retirement becomes
2 effective, his OR HER retirement allowance shall be equal to that which
3 he OR SHE would receive in the case of superannuation retirement, UNLESS
4 THE MEMBER IS ENROLLED IN A PLAN PROVIDED UNDER SECTION THREE HUNDRED
5 SEVENTY-A, THREE HUNDRED SEVENTY-ONE-A OR THREE HUNDRED SEVENTY-FIVE OF
6 THIS ARTICLE, IN WHICH CASE THE BENEFIT SHALL BE CALCULATED IN THE
7 MANNER DESCRIBED IN CLAUSE TWO OF SUBPARAGRAPH (C) OF PARAGRAPH TWO OF
8 THIS SUBDIVISION.

9 S 4. Paragraph 2 of subdivision a of section 448 of the retirement and
10 social security law, as amended by chapter 559 of the laws of 2005, is
11 amended to read as follows:

12 2. A benefit upon the death of a member in service equal to the
13 member's salary upon his OR HER completion of one year of service, two
14 years' salary upon completion of two years of service, and three years'
15 salary upon completion of three years of service. In the case of a
16 member of a retirement system other than the New York state teachers'
17 retirement system, the New York city employees' retirement system, the
18 New York city board of education retirement system [or], the New York
19 city teachers' retirement system, THE NEW YORK STATE AND LOCAL EMPLOY-
20 EES' RETIREMENT SYSTEM OR THE NEW YORK STATE AND LOCAL POLICE AND FIRE
21 RETIREMENT SYSTEM, such benefit shall be subject to the following limi-
22 tations:

23 (a) If the member last joined the retirement system prior to attain-
24 ment of age fifty-two, the maximum benefit shall be three years' salary;

25 (b) If the member was age fifty-two when he OR SHE last joined the
26 retirement system, the maximum benefit shall be two and one-half times
27 annual salary;

28 (c) If the member was age fifty-three when he OR SHE last joined the
29 retirement system, the maximum benefit shall be two years' salary;

30 (d) If the member was age fifty-four when he OR SHE last joined the
31 retirement system, the maximum benefit shall be one and one-half times
32 annual salary;

33 (e) If the member was age fifty-five or older but under age sixty-five
34 when he OR SHE last joined the retirement system, the maximum benefit
35 shall be one year's salary; and

36 (f) If the member was age sixty-five or older when he OR SHE last
37 joined the retirement system, the maximum benefit shall be one thousand
38 dollars.

39 In the case of a member of a retirement system other than the New York
40 state teachers' retirement system, the New York city employees' retire-
41 ment system, the New York city board of education retirement system
42 [or], the New York city teachers' retirement system, THE NEW YORK STATE
43 AND LOCAL EMPLOYEES' RETIREMENT SYSTEM OR THE NEW YORK STATE AND LOCAL
44 POLICE AND FIRE RETIREMENT SYSTEM, commencing upon attainment of age
45 sixty-one, the benefit otherwise provided pursuant to this paragraph
46 shall be reduced while the member is in service to ninety [percentum]
47 PER CENTUM of the benefit otherwise payable and each year thereafter the
48 benefit payable shall be reduced by an amount equal to ten [percentum]
49 PER CENTUM per year of the original benefit otherwise payable, but not
50 below ten [percentum] PER CENTUM of the original benefit otherwise paya-
51 ble.

52 In the case of a member of the New York state teachers' retirement
53 system, commencing upon attainment of age sixty-one, the benefit other-
54 wise provided pursuant to this paragraph [two] shall be reduced while
55 the member is in service to ninety-six per centum of the benefit other-
56 wise payable and each year thereafter the benefit payable shall be

1 reduced by an amount equal to four per centum per year of the original
2 benefit otherwise payable, but not below sixty per centum of the
3 original benefit otherwise payable. In the case of a member of the New
4 York city employees' retirement system, the New York city board of
5 education retirement system or the New York city teachers' retirement
6 system, commencing upon attainment of age sixty-one, the benefit other-
7 wise provided pursuant to this paragraph shall be reduced while the
8 member is in service to ninety-five per centum of the benefit otherwise
9 payable and each year thereafter the benefit payable shall be reduced by
10 an amount equal to five per centum per year of the original benefit
11 otherwise payable, but not below fifty per centum of the original bene-
12 fit otherwise payable. IN THE CASE OF ANY MEMBER OF THE NEW YORK STATE
13 AND LOCAL EMPLOYEES' RETIREMENT SYSTEM WHO IS PERMITTED TO RETIRE WITH-
14 OUT REGARD TO AGE OR A MEMBER OF THE NEW YORK STATE AND LOCAL POLICE AND
15 FIRE RETIREMENT SYSTEM, COMMENCING UPON ATTAINMENT OF AGE SIXTY-ONE, THE
16 BENEFIT OTHERWISE PROVIDED PURSUANT TO THIS PARAGRAPH SHALL BE REDUCED
17 WHILE THE MEMBER IS IN SERVICE TO NINETY-SEVEN PER CENTUM OF THE BENEFIT
18 OTHERWISE PAYABLE, AND EACH YEAR THEREAFTER THE BENEFIT PAYABLE SHALL BE
19 REDUCED BY AN AMOUNT EQUAL TO THREE PER CENTUM PER YEAR OF THE ORIGINAL
20 BENEFIT OTHERWISE PAYABLE, BUT NOT BELOW SEVENTY PER CENTUM OF THE
21 ORIGINAL BENEFIT OTHERWISE PAYABLE. IN THE CASE OF ANY OTHER MEMBER OF
22 THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM, COMMENCING
23 UPON ATTAINMENT OF AGE SIXTY-ONE, THE BENEFIT OTHERWISE PROVIDED PURSU-
24 ANT TO THIS PARAGRAPH SHALL BE REDUCED WHILE THE MEMBER IS IN SERVICE TO
25 NINETY-SIX PER CENTUM OF THE BENEFIT OTHERWISE PAYABLE, AND EACH YEAR
26 THEREAFTER THE BENEFIT PAYABLE SHALL BE REDUCED BY AN AMOUNT EQUAL TO
27 FOUR PER CENTUM PER YEAR OF THE ORIGINAL BENEFIT OTHERWISE PAYABLE, BUT
28 NOT BELOW SIXTY PER CENTUM OF THE ORIGINAL BENEFIT OTHERWISE PAYABLE.
29 Upon retirement from any retirement system, the benefit in force shall
30 be reduced by fifty [percentum] PER CENTUM; upon completion of the first
31 year of retirement, the benefit in force at the time of retirement shall
32 be reduced by an additional twenty-five [percentum] PER CENTUM, and upon
33 commencement of the third year of retirement, the benefit shall be ten
34 [percentum] PER CENTUM of the benefit in force at age sixty, if any, or
35 at the time of retirement if retirement preceded such age; provided,
36 however, the benefit in retirement shall not be reduced below ten
37 [percentum] PER CENTUM of the benefit in force at age sixty, if any, or
38 at the time of retirement if retirement preceded such age. NOTWITH-
39 STANDING ANY OTHER PROVISION OF THIS PARAGRAPH TO THE CONTRARY, THE
40 BENEFIT FOR A RETIREE FROM THE NEW YORK STATE AND LOCAL EMPLOYEES'
41 RETIREMENT SYSTEM SHALL NOT BE REDUCED BELOW TEN PER CENTUM OF THE BENE-
42 FIT IN FORCE AT THE TIME OF RETIREMENT.

43 S 5. Subdivision a of section 506 of the retirement and social securi-
44 ty law, as amended by chapter 559 of the laws of 2005, is amended to
45 read as follows:

46 a. A member in active service who is not eligible for a normal retire-
47 ment benefit shall, upon completing five years or more of service, be
48 eligible for the ordinary disability benefit described in subdivision b
49 of this section if such member has been determined to be eligible for
50 primary social security disability benefits; provided, however, that no
51 member of the New York state teachers' retirement system, the New York
52 city employees' retirement system, the New York city board of education
53 retirement system [or], the New York city teachers' retirement system OR
54 THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM who is other-
55 wise eligible for ordinary disability benefits pursuant to this section

1 shall be deemed to be ineligible for such benefits because such member
2 is eligible for a normal service retirement benefit.

3 S 6. Subdivision a of section 507 of the retirement and social securi-
4 ty law, as amended by chapter 489 of the laws of 2008, is amended to
5 read as follows:

6 a. A member in active service, or a vested member incapacitated as the
7 result of a qualifying World Trade Center condition as defined in
8 section two of this chapter, who is not eligible for a normal service
9 retirement benefit shall be eligible for the accidental disability bene-
10 fit described in subdivision c of this section if such member has been
11 determined to be eligible for primary social security disability bene-
12 fits and was disabled as the natural and proximate result of an accident
13 sustained in such active service and not caused by such member's own
14 willful negligence; provided, however, that no member of the New York
15 state teachers' retirement system, the New York city employees' retire-
16 ment system, the New York city board of education retirement system
17 [or], the New York city teachers' retirement system OR THE NEW YORK
18 STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM who is otherwise eligible
19 for accidental disability benefits pursuant to this section shall be
20 deemed to be ineligible for such benefits because such member is eligi-
21 ble for a normal service retirement benefit.

22 S 6-a. Subdivision c of section 507 of the retirement and social secu-
23 rity law, as amended by chapter 559 of the laws of 2005, is amended to
24 read as follows:

25 c. In the case of a member of a retirement system other than THE NEW
26 YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM, the New York state
27 teachers' retirement system, the New York city employees' retirement
28 system, the New York city board of education retirement system or the
29 New York city teachers' retirement system, the accidental disability
30 benefit hereunder shall be a pension equal to two percent of final aver-
31 age salary times years of credited service which such member would have
32 attained if employment had continued until such member's full escalation
33 date, not in excess of the maximum years of service creditable for the
34 normal service retirement benefit, less (i) fifty percent of the primary
35 social security disability benefit, if any, as provided in section five
36 hundred eleven of this article, and (ii) one hundred percent of any
37 workers' compensation benefits payable.

38 In the case of a member of THE NEW YORK STATE AND LOCAL EMPLOYEES'
39 RETIREMENT SYSTEM, the New York state teachers' retirement system, the
40 New York city employees' retirement system, the New York city board of
41 education retirement system or the New York city teachers' retirement
42 system, the accidental disability benefit hereunder shall be a pension
43 equal to sixty percent of final average salary, less (i) fifty percent
44 of the primary social security disability benefit, if any, as provided
45 in section five hundred eleven of this article, and (ii) one hundred
46 percent of any workers' compensation benefits payable. In the event a
47 disability retiree from any retirement system is not eligible for the
48 primary social security disability benefit and continues to be eligible
49 for disability benefits hereunder, such disability benefit shall be
50 reduced by one-half of such retiree's primary social security retirement
51 benefit, commencing at age sixty-two, in the same manner as provided for
52 service retirement benefits under section five hundred eleven of this
53 article.

54 S 7. Paragraph 2 of subdivision a of section 508 of the retirement and
55 social security law, as amended by chapter 559 of the laws of 2005, is
56 amended to read as follows:

1 2. A benefit upon the death of a member in service equal to the
2 member's salary upon his OR HER completion of one year of service, two
3 years' salary upon completion of two years of service, and three years'
4 salary upon completion of three years of service. In the case of a
5 member of a retirement system other than the New York state teachers'
6 retirement system, the New York city employees' retirement system, the
7 New York city board of education retirement system [or], the New York
8 city teachers' retirement system, OR THE NEW YORK STATE AND LOCAL
9 EMPLOYEES' RETIREMENT SYSTEM, such benefit shall be subject to the
10 following limitations:

11 (a) If the member last joined the retirement system prior to attain-
12 ment of age fifty-two, the maximum benefit shall be three years' salary;

13 (b) If the member was age fifty-two when he OR SHE last joined the
14 retirement system, the maximum benefit shall be two and one-half times
15 annual salary;

16 (c) If the member was age fifty-three when he OR SHE last joined the
17 retirement system, the maximum benefit shall be two years' salary;

18 (d) If the member was age fifty-four when he OR SHE last joined the
19 retirement system, the maximum benefit shall be one and one-half times
20 annual salary;

21 (e) If the member was age fifty-five or older but under age sixty-five
22 when he OR SHE last joined the retirement system, the maximum benefit
23 shall be one year's salary; and

24 (f) If the member was age sixty-five or older when he OR SHE last
25 joined the retirement system, the maximum benefit shall be one thousand
26 dollars.

27 In the case of a member of a retirement system other than the New York
28 state teachers' retirement system, the New York city employees' retire-
29 ment system, the New York city board of education retirement system
30 [or], the New York city teachers' retirement system, OR THE NEW YORK
31 STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM, commencing upon attainment
32 of age sixty-one, the benefit otherwise provided pursuant to this para-
33 graph shall be reduced while the member is in service to ninety [percen-
34 tum] PER CENTUM of the benefit otherwise payable and each year thereaft-
35 er the benefit payable shall be reduced by an amount equal to ten
36 [percentum] PER CENTUM per year of the original benefit otherwise paya-
37 ble, but not below ten [percentum] PER CENTUM of the original benefit
38 otherwise payable.

39 Notwithstanding any other provision of this paragraph, in the case of
40 a member of the New York state teachers' retirement system, commencing
41 upon attainment of age sixty-one, the benefit otherwise provided pursu-
42 ant to this paragraph shall be reduced while the member is in service to
43 ninety-six per centum of the benefit otherwise payable, and each year
44 thereafter the benefit payable shall be reduced by an amount equal to
45 four per centum per year of the original benefit otherwise payable, but
46 not below sixty per centum of the original benefit otherwise payable. In
47 the case of a member of the New York city employees' retirement system,
48 the New York city board of education retirement system or the New York
49 city teachers' retirement system, commencing upon attainment of age
50 sixty-one, the benefit otherwise provided pursuant to this paragraph
51 shall be reduced while the member is in service to ninety-five per
52 centum of the benefit otherwise payable and each year thereafter the
53 benefit payable shall be reduced by an amount equal to five per centum
54 per year of the original benefit otherwise payable, but not below fifty
55 per centum of the original benefit otherwise payable. IN THE CASE OF
56 ANY MEMBER OF THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM

1 WHO IS PERMITTED TO RETIRE WITHOUT REGARD TO AGE, COMMENCING UPON
2 ATTAINMENT OF AGE SIXTY-ONE, THE BENEFIT OTHERWISE PROVIDED PURSUANT TO
3 THIS PARAGRAPH SHALL BE REDUCED WHILE THE MEMBER IS IN SERVICE TO NINE-
4 TY-SEVEN PER CENTUM OF THE BENEFIT OTHERWISE PAYABLE, AND EACH YEAR
5 THEREAFTER THE BENEFIT PAYABLE SHALL BE REDUCED BY AN AMOUNT EQUAL TO
6 THREE PER CENTUM PER YEAR OF THE ORIGINAL BENEFIT OTHERWISE PAYABLE, BUT
7 NOT BELOW SEVENTY PER CENTUM OF THE ORIGINAL BENEFIT OTHERWISE PAYABLE.
8 IN THE CASE OF ANY OTHER MEMBER OF THE NEW YORK STATE AND LOCAL EMPLOY-
9 EES' RETIREMENT SYSTEM, COMMENCING UPON ATTAINMENT OF AGE SIXTY-ONE, THE
10 BENEFIT OTHERWISE PROVIDED PURSUANT TO THIS PARAGRAPH SHALL BE REDUCED
11 WHILE THE MEMBER IS IN SERVICE TO NINETY-SIX PER CENTUM OF THE BENEFIT
12 OTHERWISE PAYABLE, AND EACH YEAR THEREAFTER THE BENEFIT PAYABLE SHALL BE
13 REDUCED BY AN AMOUNT EQUAL TO FOUR PER CENTUM PER YEAR OF THE ORIGINAL
14 BENEFIT OTHERWISE PAYABLE, BUT NOT BELOW SIXTY PER CENTUM OF THE
15 ORIGINAL BENEFIT OTHERWISE PAYABLE. Upon retirement from any retirement
16 system, the benefit in force shall be reduced by fifty [percentum] PER
17 CENTUM; upon completion of the first year of retirement, the benefit in
18 force at the time of retirement shall be reduced by an additional twen-
19 ty-five [percentum] PER CENTUM, and upon commencement of the third year
20 of retirement, the benefit shall be ten [percentum] PER CENTUM of the
21 benefit in force at age sixty, if any, or at the time of retirement if
22 retirement preceded such age; provided, however, the benefit in retire-
23 ment shall not be reduced below ten [percentum] PER CENTUM of the bene-
24 fit in force at age sixty, if any, or at the time of retirement if
25 retirement preceded such age. NOTWITHSTANDING ANY OTHER PROVISION OF
26 THIS PARAGRAPH TO THE CONTRARY, THE BENEFIT FOR A RETIREE FROM THE NEW
27 YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM SHALL NOT BE REDUCED
28 BELOW TEN PER CENTUM OF THE BENEFIT IN FORCE AT THE TIME OF RETIREMENT.

29 S 8. Section 508 of the retirement and social security law is amended
30 by adding a new subdivision f to read as follows:

31 F. WITH RESPECT TO A MEMBER OF THE NEW YORK STATE AND LOCAL EMPLOYEES'
32 RETIREMENT SYSTEM WHO WAS COVERED BY PARAGRAPH TWO OF SUBDIVISION A OF
33 THIS SECTION, AS ADDED BY CHAPTER EIGHT HUNDRED NINETY OF THE LAWS OF
34 NINETEEN HUNDRED SEVENTY-SIX, PRIOR TO ITS REPEAL PURSUANT TO CHAPTER
35 SIX HUNDRED SEVENTEEN OF THE LAWS OF NINETEEN HUNDRED EIGHTY-SIX AND WHO
36 IS ENTITLED UNDER THE STATE CONSTITUTION TO HAVE BENEFITS CALCULATED
37 UNDER SUCH PROVISION AS IT READ PRIOR TO SUCH NINETEEN HUNDRED
38 EIGHTY-SIX AMENDMENT, THE LUMP SUM DEATH BENEFIT SHALL BE DETERMINED
39 PURSUANT TO SUBDIVISION A OF THIS SECTION. WITH RESPECT TO A MEMBER OF
40 THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM WHO WAS
41 COVERED BY SUBDIVISION B OF THIS SECTION, AS ADDED BY CHAPTER EIGHT
42 HUNDRED NINETY OF THE LAWS OF NINETEEN HUNDRED SEVENTY-SIX, PRIOR TO ITS
43 REPEAL PURSUANT TO CHAPTER SIX HUNDRED SEVENTEEN OF THE LAWS OF NINETEEN
44 HUNDRED EIGHTY-SIX AND WHO IS ENTITLED UNDER THE STATE CONSTITUTION TO
45 HAVE BENEFITS CALCULATED UNDER SUCH PROVISION AS IT READ PRIOR TO SUCH
46 NINETEEN HUNDRED EIGHTY-SIX AMENDMENT, THE LUMP SUM DEATH BENEFIT SHALL
47 BE DETERMINED PURSUANT TO SUBDIVISION A OF THIS SECTION.

48 S 9. Subdivision d of section 605 of the retirement and social securi-
49 ty law is amended by adding a new paragraph 4 to read as follows:

50 4. NOTWITHSTANDING THE PROVISIONS OF THIS SUBDIVISION, THE MINIMUM
51 BENEFIT PAYABLE TO A MEMBER OF THE NEW YORK STATE AND LOCAL EMPLOYEES'
52 RETIREMENT SYSTEM WHO HAS BEEN DETERMINED TO BE PHYSICALLY OR MENTALLY
53 INCAPACITATED FOR PERFORMANCE OF GAINFUL EMPLOYMENT AS THE NATURAL AND
54 PROXIMATE RESULT OF AN ACCIDENT NOT CAUSED BY WILLFUL NEGLIGENCE
55 SUSTAINED IN THE PERFORMANCE OF DUTIES IN ACTIVE SERVICE WHILE ACTUALLY

1 A MEMBER OF THE RETIREMENT SYSTEM SHALL BE A PENSION OF ONE-THIRD OF
2 SUCH MEMBER'S FINAL AVERAGE SALARY.

3 S 10. Paragraph 2 of subdivision a of section 606 of the retirement
4 and social security law, as amended by chapter 559 of the laws of 2005,
5 is amended to read as follows:

6 2. A benefit upon the death of a member in service equal to the
7 member's salary upon his OR HER completion of one year of service, two
8 years' salary upon completion of two years of service, and three years'
9 salary upon completion of three years of service. In the case of a
10 member of a retirement system other than the New York state teachers'
11 retirement system, the New York city employees' retirement system, the
12 New York city board of education retirement system [or], the New York
13 city teachers' retirement system OR THE NEW YORK STATE AND LOCAL EMPLOY-
14 EES' RETIREMENT SYSTEM, such benefit shall be subject to the following
15 limitations:

16 (a) If the member last joined the retirement system prior to attain-
17 ment of age fifty-two, the maximum benefit shall be three years' salary;

18 (b) If the member was age fifty-two when he OR SHE last joined the
19 retirement system, the maximum benefit shall be two and one-half times
20 annual salary;

21 (c) If the member was age fifty-three when he OR SHE last joined the
22 retirement system, the maximum benefit shall be two years' salary;

23 (d) If the member was age fifty-four when he OR SHE last joined the
24 retirement system, the maximum benefit shall be one and one-half times
25 annual salary;

26 (e) If the member was age fifty-five or older but under age sixty-five
27 when he OR SHE last joined the retirement system, the maximum benefit
28 shall be one year's salary; and

29 (f) If the member was age sixty-five or older when he OR SHE last
30 joined the retirement system, the maximum benefit shall be one thousand
31 dollars.

32 In the case of a member of a retirement system other than the New York
33 state teachers' retirement system, the New York city employees' retire-
34 ment system, the New York city board of education retirement system
35 [or], the New York city teachers' retirement system OR THE NEW YORK
36 STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM, commencing upon attainment
37 of age sixty-one, the benefit otherwise provided pursuant to this para-
38 graph shall be reduced while the member is in service to ninety [percen-
39 tum] PER CENTUM of the benefit otherwise payable and each year thereaft-
40 er the benefit payable shall be reduced by an amount equal to ten
41 [percentum] PER CENTUM per year of the original benefit otherwise paya-
42 ble, but not below ten [percentum] PER CENTUM of the original benefit
43 otherwise payable.

44 In the case of a member of the New York state teachers' retirement
45 system, commencing upon attainment of age sixty-one, the benefit other-
46 wise provided pursuant to this paragraph shall be reduced while the
47 member is in service to ninety-six per centum of the benefit otherwise
48 payable, and each year thereafter the benefit payable shall be reduced
49 by an amount equal to four per centum per year of the original benefit
50 otherwise payable, but not below sixty per centum of the original bene-
51 fit otherwise payable. In the case of a member of the New York city
52 employees' retirement system, the New York city board of education
53 retirement system or the New York city teachers' retirement system,
54 commencing upon attainment of age sixty-one, the benefit otherwise
55 provided pursuant to this paragraph shall be reduced while the member is
56 in service to ninety-five per centum of the benefit otherwise payable

1 and each year thereafter the benefit payable shall be reduced by an
2 amount equal to five per centum per year of the original benefit other-
3 wise payable, but not below fifty per centum of the original benefit
4 otherwise payable. IN THE CASE OF ANY MEMBER OF THE NEW YORK STATE AND
5 LOCAL EMPLOYEES' RETIREMENT SYSTEM WHO IS PERMITTED TO RETIRE WITHOUT
6 REGARD TO AGE, COMMENCING UPON ATTAINMENT OF AGE SIXTY-ONE, THE BENEFIT
7 OTHERWISE PROVIDED PURSUANT TO THIS PARAGRAPH SHALL BE REDUCED WHILE THE
8 MEMBER IS IN SERVICE TO NINETY-SEVEN PER CENTUM OF THE BENEFIT OTHERWISE
9 PAYABLE, AND EACH YEAR THEREAFTER THE BENEFIT PAYABLE SHALL BE REDUCED
10 BY AN AMOUNT EQUAL TO THREE PER CENTUM PER YEAR OF THE ORIGINAL BENEFIT
11 OTHERWISE PAYABLE, BUT NOT BELOW SEVENTY PER CENTUM OF THE ORIGINAL
12 BENEFIT OTHERWISE PAYABLE. IN THE CASE OF ANY OTHER MEMBER OF THE NEW
13 YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM, COMMENCING UPON
14 ATTAINMENT OF AGE SIXTY-ONE, THE BENEFIT OTHERWISE PROVIDED PURSUANT TO
15 THIS PARAGRAPH SHALL BE REDUCED WHILE THE MEMBER IS IN SERVICE TO NINE-
16 TY-SIX PER CENTUM OF THE BENEFIT OTHERWISE PAYABLE, AND EACH YEAR THERE-
17 AFTER THE BENEFIT PAYABLE SHALL BE REDUCED BY AN AMOUNT EQUAL TO FOUR
18 PER CENTUM PER YEAR OF THE ORIGINAL BENEFIT OTHERWISE PAYABLE, BUT NOT
19 BELOW SIXTY PER CENTUM OF THE ORIGINAL BENEFIT OTHERWISE PAYABLE. Upon
20 retirement, from any retirement system, the benefit in force shall be
21 reduced by fifty [percentum] PER CENTUM; upon completion of the first
22 year of retirement, the benefit in force at the time of retirement shall
23 be reduced by an additional twenty-five [percentum] PER CENTUM, and upon
24 commencement of the third year of retirement, the benefit shall be ten
25 [percentum] PER CENTUM of the benefit in force at age sixty, if any, or
26 at the time of retirement if retirement preceded such age; provided,
27 however, the benefit in retirement shall not be reduced below ten
28 [percentum] PER CENTUM of the benefit in force at age sixty, if any, or
29 at the time of retirement if retirement preceded such age. NOTWITH-
30 STANDING ANY OTHER PROVISION OF THIS PARAGRAPH TO THE CONTRARY, THE
31 BENEFIT FOR A RETIREE FROM THE NEW YORK STATE AND LOCAL EMPLOYEES'
32 RETIREMENT SYSTEM SHALL NOT BE REDUCED BELOW TEN PER CENTUM OF THE BENE-
33 FIT IN FORCE AT THE TIME OF RETIREMENT.

34 S 11. This act shall take effect immediately and shall be deemed to
35 have been in full force and effect on and after October 16, 1992,
36 provided, however, that: (i) this act shall not apply to any payment of
37 benefits which became payable prior to October 16, 1992; (ii) sections
38 seven and eight of this act shall be effective if and, in such case,
39 only to the extent section 1 of chapter 617 of the laws of 1986 is
40 unconstitutional insofar as it abrogates the rights pursuant to section
41 508 of the retirement and social security law as added by section 1 of
42 chapter 890 of the laws of 1976, of public employees who became members
43 of the New York state and local employees' retirement system on or after
44 July 27, 1976 and before September 1, 1983; and (iii) the amendments to
45 sections 506, 507, 508, 605 and 606 of the retirement and social securi-
46 ty law made by sections five, six, six-a, seven, eight, nine and ten of
47 this act, shall not affect the expiration of such sections, as provided
48 by section 615 of the retirement and social security law, and shall
49 expire therewith.

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

This bill would change the Retirement and Social Security Law as it affects the New York State and Local Employees' Retirement System (NYSLERS) and the New York State and Local Police and Fire Retirement System (NYSLPFRS) to comply with the requirements of the Federal Older Workers' Benefit Protection Act ("OWBPA"). Provisions relating to disability benefits, ordinary death benefits, and post-retirement death

benefits would be modified to be consistent with the benefits currently being paid by the Retirement Systems, as required by OWBPA.

If this bill is enacted, there will be no increase in benefits being paid by the NYSLERS and NYSLPFRS to members or beneficiaries. Therefore, there will be no cost if this bill is enacted.

This estimate, dated March 17, 2009, and intended for use only during the 2009 Legislative Session, is Fiscal Note No. 2009-187 prepared by the Actuary for the New York State and Local Police and Fire Retirement System and the New York State and Local Employees' Retirement System.