

8453

I N S E N A T E

July 27, 2010

Introduced by Sen. YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the civil service law and the executive law, in relation to eliminating the maximum age limitation for appointment as a police officer

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

1 Section 1. Paragraph (a) of subdivision 1 of section 58 of the civil
2 service law, as amended by chapter 346 of the laws of 2008, is amended
3 to read as follows:
4 (a) he or she is not less than twenty years of age as of the date of
5 appointment [nor more than thirty-five years of age as of the date when
6 the applicant takes the written examination, provided that the maximum
7 age requirement of thirty-five years of age as set forth in this para-
8 graph shall not apply to eligible lists finalized pursuant to an exam-
9 ination administered prior to May thirty-first, nineteen hundred nine-
10 ty-nine, provided, however, that:
11 (i) time spent on military duty or on terminal leave, not exceeding a
12 total of six years, shall be subtracted from the age of any applicant
13 who has passed his or her thirty-fifth birthday as provided in subdivi-
14 sion ten-a of section two hundred forty-three of the military law;
15 (ii) such maximum age requirement of thirty-five years shall not apply
16 to any police officer as defined in subdivision thirty-four of section
17 1.20 of the criminal procedure law, who was continuously employed by the
18 Buffalo municipal housing authority between January first, two thousand
19 five and June thirtieth, two thousand five and who takes the next writ-
20 ten exam offered after the effective date of this subparagraph by the
21 city of Buffalo civil service commission for employment as a police
22 officer in the city of Buffalo police department, or June thirtieth, two
23 thousand six, whichever is later; and
24 (iii) such maximum age requirement of thirty-five years shall not
25 apply to any police officer of any county, town, city or village police
26 force not otherwise provided for in this section if the eligible list
27 has been exhausted and there are no other eligible candidates; provided,

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

LBD17249-01-0

1 however, the police officer themselves are on the eligible list of such
2 county, town, city or village and meet all other requirements of merit
3 and fitness set forth by this chapter and do not exceed the maximum age
4 of thirty-nine];

5 S 2. Subdivision 2 of section 58 of the civil service law, as amended
6 by chapter 32 of the laws of 1999, is amended to read as follows:

7 2. The provisions of this section shall not prevent any county, city,
8 town, village, housing authority, transit authority or police district
9 from setting more restrictive requirements of eligibility for its police
10 officers[, except the maximum age to be a police officer as provided in
11 paragraph (a) of subdivision one of this section].

12 S 3. Subdivision 4 of section 58 of the civil service law, as sepa-
13 rately amended by chapters 375 and 397 of the laws of 1990, paragraphs
14 (a) and (b) as amended by chapter 435 of the laws of 1997 and paragraph
15 (c) as amended by chapter 190 of the laws of 2008, is amended to read as
16 follows:

17 4. (a) [Any person who has received provisional or permanent appoint-
18 ment in the competitive class of the civil service as a police officer
19 of the regional state park police or any police force or police depart-
20 ment of any county, city, town, village, housing authority, transit
21 authority or police district shall be eligible to resign from any police
22 force or police department, and to be appointed as a police officer in
23 the same or any other police force or police department without satisfy-
24 ing the age requirements set forth in paragraph (a) of subdivision one
25 of this section at the time of such second or subsequent appointment,
26 provided such second or subsequent appointment occurs within thirty days
27 of the date of resignation.

28 (b) Any person who has received permanent appointment in the compet-
29 itive class of the civil service as a police officer of the regional
30 state park police or any police force or police department of any coun-
31 ty, city, town, village, housing authority, transit authority or police
32 district shall be eligible to resign from any police force or police
33 department and, subject to such civil service rules as may be applica-
34 ble, shall be eligible for reinstatement in the same police force or
35 police department or in any other police force or police department to
36 which he was eligible for transfer, without satisfying the age require-
37 ments set forth in paragraph (a) of subdivision one of this section at
38 the time of such reinstatement, provided such reinstatement occurs with-
39 in one year of the date of resignation.

40 (c) (i)] Legislative findings and declaration. The legislature hereby
41 finds and declares that it is frequently impracticable to ascertain
42 fitness for the positions of detective and investigator within various
43 police or sheriffs departments around the state by means of a compet-
44 itive examination due to the unique nature of the duties assigned and
45 the intangible personal qualities needed to perform such duties. The
46 legislature further finds that competitive examination has never been
47 employed in many police, correction or sheriffs departments, to ascer-
48 tain fitness for the positions of detective and investigator within such
49 police, correction or sheriffs departments; such fitness has always been
50 determined by evaluation of the capabilities of an individual (who has
51 in any case received permanent appointment to the position of police
52 officer, correction officer of any rank or deputy sheriff) by superviso-
53 ry personnel. The legislature further finds that an individual who
54 performs in an investigatory position in a manner sufficiently satisfac-
55 tory to the appropriate supervisors to hold such an assignment for a
56 period of eighteen months, has demonstrated fitness for the position of

1 detective or investigator within such police, correction or sheriffs
2 department at least as sufficiently as could be ascertained by means of
3 a competitive examination.

4 [(ii)] (B) Notwithstanding any other provision of law, in any juris-
5 diction, other than a city with a population of one million or more or
6 the state department of correctional services, which does not administer
7 examinations for designation to detective or investigator, any person
8 who has received permanent appointment to the position of police offi-
9 cer, correction officer of any rank or deputy sheriff and is temporarily
10 assigned to perform the duties of detective or investigator shall, when-
11 ever such assignment to the duties of a detective or investigator
12 exceeds eighteen months, be permanently designated as a detective or
13 investigator and receive the compensation ordinarily paid to persons in
14 such designation.

15 [(iii)] (C) Nothing contained in [subparagraph (ii)] PARAGRAPH (B) of
16 this [paragraph] SUBDIVISION shall be construed to limit any jurisdic-
17 tion's ability to administer examinations for appointment to the posi-
18 tions of detective and investigator, provided however that any person
19 temporarily assigned to perform the duties of detective or investigator
20 within the period commencing September twenty-third, nineteen hundred
21 ninety-three through and including the date upon which this paragraph
22 shall have become a law and who has not been designated as a detective
23 or investigator and who has not been subject to an examination for which
24 there is a certified eligible list, shall be permanently designated as a
25 detective or investigator whenever such assignment to the duties of
26 detective or investigator exceeds eighteen months.

27 [(iv)] (D) Detectives and investigators designated since September
28 twenty-third, nineteen hundred ninety and prior to February twenty-
29 fourth, nineteen hundred ninety-five by any state, county, town, village
30 or city (other than a city with a population of one million or more or
31 the state department of correctional services) police, correction or
32 sheriffs department, pursuant to the provisions of this paragraph in
33 effect during such period, who continue to serve in such positions,
34 shall retain their detective or investigator status without any right to
35 retroactive financial entitlement.

36 S 4. Subdivision 3 of section 215 of the executive law, as amended by
37 chapter 478 of the laws of 2004, is amended to read as follows:

38 3. The sworn members of the New York state police shall be appointed
39 by the superintendent and permanent appointees may be removed by the
40 superintendent only after a hearing. No person shall be appointed to the
41 New York state police force as a sworn member unless he or she shall be
42 a citizen of the United States, [between the ages of] AND AT LEAST twen-
43 ty-one [and twenty-nine years except that in the superintendent's
44 discretion, the maximum age may be extended to thirty-five years.
45 Notwithstanding any other provision of law or any general or special law
46 to the contrary the time spent on military duty, not exceeding a total
47 of six years, shall be subtracted from the age of any applicant who has
48 passed his or her twenty-ninth birthday, solely for the purpose of
49 permitting qualification as to age and for no other purpose. Such limi-
50 tations as to age however shall not apply to persons appointed to the
51 positions of counsel, first assistant counsel, assistant counsel, and
52 assistant deputy superintendent for employee relations nor to any person
53 appointed to the bureau of criminal investigation pursuant to section
54 two hundred sixteen of this article nor] YEARS OF AGE. NOR shall any
55 person be appointed unless he or she has fitness and good moral charac-
56 ter and shall have passed a physical and mental examination based upon

standards provided by the rules and regulations of the superintendent. Appointments shall be made for a probationary period which, in the case of appointees required to attend and complete a basic training program at the state police academy, shall include such time spent attending the basic school and terminate one year after successful completion thereof. All other sworn members shall be subject to a probationary period of one year from the date of appointment. Following satisfactory completion of the probationary period the member shall be a permanent appointee. Voluntary resignation or withdrawal from the New York state police during such appointment shall be submitted to the superintendent for approval. Reasonable time shall be required to account for all equipment issued or for debts or obligations to the state to be satisfied. Resignation or withdrawal from the division during a time of emergency, so declared by the governor, shall not be approved if contrary to the best interest of the state and shall be a misdemeanor. No sworn member removed from the New York state police shall be eligible for reappointment. The superintendent shall make rules and regulations subject to approval by the governor for the discipline and control of the New York state police and for the examination and qualifications of applicants for appointment as members thereto and such examinations shall be held and conducted by the superintendent subject to such rules and regulations. The superintendent is authorized to charge a fee of twenty dollars as an application fee for any person applying to take a competitive examination for the position of trooper, and a fee of five dollars for any competitive examination for a civilian position. The superintendent shall promulgate regulations subject to the approval of the director of the budget, to provide for a waiver of the application fee when the fee would cause an unreasonable hardship on the applicant and to establish a fee schedule and charge fees for the use of state police facilities.

S 5. This act shall take effect immediately.