

1956

2011-2012 Regular Sessions

I N   A S S E M B L Y

January 12, 2011

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Introduced by M. of A. GIGLIO -- read once and referred to the Committee  
on Governmental Employees

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 ASSEM-  
BLY, 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

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

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

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

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

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

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

(b) Any person who has received permanent appointment in the competitive class of the civil service as a police officer of the regional state park police or any police force or police department of any county, city, town, village, housing authority, transit authority or police district shall be eligible to resign from any police force or police department and, subject to such civil service rules as may be applicable, shall be eligible for reinstatement in the same police force or police department or in any other police force or police department to which he was eligible for transfer, without satisfying the age requirements set forth in paragraph (a) of subdivision one of this section at the time of such reinstatement, provided such reinstatement occurs within one year of the date of resignation.

(c) (i) Legislative findings and declaration. The legislature hereby finds and declares that it is frequently impracticable to ascertain fitness for the positions of detective and investigator within various police or sheriffs departments around the state by means of a competitive examination due to the unique nature of the duties assigned and the intangible personal qualities needed to perform such duties. The legislature further finds that competitive examination has never been employed in many police, correction or sheriffs departments, to ascertain fitness for the positions of detective and investigator within such police, correction or sheriffs departments; such fitness has always been determined by evaluation of the capabilities of an individual (who has in any case received permanent appointment to the position of police officer, correction officer of any rank or deputy sheriff) by superviso-

ry personnel. The legislature further finds that an individual who performs in an investigatory position in a manner sufficiently satisfactory to the appropriate supervisors to hold such an assignment for a period of eighteen months, has demonstrated fitness for the position of detective or investigator within such police, correction or sheriffs department at least as sufficiently as could be ascertained by means of a competitive examination.

[(ii)] (B) Notwithstanding any other provision of law, in any jurisdiction, other than a city with a population of one million or more or the state department of correctional services, which does not administer examinations for designation to detective or investigator, any person who has received permanent appointment to the position of police officer, correction officer of any rank or deputy sheriff and is temporarily assigned to perform the duties of detective or investigator shall, whenever such assignment to the duties of a detective or investigator exceeds eighteen months, be permanently designated as a detective or investigator and receive the compensation ordinarily paid to persons in such designation.

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

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

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

3. The sworn members of the New York state police shall be appointed by the superintendent and permanent appointees may be removed by the superintendent only after a hearing. No person shall be appointed to the New York state police force as a sworn member unless he or she shall be a citizen of the United States, [between the ages of] AND AT LEAST twenty-one [and twenty-nine years except that in the superintendent's discretion, the maximum age may be extended to thirty-five years. Notwithstanding any other provision of law or any general or special law to the contrary the time spent on military duty, not exceeding a total of six years, shall be subtracted from the age of any applicant who has passed his or her twenty-ninth birthday, solely for the purpose of permitting qualification as to age and for no other purpose. Such limitations as to age however shall not apply to persons appointed to the positions of counsel, first assistant counsel, assistant counsel, and assistant deputy superintendent for employee relations nor to any person

1 appointed to the bureau of criminal investigation pursuant to section  
2 two hundred sixteen of this article nor] YEARS OF AGE. NOR shall any  
3 person be appointed unless he or she has fitness and good moral charac-  
4 ter and shall have passed a physical and mental examination based upon  
5 standards provided by the rules and regulations of the superintendent.  
6 Appointments shall be made for a probationary period which, in the case  
7 of appointees required to attend and complete a basic training program  
8 at the state police academy, shall include such time spent attending the  
9 basic school and terminate one year after successful completion thereof.  
10 All other sworn members shall be subject to a probationary period of one  
11 year from the date of appointment. Following satisfactory completion of  
12 the probationary period the member shall be a permanent appointee.  
13 Voluntary resignation or withdrawal from the New York state police  
14 during such appointment shall be submitted to the superintendent for  
15 approval. Reasonable time shall be required to account for all equip-  
16 ment issued or for debts or obligations to the state to be satisfied.  
17 Resignation or withdrawal from the division during a time of emergency,  
18 so declared by the governor, shall not be approved if contrary to the  
19 best interest of the state and shall be a misdemeanor. No sworn member  
20 removed from the New York state police shall be eligible for reappoint-  
21 ment. The superintendent shall make rules and regulations subject to  
22 approval by the governor for the discipline and control of the New York  
23 state police and for the examination and qualifications of applicants  
24 for appointment as members thereto and such examinations shall be held  
25 and conducted by the superintendent subject to such rules and regu-  
26 lations. The superintendent is authorized to charge a fee of twenty  
27 dollars as an application fee for any person applying to take a compet-  
28 itive examination for the position of trooper, and a fee of five dollars  
29 for any competitive examination for a civilian position. The superinten-  
30 dent shall promulgate regulations subject to the approval of the direc-  
31 tor of the budget, to provide for a waiver of the application fee when  
32 the fee would cause an unreasonable hardship on the applicant and to  
33 establish a fee schedule and charge fees for the use of state police  
34 facilities.

35 S 5. This act shall take effect immediately.