

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

6827--A

2011-2012 Regular Sessions

I N A S S E M B L Y

April 4, 2011

Introduced by M. of A. ABBATE -- read once and referred to the Committee on Governmental Employees -- recommitted to the Committee on Governmental Employees in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the retirement and social security law, in relation to the retirement of members employed as investigators assigned to the department of law

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

- 1 Section 1. The retirement and social security law is amended by adding
2 a new section 89-x to read as follows:
3 S 89-X. RETIREMENT OF INVESTIGATORS EMPLOYED BY THE DEPARTMENT OF LAW.
4 A. "MEMBER", FOR THE PURPOSES OF THIS SECTION, SHALL MEAN ANY INVESTI-
5 GATOR, DEFINED IN PARAGRAPH (G) OR (M) OF SUBDIVISION THIRTY-FOUR OF
6 SECTION 1.20 OF THE CRIMINAL PROCEDURE LAW, EMPLOYED BY THE DEPARTMENT
7 OF LAW.
8 B. A MEMBER SHALL BE ELIGIBLE TO RETIRE PURSUANT TO THE PROVISIONS OF
9 THIS SECTION IF HE OR SHE IS ENGAGED DIRECTLY IN CRIMINAL LAW ENFORCE-
10 MENT ACTIVITIES. SUCH ELIGIBILITY SHALL BE AN ALTERNATIVE TO THE ELIGI-
11 BILITY PROVISIONS AVAILABLE UNDER ANY OTHER PLAN OF THIS ARTICLE TO
12 WHICH SUCH MEMBER IS SUBJECT.
13 C. SUCH MEMBER SHALL BE ENTITLED TO RETIRE UPON THE COMPLETION OF
14 TWENTY-FIVE YEARS OF TOTAL CREDITABLE SERVICE BY FILING AN APPLICATION
15 THEREFOR IN THE MANNER PROVIDED FOR IN SECTION SEVENTY OF THIS ARTICLE.
16 D. UPON COMPLETION OF TWENTY-FIVE YEARS OF SUCH SERVICE AND UPON
17 RETIREMENT, EACH SUCH MEMBER SHALL RECEIVE A PENSION WHICH, TOGETHER
18 WITH AN ANNUITY WHICH SHALL BE THE ACTUARIAL EQUIVALENT OF HIS OR HER
19 ACCUMULATED CONTRIBUTIONS AT THE TIME OF HIS OR HER RETIREMENT AND AN
20 ADDITIONAL PENSION WHICH IS THE ACTUARIAL EQUIVALENT OF THE
21 RESERVE-FOR-INCREASED-TAKE-HOME-PAY TO WHICH HE OR SHE MAY THEN BE ENTI-

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

LBD10561-02-2

1 TLED SHALL BE SUFFICIENT TO PROVIDE HIM OR HER WITH A RETIREMENT ALLOW-
2 ANCE EQUAL TO ONE-HALF OF HIS OR HER FINAL AVERAGE SALARY.

3 E. AS USED IN THIS SECTION "CREDITABLE SERVICE" SHALL MEAN ALL
4 SERVICES PERFORMED AS AN INVESTIGATOR, DEFINED IN PARAGRAPH (G) OR (M)
5 OF SUBDIVISION THIRTY-FOUR OF SECTION 1.20 OF THE CRIMINAL PROCEDURE
6 LAW, EMPLOYED BY THE DEPARTMENT OF LAW, PROVIDED SUCH EMPLOYMENT IS
7 ENGAGED DIRECTLY IN CRIMINAL LAW ENFORCEMENT ACTIVITIES.

8 F. CREDIT FOR SERVICE AS A MEMBER OR OFFICER OF THE STATE POLICE, OR
9 AS A PAID FIREFIGHTER, POLICE OFFICER OR OFFICER OF ANY ORGANIZED FIRE
10 DEPARTMENT OR POLICE FORCE OR DEPARTMENT OF ANY COUNTY, CITY, VILLAGE,
11 TOWN, FIRE DISTRICT OR POLICE DISTRICT, OR A PAID FIREFIGHTER, POLICE
12 OFFICER OR OFFICER OF ANY ORGANIZED DEPARTMENT OR POLICE FORCE OF THE
13 CITY OF NEW YORK, OR A PAID FIREFIGHTER, POLICE OFFICER OR OFFICER OF
14 ANY ORGANIZED DEPARTMENT OR POLICE FORCE OF THE METROPOLITAN TRANSPORTA-
15 TION AUTHORITY, OR AS A CRIMINAL INVESTIGATOR IN THE OFFICE OF A
16 DISTRICT ATTORNEY, OR AS A SPECIAL INVESTIGATOR IN THE OFFICE OF A
17 DISTRICT ATTORNEY, OR AS A SPECIAL STATE PROSECUTOR/SPECIAL INVESTIGATOR
18 FOR THE NEW YORK CITY CRIMINAL JUSTICE SYSTEM, OR AS A PAID POLICE OFFI-
19 CER OF THE STATE UNIVERSITY OF NEW YORK, OR AS A PAID POLICE OFFICER OF
20 THE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION, OR AS A PAID
21 POLICE OFFICER OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, SHALL
22 ALSO BE DEEMED TO BE CREDITABLE SERVICE AND SHALL BE INCLUDED IN COMPUT-
23 ING YEARS OF TOTAL SERVICE FOR RETIREMENT PURSUANT TO THIS SECTION,
24 PROVIDED SUCH SERVICE WAS PERFORMED BY THE MEMBER WHILE CONTRIBUTING TO
25 THE RETIREMENT SYSTEM PURSUANT TO THE PROVISIONS OF THIS ARTICLE, ARTI-
26 CLE EIGHT OR ARTICLE FIFTEEN OF THIS CHAPTER.

27 G. THE ATTORNEY GENERAL OR HIS OR HER DESIGNEE SHALL CERTIFY TO THE
28 COMPTROLLER, PERIODICALLY AND AT SUCH INTERVALS OF TIME AS MAY BE
29 REQUIRED OF HIM OR HER AND IN SUCH FASHION AS MAY BE PRESCRIBED, THE
30 IDENTITY OF MEMBERS OF THE DEPARTMENT OF LAW WHO ARE ENGAGED DIRECTLY IN
31 CRIMINAL LAW ENFORCEMENT ACTIVITIES.

32 H. IN COMPUTING THE TWENTY-FIVE YEARS OF TOTAL SERVICE OF A MEMBER
33 PURSUANT TO THIS SECTION FULL CREDIT SHALL BE GIVEN AND FULL ALLOWANCE
34 SHALL BE MADE FOR SERVICE OF SUCH MEMBER IN TIME OF WAR AFTER WORLD WAR
35 I AS DEFINED IN SECTION TWO OF THIS CHAPTER, PROVIDED SUCH MEMBER AT THE
36 TIME OF HIS OR HER ENTRANCE INTO THE ARMED FORCES WAS ASSIGNED OR
37 EMPLOYED AS AN INVESTIGATOR, DEFINED IN PARAGRAPH (G) OR (M) OF SUBDIVI-
38 SION THIRTY-FOUR OF SECTION 1.20 OF THE CRIMINAL PROCEDURE LAW, BY THE
39 DEPARTMENT OF LAW.

40 I. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PREVENT A MEMBER, WHO
41 DOES NOT RETIRE PURSUANT TO THE PROVISIONS OF THIS SECTION, FROM UTILIZ-
42 ING SERVICE WHICH IS CREDITABLE SERVICE PURSUANT TO THE PROVISIONS OF
43 THIS SECTION FOR SERVICE CREDIT PURSUANT TO THE PROVISIONS OF ANY OTHER
44 PLAN OF THIS ARTICLE TO WHICH SUCH MEMBER IS SUBJECT.

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

47 S 2. Subdivision a of section 445 of the retirement and social securi-
48 ty law, as amended by chapter 295 of the laws of 2007, is amended to
49 read as follows:

50 a. No member of a retirement system who is subject to the provisions
51 of this article shall retire without regard to age, exclusive of retire-
52 ment for disability, unless he OR SHE is a [policeman] POLICE OFFICER,
53 an investigator member of the New York city employees' retirement
54 system, [fireman] FIREFIGHTER, correction officer, a qualifying member
55 as defined in section eighty-nine-t, as added by chapter six hundred
56 fifty-seven of the laws of nineteen hundred ninety-eight, of this chap-

1 ter, sanitation [man] WORKER, a special officer (including persons
2 employed by the city of New York in the title urban park ranger or asso-
3 ciate urban park ranger), school safety agent, campus peace officer or a
4 taxi and limousine commission inspector member of the New York city
5 employees' retirement system or the New York city board of education
6 retirement system, a dispatcher member of the New York city employees'
7 retirement system, a police communications member of the New York city
8 employees' retirement system, an EMT member of the New York city employ-
9 ees' retirement system, a deputy sheriff member of the New York city
10 employees' retirement system, a correction officer of the Westchester
11 county correction department as defined in section eighty-nine-e of this
12 chapter or employed in Suffolk county as a peace officer, as defined in
13 section eighty-nine-s, as added by chapter five hundred eighty-eight of
14 the laws of nineteen hundred ninety-seven, of this chapter, employed in
15 Suffolk county as a correction officer, as defined in section eighty-
16 nine-f of this chapter, or employed in Nassau county as a correction
17 officer, uniformed correction division personnel, sheriff, undersheriff
18 or deputy sheriff, as defined in section eighty-nine-g of this chapter,
19 or employed in Nassau county as an ambulance medical technician, an
20 ambulance medical technician/supervisor or a member who performs ambu-
21 lance medical technician related services, as defined in section eight-
22 y-nine-s, as amended by chapter five hundred seventy-eight of the laws
23 of nineteen hundred ninety-eight, of this chapter, or employed in Nassau
24 county as a peace officer, as defined in section eighty-nine-s, as added
25 by chapter five hundred ninety-five of the laws of nineteen hundred
26 ninety-seven, of this chapter, or employed in Albany county as a sher-
27 iff, undersheriff, deputy sheriff, correction officer or identification
28 officer, as defined in section eighty-nine-h of this chapter or is
29 employed in St. Lawrence county as a sheriff, undersheriff, deputy sher-
30 iff or correction officer, as defined in section eighty-nine-i of this
31 chapter or is employed in Orleans county as a sheriff, undersheriff,
32 deputy sheriff or correction officer, as defined in section
33 eighty-nine-l of this chapter or is employed in Jefferson county as a
34 sheriff, undersheriff, deputy sheriff or correction officer, as defined
35 in section eighty-nine-j of this chapter or is employed in Onondaga
36 county as a deputy sheriff-jail division competitively appointed or as a
37 correction officer, as defined in section eighty-nine-k of this chapter
38 or is employed in a county which makes an election under subdivision j
39 of section eighty-nine-p of this chapter as a sheriff, undersheriff,
40 deputy sheriff or correction officer as defined in such section eighty-
41 nine-p or is employed in Broome County as a sheriff, undersheriff, depu-
42 ty sheriff or correction officer, as defined in section eighty-nine-m of
43 this chapter or is a Monroe county deputy sheriff-court security, or
44 deputy sheriff-jailor as defined in section eighty-nine-n, as added by
45 chapter five hundred ninety-seven of the laws of nineteen hundred nine-
46 ty-one, of this chapter or is employed in Greene county as a sheriff,
47 undersheriff, deputy sheriff or correction officer, as defined in
48 section eighty-nine-o of this chapter or is a traffic officer with the
49 town of Elmira as defined in section eighty-nine-q of this chapter or is
50 employed by Suffolk county as a park police officer, as defined in
51 section eighty-nine-r of this chapter or is a peace officer employed by
52 a county probation department as defined in section eighty-nine-t, as
53 added by chapter six hundred three of the laws of nineteen hundred nine-
54 ty-eight, of this chapter or is employed in Rockland county as a deputy
55 sheriff-civil as defined in section eighty-nine-v of this chapter as
56 added by chapter four hundred forty-one of the laws of two thousand one,

1 or is employed in Rockland county as a superior correction officer as
2 defined in section eighty-nine-v of this chapter as added by chapter
3 five hundred fifty-six of the laws of two thousand one or is a paramedic
4 employed by the police department in the town of Tonawanda and retires
5 under the provisions of section eighty-nine-v of this chapter, as added
6 by chapter four hundred seventy-two of the laws of two thousand one, or
7 is a county fire marshal, supervising fire marshal, fire marshal,
8 assistant fire marshal, assistant chief fire marshal or chief fire
9 marshal employed by the county of Nassau as defined in section eighty-
10 nine-w of this chapter, OR IS EMPLOYED AS AN INVESTIGATOR EMPLOYED BY
11 THE DEPARTMENT OF LAW AS DEFINED IN SECTION EIGHTY-NINE-X OF THIS CHAP-
12 TER and is in a plan which permits immediate retirement upon completion
13 of a specified period of service without regard to age. Except as
14 provided in subdivision c of section four hundred forty-five-a of this
15 article, subdivision c of section four hundred forty-five-b of this
16 article, subdivision c of section four hundred forty-five-c of this
17 article, subdivision c of section four hundred forty-five-d of this
18 article, subdivision c of section four hundred forty-five-e of this
19 article, subdivision c of section four hundred forty-five-f of this
20 article and subdivision c of section four hundred forty-five-h of this
21 article, a member in such a plan and such an occupation, other than a
22 [policeman] POLICE OFFICER or investigator member of the New York city
23 employees' retirement system or a [fireman] FIREFIGHTER, shall not be
24 permitted to retire prior to the completion of twenty-five years of
25 credited service; provided, however, if such a member in such an occupa-
26 tion is in a plan which permits retirement upon completion of twenty
27 years of service regardless of age, he may retire upon completion of
28 twenty years of credited service and prior to the completion of twenty-
29 five years of service, but in such event the benefit provided from funds
30 other than those based on such a member's own contributions shall not
31 exceed two per centum of final average salary per each year of credited
32 service.

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

35 U. THE SERVICE RETIREMENT BENEFIT SPECIFIED IN SECTION SIX HUNDRED
36 FOUR OF THIS ARTICLE SHALL BE PAYABLE TO MEMBERS WITH TWENTY-FIVE YEARS
37 OF CREDITABLE SERVICE, WITHOUT REGARD TO AGE, WHO ARE EMPLOYED AS INVES-
38 TIGATORS BY THE DEPARTMENT OF LAW AS DEFINED IN SECTION EIGHTY-NINE-X OF
39 THIS CHAPTER IF: (I) SUCH MEMBERS HAVE MET THE MINIMUM SERVICE REQUIRE-
40 MENTS UPON RETIREMENT, AND (II) IN THE CASE OF A MEMBER SUBJECT TO THE
41 PROVISIONS OF ARTICLE FOURTEEN OF THIS CHAPTER, SUCH MEMBER FILES AN
42 ELECTION THEREFOR WHICH PROVIDES THAT HE OR SHE WILL BE SUBJECT TO THE
43 PROVISIONS OF THIS ARTICLE AND TO NONE OF THE PROVISIONS OF SUCH ARTICLE
44 FOURTEEN. SUCH ELECTION, WHICH SHALL BE IRREVOCABLE, SHALL BE IN WRIT-
45 ING, DULY EXECUTED AND SHALL BE FILED WITH THE COMPTROLLER WITHIN ONE
46 YEAR OF THE EFFECTIVE DATE OF THIS SUBDIVISION. FOR THE PURPOSES OF
47 THIS SUBDIVISION, THE TERM "CREDITABLE SERVICE" SHALL HAVE THE MEANING
48 AS SO DEFINED IN SECTION EIGHTY-NINE-X OF THIS CHAPTER.

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

51 U. THE EARLY SERVICE RETIREMENT FOR A MEMBER EMPLOYED AS AN INVESTI-
52 GATOR EMPLOYED BY THE DEPARTMENT OF LAW AS DEFINED IN SECTION
53 EIGHTY-NINE-X OF THIS CHAPTER SHALL BE A PENSION EQUAL TO ONE-FIFTIETH
54 OF FINAL AVERAGE SALARY TIMES YEARS OF CREDITED SERVICE, AS DEFINED IN
55 SECTION EIGHTY-NINE-X OF THIS CHAPTER, AT THE COMPLETION OF TWENTY-FIVE

1 YEARS OF SUCH CREDITED SERVICE AS SUCH AN INVESTIGATOR, BUT NOT EXCEED-
2 ING ONE-HALF OF HIS OR HER FINAL AVERAGE SALARY.

3 S 5. All costs attributable to the operation of this act shall be
4 borne by the state of New York.

5 S 6. This act shall take effect immediately.

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

This bill would permit any investigator employed by the department of law who is engaged directly in criminal law enforcement activities to retire upon completion of twenty-five (25) years of creditable service, regardless of age. The benefit upon retirement would be an allowance of one-half of final average salary for 25 years of service.

If this bill is enacted, we anticipate that there will be an increase of approximately \$89,700 in the annual contributions of the State of New York for the fiscal year ending March 31, 2013.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately \$507,000, which would be borne by the State of New York as a one-time payment. This estimate is based on the assumption that payment will be made on March 1, 2013.

These estimated costs are based on 73 known affected members having a total estimated salary for the fiscal year ending March 31, 2012 of approximately \$5.4 million.

Summary of relevant resources:

Data: March 31, 2011 Actuarial Year End File with distributions of membership and other statistics displayed in the 2011 Report of the Actuary and 2011 Comprehensive Annual Financial Report.

Assumptions and Methods: 2010 and 2011 Annual Report to the Comptroller on Actuarial Assumptions, Codes Rules and Regulations of the State of New York: Audit and Control.

Market Assets and GASB Disclosures: March 31, 2011 New York State and Local Retirement System Financial Statements and Supplementary information.

Valuations of benefit Liabilities and Actuarial Assets: summarized in the 2011 Actuarial Valuations report.

I am a member of the American Academy of Actuaries and meet the Qualification Standards to render the actuarial opinion contained herein.

This estimate, dated February 8, 2012 and intended for use only during the 2012 Legislative Session, is Fiscal Note No. 2012-45, prepared by the Actuary for the New York State and Local Employees' Retirement System.