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I N  A S S E M B L Y

(PREFILED)

January 4, 2012

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

AN ACT to amend the military law, in relation to affording certain members of the naval militia providing maritime security service as part of the Joint Task Force Empire Shield at Indian Point nuclear plant in Westchester county the same protection as other public employees serving in the military

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

Section 1. Paragraph (b) of subdivision 1 of section 243 of the military law, as amended by chapter 248 of the laws of 2001, is amended to read as follows:

(b) The term "military duty" shall mean military service in the military, naval, aviation or marine service of the United States subsequent to July first, nineteen hundred forty, or service under the selective training and service act of nineteen hundred forty, or the national guard and reserve officers mobilization act of nineteen hundred forty, or any other act of congress supplementary or amendatory thereto, or any similar act of congress hereafter enacted and irrespective of the fact that such service was entered upon following a voluntary enlistment therefor or was required under one of the foregoing acts of congress, or service with the United States public health service as a commissioned officer, or service with the American Red Cross while with the armed forces of the United States on foreign service, or service with the special services section of the armed forces of the United States on foreign service, or service in the merchant marine which shall consist of service as an officer or member of the crew on or in connection with a vessel documented under the laws of the United States or a vessel owned by, chartered to, or operated by or for the account or use of the government of the United States, or service by one who was employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the

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

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United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service as such terms are defined under federal law (46 USCA 10301 & 10501) and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in oceangoing service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty, from the Department of Defense, or who served as a United States civilian employed by the American Field Service and served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and who was discharged or released therefrom under honorable conditions, or who served as a United States civilian Flight Crew and Aviation Ground Support Employee of Pan American World Airways or one of its subsidiaries or its affiliates and served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict, December fourteenth, nineteen hundred forty-one through August fourteenth, nineteen hundred forty-five, and who was discharged or released therefrom under honorable conditions; or service in police duty on behalf of the United States government in a foreign country, if such person is a police officer, as defined by section 1.20 of the criminal procedure law, and if such police officer obtained the prior consent of his or her public employer to absent himself or herself from his or her position to engage in the performance of such service; OR AS A MEMBER OF THE NAVAL MILITIA PROVIDING MARITIME SECURITY SERVICE AS PART OF THE JOINT TASK FORCE EMPIRE SHIELD AND OTHER ASSOCIATED MISSIONS AT INDIAN POINT NUCLEAR PLANT IN WESTCHESTER COUNTY SERVICE; or as an enrollee in the United States maritime service on active duty and, to such extent as may be prescribed by or under the laws of the United States, any period awaiting assignment to such service and any period of education or training for such service in any school or institution under the jurisdiction of the United States government, but shall not include temporary and intermittent gratuitous service in any reserve or auxiliary force. It shall include time spent in reporting for and returning from military duty and shall be deemed to commence when the public employee leaves his OR HER position and to end when he OR SHE is reinstated to his OR HER position, provided such reinstatement is within ninety days after the termination of military duty, as hereinafter defined. Notwithstanding the foregoing provisions of this paragraph, the term "military duty" shall not include any of the foregoing services entered upon voluntarily on or after January first, nineteen hundred forty-seven and before June twenty-fifth, nineteen hundred fifty; and, on or after July first, nineteen hundred seventy, the term "military duty" shall not include any voluntary service in excess of four years performed after that date, or the total of any voluntary services, additional or otherwise, in excess of four years performed after that date, shall not exceed five years, if the service in excess of four years is at the request and for the convenience of the federal government, except if such voluntary service is performed during a period of war, or national emergency declared by the president. FURTHER NOTWITHSTANDING

THE FOREGOING PROVISIONS OF THIS PARAGRAPH, THE TERM "MILITARY DUTY" SHALL INCLUDE ANY SERVICE AS A MEMBER OF THE NAVAL MILITIA PROVIDING MARITIME SECURITY SERVICE AS PART OF THE JOINT TASK FORCE EMPIRE SHIELD AND OTHER ASSOCIATED MISSIONS AT INDIAN POINT NUCLEAR PLANT IN WESTCHESTER COUNTY EVEN IF SUCH SERVICE MAY BE CHARACTERIZED AS TEMPORARY OR INTERMITTENT GRATUITOUS SERVICE.

S 2. Notwithstanding subdivision 4 of section 243 of the military law, a person whose military duty entailed service as a member of the naval militia providing maritime security service as part of the Joint Task Force Empire Shield and other associated missions at Indian Point nuclear plant in Westchester county service shall be permitted to make contributions to the retirement system of which he or she is a member within five years from the effective date of this act or five years from the termination of such service, whichever is later, for the purposes of obtaining retirement credit as provided in such subdivision or, if such a person has retired before the effective date of this section, he or she may make application for the retirement credit afforded by this act within one year following the effective date of this act, in which event, the cost to the retiree would be based on the twelve month period immediately preceding retirement.

S 3. This act shall take effect immediately.