

2722

2011-2012 Regular Sessions

I N   S E N A T E

January 31, 2011

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Introduced by Sen. STEWART-COUSINS -- 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  
the retirement of detention officers employed by the city of Yonkers  
after twenty-five years of creditable service

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-  
BLY, 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 DETENTION OFFICERS EMPLOYED BY THE CITY OF YONK-  
4     ERS. A. A MEMBER EMPLOYED AS A DETENTION OFFICER BY THE CITY OF YONKERS  
5     SHALL BE ELIGIBLE TO RETIRE PURSUANT TO THE PROVISIONS OF THIS SECTION  
6     IF HE OR SHE IS A DETENTION OFFICER OR HOLDS A JOB WITH RESPONSIBILITIES  
7     SIMILAR TO THOSE OF A DETENTION OFFICER, IN THE EVENT THAT THE JOB TITLE  
8     OF DETENTION OFFICER SHALL BE ABOLISHED. SUCH ELIGIBILITY SHALL BE AN  
9     ALTERNATIVE TO THE ELIGIBILITY PROVISIONS AVAILABLE UNDER ANY OTHER PLAN  
10    OF THIS ARTICLE TO WHICH SUCH MEMBER IS SUBJECT.  
11    B. SUCH MEMBER SHALL BE ENTITLED TO RETIRE UPON THE COMPLETION OF  
12    TWENTY-FIVE YEARS OF TOTAL CREDITABLE SERVICE BY FILING AN APPLICATION  
13    THEREFOR IN THE MANNER PROVIDED FOR IN SECTION SEVENTY OF THIS ARTICLE.  
14    C. UPON COMPLETION OF TWENTY-FIVE YEARS OF SUCH SERVICE AND UPON  
15    RETIREMENT, EACH SUCH MEMBER SHALL RECEIVE A PENSION WHICH, TOGETHER  
16    WITH AN ANNUITY WHICH SHALL BE THE ACTUARIAL EQUIVALENT OF HIS OR HER  
17    ACCUMULATED CONTRIBUTIONS AT THE TIME OF HIS OR HER RETIREMENT AND AN  
18    ADDITIONAL PENSION WHICH IS THE ACTUARIAL EQUIVALENT OF THE  
19    RESERVED-FOR-INCREASED-TAKE-HOME-PAY TO WHICH HE OR SHE MAY THEN BE  
20    ENTITLED SHALL BE SUFFICIENT TO PROVIDE HIM OR HER WITH A RETIREMENT  
21    ALLOWANCE EQUAL TO ONE-HALF OF HIS OR HER FINAL AVERAGE SALARY.  
22    D. AS USED IN THIS SECTION "CREDITABLE SERVICE" SHALL INCLUDE ANY AND  
23    ALL SERVICES PERFORMED AS A DETENTION OFFICER WITH THE CITY OF YONKERS.

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

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1 E. CREDIT FOR SERVICE AS A MEMBER OR OFFICER OF THE STATE POLICE OR AS  
2 A PAID FIREFIGHTER, POLICE OFFICER OR OFFICER OF ANY ORGANIZED FIRE  
3 DEPARTMENT OR POLICE FORCE OR DEPARTMENT OF ANY COUNTY, CITY, VILLAGE,  
4 TOWN, FIRE DISTRICT OR POLICE DISTRICT, SHALL ALSO BE DEEMED TO BE CRED-  
5 ITABLE SERVICE AND SHALL BE INCLUDED IN COMPUTING YEARS OF TOTAL SERVICE  
6 FOR RETIREMENT PURSUANT TO THIS SECTION, PROVIDED SUCH SERVICE WAS  
7 PERFORMED BY THE MEMBER WHILE CONTRIBUTING TO THE RETIREMENT SYSTEM  
8 PURSUANT TO THE PROVISIONS OF THIS ARTICLE OR ARTICLE EIGHT OF THIS  
9 CHAPTER.

10 F. THE CITY OF YONKERS SHALL CERTIFY TO THE COMPTROLLER, PERIODICALLY  
11 AND AT SUCH INTERVALS OF TIME AS MAY BE REQUIRED AND IN SUCH FASHION AS  
12 MAY BE PRESCRIBED, THE IDENTITY OF THE DETENTION OFFICERS IN ITS EMPLOY.

13 G. A MEMBER CONTRIBUTING ON THE BASIS OF THIS SECTION AT THE TIME OF  
14 RETIREMENT, MAY RETIRE AFTER THE COMPLETION OF TWENTY-FIVE YEARS OF  
15 TOTAL CREDITABLE SERVICE. APPLICATION THEREFOR MAY BE FILED IN A MANNER  
16 SIMILAR TO THAT PROVIDED IN SECTION SEVENTY OF THIS ARTICLE. UPON  
17 COMPLETION OF TWENTY-FIVE YEARS OF SUCH SERVICE AND UPON RETIREMENT,  
18 EACH SUCH MEMBER SHALL RECEIVE A PENSION WHICH, TOGETHER WITH AN ANNUITY  
19 WHICH SHALL BE THE ACTUARIAL EQUIVALENT OF HIS OR HER ACCUMULATED  
20 CONTRIBUTIONS AT THE TIME OF HIS OR HER RETIREMENT AND AN ADDITIONAL  
21 PENSION WHICH IS THE ACTUARIAL EQUIVALENT OF THE RESERVED-FOR-IN-  
22 CREASED-TAKE-HOME-PAY TO WHICH HE OR SHE MAY THEN BE ENTITLED SHALL BE  
23 SUFFICIENT TO PROVIDE HIM OR HER WITH A RETIREMENT ALLOWANCE EQUAL TO  
24 ONE-HALF OF HIS OR HER FINAL AVERAGE SALARY.

25 H. IN COMPUTING THE TWENTY-FIVE YEARS OF TOTAL SERVICE OF A MEMBER  
26 PURSUANT TO THIS SECTION FULL CREDIT SHALL BE GIVEN AND FULL ALLOWANCE  
27 SHALL BE MADE FOR SERVICE OF SUCH MEMBER IN TIME OF WAR AFTER WORLD WAR  
28 I AS DEFINED IN SECTION TWO OF THIS CHAPTER, PROVIDED SUCH MEMBER AT THE  
29 TIME OF HIS OR HER ENTRANCE INTO THE ARMED FORCES WAS IN THE SERVICE OF  
30 THE CITY OF YONKERS.

31 I. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PREVENT A MEMBER, WHO  
32 DOES NOT RETIRE PURSUANT TO THE PROVISIONS OF THIS SECTION, FROM UTILIZ-  
33 ING SERVICE WHICH IS CREDITABLE SERVICE PURSUANT TO THE PROVISIONS OF  
34 THIS SECTION FOR SERVICE CREDIT PURSUANT TO THE PROVISIONS OF ANY OTHER  
35 PLAN OF THIS ARTICLE TO WHICH SUCH MEMBER IS SUBJECT.

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

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

41 a. No member of a retirement system who is subject to the provisions  
42 of this article shall retire without regard to age, exclusive of retire-  
43 ment for disability, unless he OR SHE is a [policeman] POLICE OFFICER,  
44 an investigator member of the New York city employees' retirement  
45 system, [fireman] FIREFIGHTER, correction officer, a qualifying member  
46 as defined in section eighty-nine-t, as added by chapter six hundred  
47 fifty-seven of the laws of nineteen hundred ninety-eight, of this chap-  
48 ter, sanitation [man] PERSON, a special officer (including persons  
49 employed by the city of New York in the title urban park ranger or asso-  
50 ciate urban park ranger), school safety agent, campus peace officer or a  
51 taxi and limousine commission inspector member of the New York city  
52 employees' retirement system or the New York city board of education  
53 retirement system, a dispatcher member of the New York city employees'  
54 retirement system, a police communications member of the New York city  
55 employees' retirement system, an EMT member of the New York city employ-  
56 ees' retirement system, a deputy sheriff member of the New York city

1 employees' retirement system, a correction officer of the Westchester  
2 county correction department as defined in section eighty-nine-e of this  
3 chapter or employed in Suffolk county as a peace officer, as defined in  
4 section eighty-nine-s, as added by chapter five hundred eighty-eight of  
5 the laws of nineteen hundred ninety-seven, of this chapter, employed in  
6 Suffolk county as a correction officer, as defined in section eighty-  
7 nine-f of this chapter, or employed in Nassau county as a correction  
8 officer, uniformed correction division personnel, sheriff, undersheriff  
9 or deputy sheriff, as defined in section eighty-nine-g of this chapter,  
10 or employed in Nassau county as an ambulance medical technician, an  
11 ambulance medical technician/supervisor or a member who performs ambu-  
12 lance medical technician related services, as defined in section eight-  
13 y-nine-s, as amended by chapter five hundred seventy-eight of the laws  
14 of nineteen hundred ninety-eight, of this chapter, or employed in Nassau  
15 county as a peace officer, as defined in section eighty-nine-s, as added  
16 by chapter five hundred ninety-five of the laws of nineteen hundred  
17 ninety-seven, of this chapter, or employed in Albany county as a sher-  
18 iff, undersheriff, deputy sheriff, correction officer or identification  
19 officer, as defined in section eighty-nine-h of this chapter or is  
20 employed in St. Lawrence county as a sheriff, undersheriff, deputy sher-  
21 iff or correction officer, as defined in section eighty-nine-i of this  
22 chapter or is employed in Orleans county as a sheriff, undersheriff,  
23 deputy sheriff or correction officer, as defined in section  
24 eighty-nine-l of this chapter or is employed in Jefferson county as a  
25 sheriff, undersheriff, deputy sheriff or correction officer, as defined  
26 in section eighty-nine-j of this chapter or is employed in Onondaga  
27 county as a deputy sheriff-jail division competitively appointed or as a  
28 correction officer, as defined in section eighty-nine-k of this chapter  
29 or is employed in a county which makes an election under subdivision j  
30 of section eighty-nine-p of this chapter as a sheriff, undersheriff,  
31 deputy sheriff or correction officer as defined in such section eighty-  
32 nine-p OF THIS CHAPTER or is employed in Broome County as a sheriff,  
33 undersheriff, deputy sheriff or correction officer, as defined in  
34 section eighty-nine-m of this chapter or is a Monroe county deputy sher-  
35 iff-court security, or deputy sheriff-jailor as defined in section  
36 eighty-nine-n, as added by chapter five hundred ninety-seven of the laws  
37 of nineteen hundred ninety-one, of this chapter or is employed in Greene  
38 county as a sheriff, undersheriff, deputy sheriff or correction officer,  
39 as defined in section eighty-nine-o of this chapter or is a traffic  
40 officer with the town of Elmira as defined in section eighty-nine-q of  
41 this chapter or is employed by Suffolk county as a park police officer,  
42 as defined in section eighty-nine-r of this chapter or is a peace offi-  
43 cer employed by a county probation department as defined in section  
44 eighty-nine-t, as added by chapter six hundred three of the laws of  
45 nineteen hundred ninety-eight, of this chapter or is employed in Rock-  
46 land county as a deputy sheriff-civil as defined in section  
47 eighty-nine-v of this chapter as added by chapter four hundred forty-one  
48 of the laws of two thousand one, or is employed in Rockland county as a  
49 superior correction officer as defined in section eighty-nine-v of this  
50 chapter as added by chapter five hundred fifty-six of the laws of two  
51 thousand one or is a paramedic employed by the police department in the  
52 town of Tonawanda and retires under the provisions of section eighty-  
53 nine-v of this chapter, as added by chapter four hundred seventy-two of  
54 the laws of two thousand one, or is a county fire marshal, supervising  
55 fire marshal, fire marshal, assistant fire marshal, assistant chief fire  
56 marshal or chief fire marshal employed by the county of Nassau as

1 defined in section eighty-nine-w of this chapter, OR IS A DETENTION  
2 OFFICER EMPLOYED BY THE CITY OF YONKERS AND RETIRES UNDER THE PROVISIONS  
3 OF SECTION EIGHTY-NINE-X OF THIS CHAPTER, and is in a plan which permits  
4 immediate retirement upon completion of a specified period of service  
5 without regard to age. Except as provided in subdivision c of section  
6 four hundred forty-five-a of this article, subdivision c of section four  
7 hundred forty-five-b of this article, subdivision c of section four  
8 hundred forty-five-c of this article, subdivision c of section four  
9 hundred forty-five-d of this article, subdivision c of section four  
10 hundred forty-five-e of this article, subdivision c of section four  
11 hundred forty-five-f of this article and subdivision c of section four  
12 hundred forty-five-h of this article, a member in such a plan and such  
13 an occupation, other than a [policeman] POLICE OFFICER or investigator  
14 member of the New York city employees' retirement system or a [fireman]  
15 FIREFIGHTER, shall not be permitted to retire prior to the completion of  
16 twenty-five years of credited service; provided, however, if such a  
17 member in such an occupation is in a plan which permits retirement upon  
18 completion of twenty years of service regardless of age, he may retire  
19 upon completion of twenty years of credited service and prior to the  
20 completion of twenty-five years of service, but in such event the bene-  
21 fit provided from funds other than those based on such a member's own  
22 contributions shall not exceed two per centum of final average salary  
23 per each year of credited service.

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

26 U. THE SERVICE RETIREMENT BENEFIT SPECIFIED IN SECTION SIX HUNDRED  
27 FOUR OF THIS ARTICLE SHALL BE PAYABLE TO MEMBERS WITH TWENTY-FIVE YEARS  
28 OF CREDITABLE SERVICE, WITHOUT REGARD TO AGE, WHO ARE DETENTION OFFICERS  
29 EMPLOYED BY THE CITY OF YONKERS, AS DEFINED IN SECTION EIGHTY-NINE-X OF  
30 THIS CHAPTER, IF: (I) SUCH MEMBERS HAVE MET THE MINIMUM SERVICE REQUIRE-  
31 MENTS UPON RETIREMENT, AND (II) IN THE CASE OF A MEMBER SUBJECT TO THE  
32 PROVISIONS OF ARTICLE FOURTEEN OF THIS CHAPTER, SUCH MEMBER FILES AN  
33 ELECTION THEREFOR WHICH PROVIDES THAT HE OR SHE WILL BE SUBJECT TO THE  
34 PROVISIONS OF THIS ARTICLE AND NONE OF THE PROVISIONS OF SUCH ARTICLE  
35 FOURTEEN. SUCH ELECTION, WHICH SHALL BE IRREVOCABLE, SHALL BE IN WRIT-  
36 ING, DULY EXECUTED AND SHALL BE FILED WITH THE COMPTROLLER ON OR BEFORE  
37 SEPTEMBER FIRST, TWO THOUSAND TWELVE. FOR THE PURPOSES OF THIS SUBDIVI-  
38 SION, THE TERM "CREDITABLE SERVICE" SHALL HAVE THE MEANING AS SO DEFINED  
39 IN BOTH SECTIONS EIGHTY-NINE-X AND SIX HUNDRED ONE OF THIS CHAPTER.

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

42 U. THE EARLY SERVICE RETIREMENT BENEFIT FOR A MEMBER WHO IS A  
43 DETENTION OFFICER EMPLOYED BY THE CITY OF YONKERS, AS DEFINED IN SECTION  
44 EIGHTY-NINE-X OF THIS CHAPTER, SHALL BE A PENSION EQUAL TO ONE-FIFTIETH  
45 OF FINAL AVERAGE SALARY TIMES YEARS OF CREDITED SERVICE AT THE  
46 COMPLETION OF TWENTY-FIVE YEARS OF SERVICE AS SUCH DETENTION OFFICER,  
47 BUT NOT EXCEEDING ONE-HALF OF HIS OR HER FINAL AVERAGE SALARY.

48 S 5. The cost attributable to the operation of this act shall be borne  
49 by the city of Yonkers and shall be paid as provided by applicable law  
50 over a ten year period commencing with the state fiscal year ending  
51 March 31, 2012.

52 S 6. This act shall take effect immediately.

FISCAL NOTE.--This bill would permit detention officers employed by  
the city of Yonkers to retire upon the completion of twenty-five (25)  
years of creditable service if the employing city elects to provide this  
alternative. For all eligible officers, the benefit upon retirement

would be an allowance of one-half final average salary. There would be no reduction due to early service retirement for these members.

If this bill is enacted, we anticipate that there will be an increase of approximately \$25,800 in the annual contributions of the city of Yonkers for the fiscal year ending March 31, 2012.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately \$282,000 which would be borne by the city of Yonkers. If this cost were amortized over a ten (10) year period, the cost for the first year including interest, would be approximately \$38,200. This estimate is based on the assumption that payment will be made on February 1, 2012.

These estimated costs are based on a twenty-two (22) known affected members having a total annual salary of approximately \$2.7 million for the fiscal year ending March 31, 2011.

This estimate, dated January 21, 2011 and intended for use only during the 2011 Legislative Session, is Fiscal Note No. 2011-069, prepared by the Actuary for the New York State and Local Employees' Retirement System.