

838

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sens. YOUNG, NOZZOLIO, SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

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

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

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officer in the city of Buffalo police department, or June thirtieth, two thousand six, whichever is later; and

(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

1 in any case received permanent appointment to the position of police
2 officer, correction officer of any rank or deputy sheriff) by superviso-
3 ry personnel. The legislature further finds that an individual who
4 performs in an investigatory position in a manner sufficiently satisfac-
5 tory to the appropriate supervisors to hold such an assignment for a
6 period of eighteen months, has demonstrated fitness for the position of
7 detective or investigator within such police, correction or sheriffs
8 department at least as sufficiently as could be ascertained by means of
9 a competitive examination.

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

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

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

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

44 3. The sworn members of the New York state police shall be appointed
45 by the superintendent and permanent appointees may be removed by the
46 superintendent only after a hearing. No person shall be appointed to the
47 New York state police force as a sworn member unless he or she shall be
48 a citizen of the United States, [between the ages of] AND AT LEAST twen-
49 ty-one [and twenty-nine years except that in the superintendent's
50 discretion, the maximum age may be extended to thirty-five years.
51 Notwithstanding any other provision of law or any general or special law
52 to the contrary the time spent on military duty, not exceeding a total
53 of six years, shall be subtracted from the age of any applicant who has
54 passed his or her twenty-ninth birthday, solely for the purpose of
55 permitting qualification as to age and for no other purpose. Such limi-
56 tations as to age however shall not apply to persons appointed to the

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

37 S 5. This act shall take effect immediately.