

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

5090--A

2011-2012 Regular Sessions

I N A S S E M B L Y

February 11, 2011

Introduced by M. of A. ABBATE -- Multi-Sponsored by -- M. of A. BOYLAND, COLTON, SALADINO, WEINSTEIN -- 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 education law, the retirement and social security law and the administrative code of the city of New York, in relation to allowing members of a public retirement system to obtain retirement service credit for certain periods of child care leave

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

1 Section 1. Subdivision 2 of section 509 of the education law is
2 amended by adding a new paragraph d to read as follows:
3 D. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY MEMBER WHO IS
4 ABSENT WITHOUT PAY FOR A CHILD CARE LEAVE OF ABSENCE PURSUANT TO APPLI-
5 CABLE REGULATIONS OR COLLECTIVE BARGAINING AGREEMENTS, SHALL BE ELIGIBLE
6 FOR UP TO ONE YEAR OF CREDIT FOR EACH SUCH DULY AUTHORIZED LEAVE,
7 PROVIDED, HOWEVER, THAT THE TOTAL SERVICE CREDIT PROVIDED PURSUANT TO
8 THIS PARAGRAPH SHALL NOT EXCEED TWO YEARS. MEMBERS MUST FILE A CLAIM
9 FOR SUCH SERVICE CREDIT WITH THE RETIREMENT SYSTEM BY DECEMBER
10 THIRTY-FIRST, TWO THOUSAND THIRTEEN, OR WITHIN NINETY DAYS FOLLOWING
11 TERMINATION OF THE CHILD CARE LEAVE, WHICHEVER IS LATER, AND CONTRIBUTE
12 TO THE RETIREMENT SYSTEM AN AMOUNT WHICH SUCH MEMBER WOULD HAVE CONTRIB-
13 UTED DURING THE PERIOD OF SUCH CHILD CARE LEAVE, TOGETHER WITH INTEREST
14 THEREON. IN THE EVENT THERE IS A CONFLICT BETWEEN THE PROVISIONS OF
15 THIS PARAGRAPH AND THE PROVISIONS OF ANY OTHER LAW OR CODE TO THE
16 CONTRARY, THE PROVISIONS OF THIS PARAGRAPH SHALL GOVERN.
17 S 2. Section 2575 of the education law is amended by adding a new
18 subdivision 26 to read as follows:

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

LBD07890-02-2

1 26. THE RULES AND REGULATIONS OF THE BOARD OF EDUCATION RETIREMENT
2 SYSTEM SHALL PROVIDE THAT ANY MEMBER WHO IS ABSENT WITHOUT PAY FOR CHILD
3 CARE LEAVE OF ABSENCE PURSUANT TO REGULATIONS OF THE NEW YORK CITY BOARD
4 OF EDUCATION SHALL BE ELIGIBLE FOR UP TO ONE YEAR OF CREDIT FOR EACH
5 SUCH DULY AUTHORIZED LEAVE, PROVIDED, HOWEVER, THAT THE TOTAL SERVICE
6 CREDIT PROVIDED PURSUANT TO THIS SUBDIVISION SHALL NOT EXCEED TWO YEARS.
7 MEMBERS MUST FILE A CLAIM FOR SUCH SERVICE CREDIT WITH THE RETIREMENT
8 SYSTEM BY DECEMBER THIRTY-FIRST, TWO THOUSAND THIRTEEN, OR WITHIN NINETY
9 DAYS FOLLOWING TERMINATION OF THE CHILD CARE LEAVE, WHICHEVER IS LATER,
10 AND CONTRIBUTE TO THE RETIREMENT SYSTEM AN AMOUNT WHICH SUCH MEMBER
11 WOULD HAVE CONTRIBUTED DURING THE PERIOD OF SUCH CHILD CARE LEAVE,
12 TOGETHER WITH INTEREST THEREON.

13 S 3. Subdivision i of section 41 of the retirement and social security
14 law is amended by adding a new paragraph 4 to read as follows:

15 4. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY MEMBER WHO IS
16 ABSENT WITHOUT PAY FOR A CHILD CARE LEAVE OF ABSENCE PURSUANT TO APPLI-
17 CABLE REGULATIONS OR COLLECTIVE BARGAINING AGREEMENTS, SHALL BE ELIGIBLE
18 FOR UP TO ONE YEAR OF CREDIT FOR EACH SUCH DULY AUTHORIZED LEAVE,
19 PROVIDED, HOWEVER, THAT THE TOTAL SERVICE CREDIT PROVIDED PURSUANT TO
20 THIS PARAGRAPH SHALL NOT EXCEED TWO YEARS. MEMBERS MUST FILE A CLAIM
21 FOR SUCH SERVICE CREDIT WITH THE RETIREMENT SYSTEM BY DECEMBER
22 THIRTY-FIRST, TWO THOUSAND THIRTEEN, OR WITHIN NINETY DAYS FOLLOWING
23 TERMINATION OF THE CHILD CARE LEAVE, WHICHEVER IS LATER, AND CONTRIBUTE
24 TO THE RETIREMENT SYSTEM AN AMOUNT WHICH SUCH MEMBER WOULD HAVE CONTRIB-
25 UTED DURING THE PERIOD OF SUCH CHILD CARE LEAVE, TOGETHER WITH INTEREST
26 THEREON. IN THE EVENT THERE IS A CONFLICT BETWEEN THE PROVISIONS OF THIS
27 PARAGRAPH AND THE PROVISIONS OF ANY OTHER LAW OR CODE TO THE CONTRARY,
28 THE PROVISIONS OF THIS PARAGRAPH SHALL GOVERN.

29 S 4. Subdivision i of section 341 of the retirement and social securi-
30 ty law is amended by adding a new paragraph 2 to read as follows:

31 2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY MEMBER WHO IS
32 ABSENT WITHOUT PAY FOR A CHILD CARE LEAVE OF ABSENCE PURSUANT TO APPLI-
33 CABLE REGULATIONS OR COLLECTIVE BARGAINING AGREEMENTS, SHALL BE ELIGIBLE
34 FOR UP TO ONE YEAR OF CREDIT FOR EACH SUCH DULY AUTHORIZED LEAVE,
35 PROVIDED, HOWEVER, THAT THE TOTAL SERVICE CREDIT PROVIDED PURSUANT TO
36 THIS PARAGRAPH SHALL NOT EXCEED TWO YEARS. MEMBERS MUST FILE A CLAIM
37 FOR SUCH SERVICE CREDIT WITH THE RETIREMENT SYSTEM BY DECEMBER
38 THIRTY-FIRST, TWO THOUSAND THIRTEEN, OR WITHIN NINETY DAYS FOLLOWING
39 TERMINATION OF THE CHILD CARE LEAVE, WHICHEVER IS LATER, AND CONTRIBUTE
40 TO THE RETIREMENT SYSTEM AN AMOUNT WHICH SUCH MEMBER WOULD HAVE CONTRIB-
41 UTED DURING THE PERIOD OF SUCH CHILD CARE LEAVE, TOGETHER WITH INTEREST
42 THEREON. IN THE EVENT THERE IS A CONFLICT BETWEEN THE PROVISIONS OF
43 THIS PARAGRAPH AND THE PROVISIONS OF ANY OTHER LAW OR CODE TO THE
44 CONTRARY, THE PROVISIONS OF THIS PARAGRAPH SHALL GOVERN. ANY SERVICE
45 CREDIT GRANTED PURSUANT TO THIS SECTION SHALL CONSTITUTE:

46 (A) "POLICE OR FIRE SERVICE" AS SUCH TERM IS DEFINED IN SUBDIVISION
47 ELEVEN OF SECTION THREE HUNDRED TWO OF THIS ARTICLE; AND

48 (B) "TOTAL CREDITABLE SERVICE" FOR THE PURPOSE OF DETERMINING ENTITLE-
49 MENT TO RETIRE PURSUANT TO A SPECIAL RETIREMENT PLAN SET FORTH IN TITLE
50 TEN OF THIS ARTICLE.

51 S 5. Section 446 of the retirement and social security law is amended
52 by adding a new subdivision k to read as follows:

53 K. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY MEMBER WHO IS
54 ABSENT WITHOUT PAY FOR A CHILD CARE LEAVE OF ABSENCE PURSUANT TO APPLI-
55 CABLE REGULATIONS OR COLLECTIVE BARGAINING AGREEMENTS, SHALL BE ELIGIBLE
56 FOR UP TO ONE YEAR OF CREDIT FOR EACH SUCH DULY AUTHORIZED LEAVE,

1 PROVIDED, HOWEVER, THAT THE TOTAL SERVICE CREDIT PROVIDED PURSUANT TO
2 THIS SUBDIVISION SHALL NOT EXCEED TWO YEARS. MEMBERS MUST FILE A CLAIM
3 FOR SUCH SERVICE CREDIT WITH THE RETIREMENT SYSTEM BY DECEMBER
4 THIRTY-FIRST, TWO THOUSAND THIRTEEN, OR WITHIN NINETY DAYS FOLLOWING
5 TERMINATION OF THE CHILD CARE LEAVE, WHICHEVER IS LATER, AND CONTRIBUTE
6 TO THE RETIREMENT SYSTEM AN AMOUNT WHICH SUCH MEMBER WOULD HAVE CONTRIB-
7 UTED DURING THE PERIOD OF SUCH CHILD CARE LEAVE, TOGETHER WITH INTEREST
8 THEREON. IN THE EVENT THERE IS A CONFLICT BETWEEN THE PROVISIONS OF
9 THIS SUBDIVISION AND THE PROVISIONS OF ANY OTHER LAW OR CODE TO THE
10 CONTRARY, THE PROVISIONS OF THIS SUBDIVISION SHALL GOVERN. ANY SERVICE
11 CREDIT GRANTED PURSUANT TO THIS SECTION SHALL CONSTITUTE:

12 1. "POLICE OR FIRE SERVICE" AS SUCH TERM IS DEFINED IN SUBDIVISION
13 ELEVEN OF SECTION THREE HUNDRED TWO OF THIS CHAPTER; AND

14 2. "TOTAL CREDITABLE SERVICE" FOR THE PURPOSE OF DETERMINING ENTITLE-
15 MENT TO RETIRE PURSUANT TO A SPECIAL RETIREMENT PLAN SET FORTH IN TITLE
16 NINE OF ARTICLE TWO AND TITLE TEN OF ARTICLE EIGHT OF THIS CHAPTER.

17 S 6. Section 513 of the retirement and social security law is amended
18 by adding a new subdivision i to read as follows:

19 I. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY MEMBER WHO IS
20 ABSENT WITHOUT PAY FOR A CHILD CARE LEAVE OF ABSENCE PURSUANT TO APPLI-
21 CABLE REGULATIONS OR COLLECTIVE BARGAINING AGREEMENTS, SHALL BE ELIGIBLE
22 FOR UP TO ONE YEAR OF CREDIT FOR EACH SUCH DULY AUTHORIZED LEAVE,
23 PROVIDED, HOWEVER, THAT THE TOTAL SERVICE CREDIT PROVIDED PURSUANT TO
24 THIS SUBDIVISION SHALL NOT EXCEED TWO YEARS. MEMBERS MUST FILE A CLAIM
25 FOR SUCH SERVICE CREDIT WITH THE RETIREMENT SYSTEM BY DECEMBER
26 THIRTY-FIRST, TWO THOUSAND THIRTEEN, OR WITHIN NINETY DAYS FOLLOWING
27 TERMINATION OF THE CHILD CARE LEAVE, WHICHEVER IS LATER, AND CONTRIBUTE
28 TO THE RETIREMENT SYSTEM AN AMOUNT WHICH SUCH MEMBER WOULD HAVE CONTRIB-
29 UTED DURING THE PERIOD OF SUCH CHILD CARE LEAVE, TOGETHER WITH INTEREST
30 THEREON. IN THE EVENT THERE IS A CONFLICT BETWEEN THE PROVISIONS OF
31 THIS SUBDIVISION AND THE PROVISIONS OF ANY OTHER LAW OR CODE TO THE
32 CONTRARY, THE PROVISIONS OF THIS SUBDIVISION SHALL GOVERN. ANY SERVICE
33 CREDIT GRANTED PURSUANT TO THIS SECTION SHALL CONSTITUTE "TOTAL CREDITA-
34 BLE SERVICE" FOR THE PURPOSE OF DETERMINING ENTITLEMENT TO RETIRE PURSU-
35 ANT TO A SPECIAL RETIREMENT PLAN SET FORTH IN SECTIONS FIVE HUNDRED
36 THREE AND FIVE HUNDRED FOUR OF THIS ARTICLE, TITLE NINE OF ARTICLE TWO
37 AND ARTICLE FOURTEEN-B OF THIS CHAPTER.

38 S 7. Section 609 of the retirement and social security law is amended
39 by adding a new subdivision h to read as follows:

40 H. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY MEMBER WHO IS
41 ABSENT WITHOUT PAY FOR A CHILD CARE LEAVE OF ABSENCE PURSUANT TO APPLI-
42 CABLE REGULATIONS OR COLLECTIVE BARGAINING AGREEMENTS, SHALL BE ELIGIBLE
43 FOR UP TO ONE YEAR OF CREDIT FOR EACH SUCH DULY AUTHORIZED LEAVE,
44 PROVIDED, HOWEVER, THAT THE TOTAL SERVICE CREDIT PROVIDED PURSUANT TO
45 THIS SUBDIVISION SHALL NOT EXCEED TWO YEARS. MEMBERS MUST FILE A CLAIM
46 FOR SUCH SERVICE CREDIT WITH THE RETIREMENT SYSTEM BY DECEMBER
47 THIRTY-FIRST, TWO THOUSAND THIRTEEN, OR WITHIN NINETY DAYS FOLLOWING
48 TERMINATION OF THE CHILD CARE LEAVE, WHICHEVER IS LATER, AND CONTRIBUTE
49 TO THE RETIREMENT SYSTEM AN AMOUNT WHICH SUCH MEMBER WOULD HAVE CONTRIB-
50 UTED DURING THE PERIOD OF SUCH CHILD CARE LEAVE, TOGETHER WITH INTEREST
51 THEREON. IN THE EVENT THERE IS A CONFLICT BETWEEN THE PROVISIONS OF
52 THIS SUBDIVISION AND THE PROVISIONS OF ANY OTHER LAW OR CODE TO THE
53 CONTRARY, THE PROVISIONS OF THIS SUBDIVISION SHALL GOVERN. ANY SERVICE
54 CREDIT GRANTED PURSUANT TO THIS SECTION SHALL CONSTITUTE "CREDITABLE
55 SERVICE" FOR THE PURPOSE OF DETERMINING ENTITLEMENT TO RETIRE PURSUANT

1 TO A SPECIAL RETIREMENT PLAN SET FORTH IN SECTIONS SIX HUNDRED THREE AND
2 SIX HUNDRED FOUR OF THIS ARTICLE.

3 S 8. Section 13-107 of the administrative code of the city of New York
4 is amended by adding a new subdivision l to read as follows:

5 L. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION C OF THIS SECTION,
6 ANY MEMBER WHO IS ABSENT WITHOUT PAY FOR CHILD CARE LEAVE OF ABSENCE
7 PURSUANT TO REGULATIONS OF THE AGENCY IN WHICH THE MEMBER IS EMPLOYED
8 SHALL BE ELIGIBLE FOR UP TO ONE YEAR OF CREDIT FOR EACH SUCH DULY
9 AUTHORIZED LEAVE, PROVIDED, HOWEVER, THAT THE TOTAL SERVICE CREDIT
10 PROVIDED PURSUANT TO THIS SUBDIVISION SHALL NOT EXCEED TWO YEARS.
11 MEMBERS MUST FILE A CLAIM FOR SUCH SERVICE CREDIT WITH THE RETIREMENT
12 SYSTEM BY DECEMBER THIRTY-FIRST, TWO THOUSAND THIRTEEN, OR WITHIN NINETY
13 DAYS FOLLOWING TERMINATION OF THE CHILD CARE LEAVE, WHICHEVER IS LATER,
14 AND CONTRIBUTE TO THE RETIREMENT SYSTEM AN AMOUNT WHICH SUCH MEMBER
15 WOULD HAVE CONTRIBUTED DURING THE PERIOD OF SUCH CHILD CARE LEAVE,
16 TOGETHER WITH INTEREST THEREON. IN THE EVENT THERE IS A CONFLICT
17 BETWEEN THE PROVISIONS OF THIS SUBDIVISION AND THE PROVISIONS OF ANY
18 OTHER LAW OR CODE TO THE CONTRARY, THE PROVISIONS OF THIS SUBDIVISION
19 SHALL GOVERN.

20 S 9. Section 13-318 of the administrative code of the city of New York
21 is amended by adding a new subdivision i to read as follows:

22 I. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION C OF THIS SECTION,
23 ANY MEMBER WHO IS ABSENT WITHOUT PAY FOR CHILD CARE LEAVE OF ABSENCE
24 PURSUANT TO REGULATIONS OF THE NEW YORK CITY FIRE DEPARTMENT SHALL BE
25 ELIGIBLE FOR UP TO ONE YEAR OF CREDIT FOR EACH SUCH DULY AUTHORIZED
26 LEAVE, PROVIDED, HOWEVER, THAT THE TOTAL SERVICE CREDIT PROVIDED PURSU-
27 ANT TO THIS SUBDIVISION SHALL NOT EXCEED TWO YEARS. MEMBERS MUST FILE
28 FOR SUCH SERVICE CREDIT WITH THE PENSION FUND BY DECEMBER THIRTY-FIRST,
29 TWO THOUSAND THIRTEEN, OR WITHIN NINETY DAYS FOLLOWING TERMINATION OF
30 THE CHILD CARE LEAVE, WHICHEVER IS LATER, AND CONTRIBUTE TO THE PENSION
31 FUND AN AMOUNT WHICH SUCH MEMBER WOULD HAVE CONTRIBUTED DURING THE PERI-
32 OD OF SUCH CHILD CARE LEAVE, TOGETHER WITH INTEREST THEREON. IN THE
33 EVENT THERE IS A CONFLICT BETWEEN THE PROVISIONS OF THIS SUBDIVISION AND
34 THE PROVISIONS OF ANY OTHER LAW OR CODE TO THE CONTRARY, THE PROVISIONS
35 OF THIS SUBDIVISION SHALL GOVERN.

36 S 10. Subdivision a of section 13-505 of the administrative code of
37 the city of New York is amended by adding a new paragraph 10 to read as
38 follows:

39 10. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION C OF THIS SECTION,
40 ANY MEMBER WHO IS ABSENT WITHOUT PAY FOR A CHILD CARE LEAVE OF ABSENCE
41 PURSUANT TO REGULATIONS OF THE NEW YORK CITY BOARD OF EDUCATION SHALL BE
42 ELIGIBLE FOR UP TO ONE YEAR OF CREDIT FOR EACH SUCH DULY AUTHORIZED
43 LEAVE, PROVIDED, HOWEVER, THAT THE TOTAL SERVICE CREDIT PROVIDED PURSU-
44 ANT TO THIS PARAGRAPH SHALL NOT EXCEED TWO YEARS. MEMBERS MUST FILE A
45 CLAIM FOR SUCH SERVICE CREDIT WITH THE RETIREMENT SYSTEM BY DECEMBER
46 THIRTY-FIRST, TWO THOUSAND THIRTEEN, OR WITHIN NINETY DAYS FOLLOWING
47 TERMINATION OF THE CHILD CARE LEAVE, WHICHEVER IS LATER, AND CONTRIBUTE
48 TO THE RETIREMENT SYSTEM AN AMOUNT WHICH SUCH MEMBER WOULD HAVE CONTRIB-
49 UTED DURING THE PERIOD OF SUCH CHILD CARE LEAVE, TOGETHER WITH INTEREST
50 THEREON. IN THE EVENT THERE IS A CONFLICT BETWEEN THE PROVISIONS OF
51 THIS PARAGRAPH AND THE PROVISIONS OF ANY OTHER LAW OR CODE TO THE
52 CONTRARY, THE PROVISIONS OF THIS PARAGRAPH SHALL GOVERN.

53 S 11. This act shall take effect immediately and shall be deemed to
54 have been in full force and effect on and after June 30, 2012 if it
55 shall have become a law after such date.

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

This bill would grant additional service credit for members of public retirement systems who are absent without pay for child care leaves of absence. Such additional service credit shall not exceed one year per period of child care leave. The total additional service credit granted in aggregate for child care leaves may not exceed two years. Members would be required to make any contribution which would have been made during the period of child care leave, together with interest thereon. This benefit shall be effective as of June 30, 2012.

The number of members who would be affected by this bill cannot be readily determined.

Insofar as this bill would affect the New York State and Local Employees' Retirement System (ERS) and the New York State and Local Police and Fire Retirement System (PFRS), if this bill is enacted, there would be a past service cost which would depend upon the number of members affected and upon each member's age, salary, credited service, periods of child care leaves, plan coverage and tier. For members in ERS, it is estimated that the past service cost will average approximately 12% of an affected members' compensation for each year of additional service. For members in PFRS, it is estimated that the past service cost will average approximately 20% of an affected members' compensation for each year of additional service. However, for an individual member who purchases this additional service credit to enable immediate retirement, the cost could approach 40% of the member's salary for each year of additional service credit that is purchased. These total costs would be shared by the State of New York and all participating employers in the ERS and PFRS.

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 November 21, 2011, and intended for use only during the 2012 Legislative Session, is Fiscal Note No. 2012-22, prepared by the Actuary for the ERS and PFRS.