

5961

2013-2014 Regular Sessions

I N A S S E M B L Y

March 12, 2013

Introduced by M. of A. COLTON, AUBRY, CYMBROWITZ, RIVERA, STEVENSON,
MILLER, HEVESI, CAMARA -- Multi-Sponsored by -- M. of A. CAHILL,
CLARK, COOK, ENGLEBRIGHT, HEASTIE, JACOBS -- read once and referred to
the Committee on Governmental Employees

AN ACT to amend the retirement and social security law, in relation to
retirement benefits for certain employees

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
2 adding a new section 89-x to read as follows:
3 S 89-X. ALTERNATIVE RETIREMENT BENEFITS FOR PEACE OFFICERS OF THE
4 BOARD OF PAROLE. A. DEFINITIONS. FOR PURPOSES OF THIS SECTION:
5 1. "QUALIFYING MEMBER" SHALL MEAN ANY MEMBER WHO IS IN SERVICE AS A
6 PAROLE OFFICER, PAROLE REVOCATION SPECIALIST OR WARRANT OFFICER IN THE
7 DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION WHO IS A PEACE OFFI-
8 CER AS DEFINED IN ARTICLE TWO OF THE CRIMINAL PROCEDURE LAW.
9 2. "QUALIFYING CREDITABLE SERVICE" SHALL MEAN CREDITABLE SERVICE
10 RENDERED WHILE A MEMBER IS A MEMBER OF A PUBLIC RETIREMENT SYSTEM
11 EMPLOYED IN A POSITION WHICH IS DESIGNATED AS A POLICE OFFICER PURSUANT
12 TO ARTICLE ONE OF THE CRIMINAL PROCEDURE LAW OR AS A PEACE OFFICER
13 PURSUANT TO ARTICLE TWO OF THE CRIMINAL PROCEDURE LAW.
14 3. "PUBLIC RETIREMENT SYSTEM" SHALL MEAN THE NEW YORK STATE AND LOCAL
15 EMPLOYEES' RETIREMENT SYSTEM, THE NEW YORK STATE AND LOCAL POLICE AND
16 FIRE RETIREMENT SYSTEM, NEW YORK STATE TEACHERS' RETIREMENT SYSTEM, NEW
17 YORK CITY EMPLOYEES' RETIREMENT SYSTEM, NEW YORK CITY TEACHERS' RETIRE-
18 MENT SYSTEM, NEW YORK CITY POLICE PENSION FUND, NEW YORK CITY FIRE
19 DEPARTMENT PENSION FUND AND THE NEW YORK CITY BOARD OF EDUCATION RETIRE-
20 MENT SYSTEM.
21 B. ELIGIBILITY. 1. ANY QUALIFYING MEMBER, AS DEFINED IN SUBDIVISION A
22 OF THIS SECTION, SHALL BE ELIGIBLE TO RETIRE PURSUANT TO THE PROVISIONS
23 OF THIS SECTION. SUCH ELIGIBILITY SHALL BE AN ALTERNATIVE TO THE ELIGI-

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

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1 BILITY PROVISIONS AVAILABLE UNDER ANY OTHER PLAN OF THIS ARTICLE TO
2 WHICH SUCH MEMBER IS SUBJECT. THE COMPTROLLER MAY REQUEST CERTIFICATIONS
3 FROM AGENCY OFFICIALS, AS APPROPRIATE, TO IDENTIFY SUCH ELIGIBLE
4 MEMBERS.

5 2. ANY SUCH QUALIFYING MEMBER SHALL BE ENTITLED TO RETIRE AFTER THE
6 COMPLETION OF TWENTY-FIVE YEARS OF QUALIFYING CREDITABLE SERVICE BY
7 FILING AN APPLICATION THEREFOR IN A MANNER SIMILAR TO THAT PROVIDED IN
8 SECTION SEVENTY OF THIS ARTICLE; PROVIDED, HOWEVER, NO SUCH MEMBER SHALL
9 BE ELIGIBLE TO RETIRE UNTIL HE OR SHE HAS A MINIMUM OF TEN YEARS OF
10 QUALIFYING CREDITABLE SERVICE.

11 C. RETIREMENT ALLOWANCE. A MEMBER RETIRING UNDER THE PROVISIONS OF
12 THIS SECTION SHALL RECEIVE A RETIREMENT ALLOWANCE CONSISTING OF A
13 PENSION EQUAL TO ONE-FIFTIETH OF HIS OR HER FINAL AVERAGE SALARY FOR
14 EACH YEAR OF QUALIFYING CREDITABLE SERVICE. THIS RETIREMENT ALLOWANCE
15 SHALL NOT EXCEED FIFTY PERCENT OF SUCH MEMBER'S FINAL AVERAGE SALARY.

16 D. COMPUTATION OF SERVICE. IN COMPUTING THE TWENTY-FIVE YEARS OF
17 COMPLETED SERVICE OF A QUALIFYING MEMBER FOR PURPOSES OF THIS SECTION,
18 FULL CREDIT SHALL BE GIVEN AND FULL ALLOWANCE SHALL BE MADE FOR SERVICE
19 OF SUCH MEMBER IN WAR AFTER WORLD WAR I, AS DEFINED IN SUBDIVISION THIR-
20 TY OF SECTION TWO OF THIS CHAPTER, PROVIDED SUCH MEMBER AT THE TIME OF
21 HIS OR HER ENTRANCE INTO THE ARMED FORCES WAS IN STATE SERVICE.

22 E. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PREVENT A MEMBER, WHO
23 DOES NOT RETIRE PURSUANT TO THE PROVISIONS OF THIS SECTION, FROM UTILIZ-
24 ING SERVICE WHICH IS CREDITABLE SERVICE PURSUANT TO THE PROVISIONS OF
25 THIS SECTION FOR THE SERVICE CREDIT PURSUANT TO ANY OTHER PLAN OF THIS
26 ARTICLE TO WHICH SUCH MEMBER IS SUBJECT.

27 F. THE INCREASED COSTS OF THE BENEFITS PROVIDED FOR IN THIS SECTION
28 SHALL BE PAID FROM ADDITIONAL CONTRIBUTIONS MADE BY THE EMPLOYER.

29 G. THE PROVISIONS IN THIS SECTION SHALL BE CONTROLLING NOTWITHSTANDING
30 ANY OTHER PROVISION IN THIS ARTICLE TO THE CONTRARY.

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

34 a. No member of a retirement system who is subject to the provisions
35 of this article shall retire without regard to age, exclusive of retire-
36 ment for disability, unless he is a policeman, an investigator member of
37 the New York city employees' retirement system, fireman, correction
38 officer, a qualifying member as defined in section eighty-nine-t, as
39 added by chapter six hundred fifty-seven of the laws of nineteen hundred
40 ninety-eight, of this chapter, A QUALIFYING MEMBER AS DEFINED IN SECTION
41 EIGHTY-NINE-X OF THIS CHAPTER, sanitation man, a special officer
42 (including persons employed by the city of New York in the title urban
43 park ranger or associate urban park ranger), school safety agent, campus
44 peace officer or a taxi and limousine commission inspector member of the
45 New York city employees' retirement system or the New York city board of
46 education retirement system, a dispatcher member of the New York city
47 employees' retirement system, a police communications member of the New
48 York city employees' retirement system, an EMT member of the New York
49 city employees' retirement system, a deputy sheriff member of the New
50 York city employees' retirement system, a correction officer of the
51 Westchester county correction department as defined in section eighty-
52 nine-e of this chapter or employed in Suffolk county as a peace officer,
53 as defined in section eighty-nine-s, as added by chapter five hundred
54 eighty-eight of the laws of nineteen hundred ninety-seven, of this chap-
55 ter, employed in Suffolk county as a correction officer, as defined in
56 section eighty-nine-f of this chapter, or employed in Nassau county as a

1 correction officer, uniformed correction division personnel, sheriff,
2 undersheriff or deputy sheriff, as defined in section eighty-nine-g of
3 this chapter, or employed in Nassau county as an ambulance medical tech-
4 nician, an ambulance medical technician/supervisor or a member who
5 performs ambulance medical technician related services, as defined in
6 section eighty-nine-s, as amended by chapter five hundred seventy-eight
7 of the laws of nineteen hundred ninety-eight, of this chapter, or
8 employed in Nassau county as a peace officer, as defined in section
9 eighty-nine-s, as added by chapter five hundred ninety-five of the laws
10 of nineteen hundred ninety-seven, of this chapter, or employed in Albany
11 county as a sheriff, undersheriff, deputy sheriff, correction officer or
12 identification officer, as defined in section eighty-nine-h of this
13 chapter or is employed in St. Lawrence county as a sheriff, undersher-
14 iff, deputy sheriff or correction officer, as defined in section eight-
15 y-nine-i of this chapter or is employed in Orleans county as a sheriff,
16 undersheriff, deputy sheriff or correction officer, as defined in
17 section eighty-nine-l of this chapter or is employed in Jefferson county
18 as a sheriff, undersheriff, deputy sheriff or correction officer, as
19 defined in section eighty-nine-j of this chapter or is employed in Onon-
20 daga county as a deputy sheriff-jail division competitively appointed or
21 as a correction officer, as defined in section eighty-nine-k of this
22 chapter or is employed in a county which makes an election under subdivi-
23 sion j of section eighty-nine-p of this chapter as a sheriff, under-
24 sheriff, deputy sheriff or correction officer as defined in such section
25 eighty-nine-p or is employed in Broome County as a sheriff, undersher-
26 iff, deputy sheriff or correction officer, as defined in section eight-
27 y-nine-m of this chapter or is a Monroe county deputy sheriff-court
28 security, or deputy sheriff-jailor as defined in section eighty-nine-n,
29 as added by chapter five hundred ninety-seven of the laws of nineteen
30 hundred ninety-one, of this chapter or is employed in Greene county as a
31 sheriff, undersheriff, deputy sheriff or correction officer, as defined
32 in section eighty-nine-o of this chapter or is a traffic officer with
33 the town of Elmira as defined in section eighty-nine-q of this chapter
34 or is employed by Suffolk county as a park police officer, as defined in
35 section eighty-nine-r of this chapter or is a peace officer employed by
36 a county probation department as defined in section eighty-nine-t, as
37 added by chapter six hundred three of the laws of nineteen hundred nine-
38 ty-eight, of this chapter or is employed in Rockland county as a deputy
39 sheriff-civil as defined in section eighty-nine-v of this chapter as
40 added by chapter four hundred forty-one of the laws of two thousand one,
41 or is employed in Rockland county as a superior correction officer as
42 defined in section eighty-nine-v of this chapter as added by chapter
43 five hundred fifty-six of the laws of two thousand one or is a paramedic
44 employed by the police department in the town of Tonawanda and retires
45 under the provisions of section eighty-nine-v of this chapter, as added
46 by chapter four hundred seventy-two of the laws of two thousand one, or
47 is a county fire marshal, supervising fire marshal, fire marshal,
48 assistant fire marshal, assistant chief fire marshal or chief fire
49 marshal employed by the county of Nassau as defined in section eighty-
50 nine-w of this chapter and is in a plan which permits immediate retire-
51 ment upon completion of a specified period of service without regard to
52 age. Except as provided in subdivision c of section four hundred forty-
53 five-a of this article, subdivision c of section four hundred forty-
54 five-b of this article, subdivision c of section four hundred forty-
55 five-c of this article, subdivision c of section four hundred
56 forty-five-d of this article, subdivision c of section four hundred

1 forty-five-e of this article, subdivision c of section four hundred
2 forty-five-f of this article and subdivision c of section four hundred
3 forty-five-h of this article, a member in such a plan and such an occu-
4 pation, other than a policeman or investigator member of the New York
5 city employees' retirement system or a fireman, shall not be permitted
6 to retire prior to the completion of twenty-five years of credited
7 service; provided, however, if such a member in such an occupation is in
8 a plan which permits retirement upon completion of twenty years of
9 service regardless of age, he may retire upon completion of twenty years
10 of credited service and prior to the completion of twenty-five years of
11 service, but in such event the benefit provided from funds other than
12 those based on such a member's own contributions shall not exceed two
13 per centum of final average salary per each year of credited service.

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

16 U. THE SERVICE RETIREMENT BENEFIT SPECIFIED IN SECTION SIX HUNDRED
17 FOUR OF THIS ARTICLE SHALL BE PAYABLE WITHOUT REGARD TO AGE TO QUALIFY-
18 ING MEMBERS, AS DEFINED IN SUBDIVISION A OF SECTION EIGHTY-NINE-X OF
19 THIS CHAPTER, WITH TWENTY-FIVE YEARS OF QUALIFYING SERVICE AS DEFINED IN
20 SUCH SECTION, IF SUCH MEMBERS HAVE MET THE MINIMUM SERVICE REQUIREMENTS
21 UPON RETIREMENT. ANY SUCH MEMBER SHALL BE ENTITLED TO RETIRE AFTER THE
22 COMPLETION OF TWENTY-FIVE YEARS OF QUALIFYING CREDITABLE SERVICE BY
23 FILING AN APPLICATION THEREFOR IN A MANNER SIMILAR TO THAT PROVIDED IN
24 SECTION SEVENTY OF THIS CHAPTER.

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

27 U. THE EARLY SERVICE RETIREMENT BENEFIT FOR A MEMBER WHO IS A QUALIFY-
28 ING MEMBER AS DEFINED IN SUBDIVISION A OF SECTION EIGHTY-NINE-X OF THIS
29 CHAPTER SHALL BE A PENSION EQUAL TO ONE-FIFTIETH OF FINAL AVERAGE SALARY
30 TIMES YEARS OF QUALIFYING SERVICE, AS DEFINED IN SECTION EIGHTY-NINE-X
31 OF THIS CHAPTER, AT THE COMPLETION OF TWENTY-FIVE YEARS OF SUCH SERVICE,
32 BUT NOT EXCEEDING ONE-HALF OF HIS OR HER FINAL AVERAGE SALARY.

33 S 5. Implementation provisions. (a) Amortization of past service cost.
34 The comptroller shall prepare and file with the director of the budget
35 an estimate of the past service cost resulting from implementation of
36 this act, at the same time and in the same manner as the annual esti-
37 mates required under section 16 of the retirement and social security
38 law, on the first such annual date for which it is practicable to
39 provide such an estimate. Notwithstanding section 430 of the retirement
40 and social security law, the past service cost as so determined shall be
41 paid by the state, with interest as defined in section 16 of the retire-
42 ment and social security law, in ten equal annual installments. Such
43 payments shall be made at the same time and in the same manner as other
44 payments by the state pursuant to section 16 of the retirement and
45 social security law, beginning with the first payment date that is at
46 least 60 days after the preparation and filing of the estimate of past
47 service cost with the director of the budget.

48 (b) Increased employer contributions. All other contribution
49 increases resulting from implementation of this act (exclusive of those
50 resulting from past service cost) shall also be estimated by the comp-
51 troller and paid by the state at the same time and in the same manner as
52 contributions are estimated and paid under section 16 of the retirement
53 and social security law, notwithstanding provisions of section 430 of
54 the retirement and social security law to the contrary.

55 S 6. This act shall take effect immediately.

FISCAL NOTE.--This bill would allow parole officers, parole revocation specialists or warrant officers in the Department of Corrections and Community Supervision who are peace officers to retire upon completion of twenty-five (25) years of creditable service. For all eligible officers, their benefit upon retirement would be an allowance of one-half final average salary. There would be no reduction for early service retirement.

If this bill is enacted, we anticipate that there will be an increase of approximately \$1.5 million in the annual contributions of the State of New York for the fiscal year ending March 31, 2014.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately \$9.72 million which would be borne by the State of New York. This estimate is based on the assumption that payment will be made on March 1, 2014. If this cost is amortized over a ten year period, the cost for the first year, including interest would be approximately \$1.32 million.

These estimated costs are based on 1,081 known affected officers having a total estimated annual salary for the fiscal year ending March 31, 2013 of approximately \$85 million.

Summary of relevant resources:

Data: March 31, 2012 Actuarial Year End File with distributions of membership and other statistics displayed in the 2012 Report of the Actuary and 2012 Comprehensive Annual Financial Report.

Assumptions and Methods: 2010, 2011 and 2012 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, 2012 New York State and Local Retirement System Financial Statements and Supplementary Information.

Valuations of Benefit Liabilities and Actuarial Assets: summarized in the 2012 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 March 7, 2013 and intended for use only during the 2013 Legislative Session, is Fiscal Note No. 2013-96, prepared by the Actuary for the New York State and Local Employees' Retirement System.