

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

4915

2013-2014 Regular Sessions

I N A S S E M B L Y

February 13, 2013

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

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 ASSEM-
BLY, 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 FOURTEEN, 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:
19 26. THE RULES AND REGULATIONS OF THE BOARD OF EDUCATION RETIREMENT
20 SYSTEM SHALL PROVIDE THAT ANY MEMBER WHO IS ABSENT WITHOUT PAY FOR CHILD
21 CARE LEAVE OF ABSENCE PURSUANT TO REGULATIONS OF THE NEW YORK CITY BOARD
22 OF EDUCATION SHALL BE ELIGIBLE FOR UP TO ONE YEAR OF CREDIT FOR EACH

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

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1 SUCH DULY AUTHORIZED LEAVE, PROVIDED, HOWEVER, THAT THE TOTAL SERVICE
2 CREDIT PROVIDED PURSUANT TO THIS SUBDIVISION SHALL NOT EXCEED TWO YEARS.
3 MEMBERS MUST FILE A CLAIM FOR SUCH SERVICE CREDIT WITH THE RETIREMENT
4 SYSTEM BY DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN, OR WITHIN NINETY
5 DAYS FOLLOWING TERMINATION OF THE CHILD CARE LEAVE, WHICHEVER IS LATER,
6 AND CONTRIBUTE TO THE RETIREMENT SYSTEM AN AMOUNT WHICH SUCH MEMBER
7 WOULD HAVE CONTRIBUTED DURING THE PERIOD OF SUCH CHILD CARE LEAVE,
8 TOGETHER WITH INTEREST THEREON.

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

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

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

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

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

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

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

49 K. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY MEMBER WHO IS
50 ABSENT WITHOUT PAY FOR A CHILD CARE LEAVE OF ABSENCE PURSUANT TO APPLI-
51 CABLE REGULATIONS OR COLLECTIVE BARGAINING AGREEMENTS, SHALL BE ELIGIBLE
52 FOR UP TO ONE YEAR OF CREDIT FOR EACH SUCH DULY AUTHORIZED LEAVE,
53 PROVIDED, HOWEVER, THAT THE TOTAL SERVICE CREDIT PROVIDED PURSUANT TO
54 THIS SUBDIVISION SHALL NOT EXCEED TWO YEARS. MEMBERS MUST FILE A CLAIM
55 FOR SUCH SERVICE CREDIT WITH THE RETIREMENT SYSTEM BY DECEMBER
56 THIRTY-FIRST, TWO THOUSAND FOURTEEN, OR WITHIN NINETY DAYS FOLLOWING

1 TERMINATION OF THE CHILD CARE LEAVE, WHICHEVER IS LATER, AND CONTRIBUTE
2 TO THE RETIREMENT SYSTEM AN AMOUNT WHICH SUCH MEMBER WOULD HAVE CONTRIB-
3 UTED DURING THE PERIOD OF SUCH CHILD CARE LEAVE, TOGETHER WITH INTEREST
4 THEREON. IN THE EVENT THERE IS A CONFLICT BETWEEN THE PROVISIONS OF
5 THIS SUBDIVISION AND THE PROVISIONS OF ANY OTHER LAW OR CODE TO THE
6 CONTRARY, THE PROVISIONS OF THIS SUBDIVISION SHALL GOVERN. ANY SERVICE
7 CREDIT GRANTED PURSUANT TO THIS SECTION SHALL CONSTITUTE:

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

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

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

15 I. 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 SUBDIVISION 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 FOURTEEN, 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
27 THIS SUBDIVISION AND THE PROVISIONS OF ANY OTHER LAW OR CODE TO THE
28 CONTRARY, THE PROVISIONS OF THIS SUBDIVISION SHALL GOVERN. ANY SERVICE
29 CREDIT GRANTED PURSUANT TO THIS SECTION SHALL CONSTITUTE "TOTAL CREDITA-
30 BLE SERVICE" FOR THE PURPOSE OF DETERMINING ENTITLEMENT TO RETIRE PURSU-
31 ANT TO A SPECIAL RETIREMENT PLAN SET FORTH IN SECTIONS FIVE HUNDRED
32 THREE AND FIVE HUNDRED FOUR OF THIS ARTICLE, TITLE NINE OF ARTICLE TWO
33 AND ARTICLE FOURTEEN-B OF THIS CHAPTER.

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

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

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

1 L. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION C OF THIS SECTION,
2 ANY MEMBER WHO IS ABSENT WITHOUT PAY FOR CHILD CARE LEAVE OF ABSENCE
3 PURSUANT TO REGULATIONS OF THE AGENCY IN WHICH THE MEMBER IS EMPLOYED
4 SHALL BE ELIGIBLE FOR UP TO ONE YEAR OF CREDIT FOR EACH SUCH DULY
5 AUTHORIZED LEAVE, PROVIDED, HOWEVER, THAT THE TOTAL SERVICE CREDIT
6 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 FOURTEEN, 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. IN THE EVENT THERE IS A CONFLICT
13 BETWEEN THE PROVISIONS OF THIS SUBDIVISION AND THE PROVISIONS OF ANY
14 OTHER LAW OR CODE TO THE CONTRARY, THE PROVISIONS OF THIS SUBDIVISION
15 SHALL GOVERN.

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

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

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

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

49 S 11. This act shall take effect immediately and shall be deemed to
50 have been in full force and effect on and after June 30, 2013 if it
51 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, 2013.

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.

ERS costs: it is estimated that the one time cost will average approximately 15% of compensation for each additional year of service. This cost would be reduced by the member contributions, which vary according to tier coverage, and will range between 0% to 6% of compensation. Pursuant to Section 25 of the Retirement and Social Security Law, these costs would be borne by the State of New York, and would require an itemized appropriation by the State of New York sufficient to pay the costs of the provision.

PFRS costs: It is estimated that the past service cost will average approximately 20% of an affected members' compensation for each year of additional service. This cost would be reduced by the member contributions, which vary according to tier coverage, and will range between 0% to 6% of compensation. These costs would be shared by the State of New York and all participating employers in the PFRS.

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 December 17, 2012, and intended for use only during the 2013 Legislative Session, is Fiscal Note No. 2013-29, prepared by the Actuary for the ERS and PFRS.