

6974

2013-2014 Regular Sessions

I N   A S S E M B L Y

April 29, 2013

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Introduced by M. of A. PAULIN, SCHIMEL, COLTON, SCHIMMINGER, GUNTHER, MAISEL, RAMOS, WEPRIN, HEVESI, ROBERTS -- Multi-Sponsored by -- M. of A. ARROYO, CUSICK, GOTTFRIED, HOOPER, KELLNER, MAGEE, MILLER, MILLMAN, RAIA, RIVERA, ROSENTHAL, WEISENBERG, WRIGHT -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the retirement and social security law, in relation to providing credit to members of public retirement systems of the state for military service; and making an appropriation therefor

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

1     Section 1. Section 1000 of the retirement and social security law, as  
2     added by chapter 548 of the laws of 2000, subdivision 9 as added by  
3     chapter 547 of the laws of 2002 and subdivision 10 as added by chapter  
4     18 of the laws of 2012, is amended to read as follows:  
5     S 1000. Military service credit. Notwithstanding any law to the  
6     contrary, a member of a public retirement system of the state, as  
7     defined in subdivision twenty-three of section five hundred one of this  
8     chapter, shall be eligible for credit for military service as hereinafter  
9     provided:  
10    1. A member, upon application to such retirement system, may obtain a  
11    total not to exceed three years of service credit for up to three years  
12    of military duty, as defined in section two hundred forty-three of the  
13    military law, if the member was honorably discharged from the military  
14    [and all or part of such military service was rendered during the  
15    following periods: (a) commencing December seventh, nineteen hundred  
16    forty-one and terminating December thirty-first, nineteen hundred  
17    forty-six; (b) commencing June twenty-seventh, nineteen hundred fifty  
18    and terminating January thirty-first, nineteen hundred fifty-five; or  
19    (c) commencing February twenty-eighth, nineteen hundred sixty-one and  
20    terminating May seventh, nineteen hundred seventy-five;

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

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2. A member, upon application to such retirement system, may obtain a total not to exceed three years of service credit for up to three years of military duty, as defined in section two hundred forty-three of the military law, if honorably discharged therefrom, if all or part of such services was rendered in the military conflicts referenced below, as follows:

(a) hostilities participated in by the military forces of the United States in Lebanon, from the first day of June, nineteen hundred eighty-three to the first day of December, nineteen hundred eighty-seven, as established by receipt of the armed forces expeditionary medal, the navy expeditionary medal, or the marine corps expeditionary medal;

(b) hostilities participated in by the military forces of the United States in Grenada, from the twenty-third day of October, nineteen hundred eighty-three to the twenty-first day of November, nineteen hundred eighty-three, as established by receipt of the armed forces expeditionary medal, the navy expeditionary medal, or the marine corps expeditionary medal;

(c) hostilities participated in by the military forces of the United States in Panama, from the twentieth day of December, nineteen hundred eighty-nine to the thirty-first day of January, nineteen hundred ninety, as established by receipt of the armed forces expeditionary medal, the navy expeditionary medal, or the marine corps expeditionary medal; or

(d) hostilities participated in by the military forces of the United States, from the second day of August, nineteen hundred ninety, to the end of such hostilities in case of a veteran who served in the theater of operations including Iraq, Kuwait, Saudi Arabia, Bahrain, Qatar, the United Arab Emirates, Oman, the Gulf of Aden, the Gulf of Oman, the Persian Gulf, the Red Sea, and the airspace above these locations].

[3] 2. A member must have at least five years of credited service (not including service granted hereunder) to be eligible to receive credit under this section.

[4] 3. To obtain such credit, a member shall pay such retirement system, for deposit in the fund used to accumulate employer contributions, a sum equal to the product of the number of years of military service being claimed and three percent of such member's compensation earned during the twelve months of credited service immediately preceding the date that the member made application for credit pursuant to this section. If permitted by rule or regulation of the applicable retirement system, the member may pay such member costs by payroll deduction for a period which shall not exceed the time period of military service to be credited pursuant to this section. In the event the member leaves the employer payroll prior to completion of payment, he or she shall forward all remaining required payments to the appropriate retirement system prior to the effective date of retirement. If the full amount of such member costs is not paid to the appropriate retirement system prior to the member's retirement, the amount of service credited shall be proportional to the total amount of the payments made prior to retirement.

[5] 4. In no event shall the credit granted pursuant to this section, when added to credit granted for military service with any retirement system of this state pursuant to this or any other provision of law, exceed a total of three years.

[6] 5. To be eligible to receive credit for military service under this section, a member must make application for such credit before the effective date of retirement. [Notwithstanding the foregoing provisions of this subdivision, an individual who retired on or after December

twenty-first, nineteen hundred ninety-eight and before the effective date of this section may make application for credit pursuant to this section within one year following the effective date of this section, in which event, the cost to the retiree would be based on the twelve month period immediately preceding retirement.]

[7] 6. All costs for service credited to a member pursuant to this section, other than the member costs set forth in subdivision three of this section, shall be paid by the state and all employers which participate in the retirement system in which such member is granted credit.

[8] 7. A member who has purchased military service credit pursuant to section two hundred forty-four-a of the military law shall be entitled to a refund of the difference between the amount paid by the member for such purchase and the amount that would be payable if service had been purchased pursuant to this section.

[9] 8. Notwithstanding any other provision of law, in the event of death prior to retirement, amounts paid by the member for the purchase of military service credit pursuant to this section shall be refunded, with interest, to the extent the military service purchased with such amounts does not produce a greater death benefit than would have been payable had the member not purchased such credit.

Notwithstanding any other provision of law, in the event of retirement, amounts paid by the member for the purchase of military service credit pursuant to this section shall be refunded, with interest, to the extent the military service purchased with such amounts does not produce a greater retirement allowance than would have been payable had the member not purchased such credit.

[10.] 9. Anything to the contrary in subdivision [four] THREE of this section notwithstanding, to obtain such credit, a member who first joins a public retirement system of the state on or after April first, two thousand twelve shall pay such retirement system, for deposit in the fund used to accumulate employer contributions, a sum equal to the product of the number of years of military service being claimed and six percent of such member's compensation earned during the twelve months of credited service immediately preceding the date that the member made application for credit pursuant to this section.

S 2. The amount specified in this section, or so much thereof as shall be sufficient to accomplish the purpose designated, is hereby appropriated and authorized to be paid as hereinafter provided, to the public officers and for the purposes specified, which amount shall be available for the state fiscal year beginning April 1, 2013.

#### GENERAL STATE CHARGES STATE OPERATIONS

GENERAL STATE CHARGES ..... 6,000,000

General Fund

State Purposes Account

For the state's contribution to the employees' retirement system pension accumulation fund and the New York state public employees group life insurance plan, as required by section 25 of the Retirement and Social Security Law, to pay for the purposes of this act ..... 6,000,000

1 S 3. This act shall take effect immediately.

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

This bill would allow up to three (3) years of service credit for military duty by removing all existing requirements that such military service be performed during certain war periods, during certain hostilities while in the theater of operations or upon the receipt of an expeditionary medal. However, the total service credit granted for active and peacetime military service shall not exceed three (3) years. Tier 6 members would be required to make a payment of six percent of current compensation per year of additional service credit granted by this bill. Members of all other Tiers would be required to make a payment of three percent of current compensation per year of additional service credit granted by this bill. Members must have at least five (5) years of credited service (not including military service).

Insofar as this bill would affect the New York State and Local Employees' Retirement System, if it is enacted it is estimated that there will be an increase in the actuarial present value of benefits of approximately \$45.6 million on behalf of the current members.

Pursuant to Section 25 of the Retirement and Social Security Law, the increase cost to the New York State and Local Employees' Retirement System would be borne entirely by the State of New York and would require an itemized appropriation sufficient to pay the cost of the provision. Since a member can apply for this service credit at any time prior to retirement, a precise cost can't be determined until each member, as well as future members, apply for the service credit. Each year a cost will be determined (and billed to the state) based on those benefiting from this provision.

Insofar as this bill would affect the New York State and Local Police and Fire Retirement System, if it is enacted there will be an increase in the actuarial present value of benefits to be paid by the employers of approximately \$20.9 million. The estimated first year cost would be approximately \$465,000 to the State of New York and approximately \$2.0 million to participating employers in the New York State and Local Police and Fire Retirement System. In addition to these costs, there would be additional costs for future members who have such military service.

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 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 January 7, 2013 and intended for use only during the 2013 Legislative Session, is Fiscal Note No. 2013-13, prepared by the Actuary for the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System.

FISCAL NOTE.--

This bill would amend Section 1000 of the Retirement and Social Security Law to allow active members of public retirement systems of New York State to claim service credit for up to three years of military service, regardless of when it was performed. Currently, active members can receive service credit for military service performed, but only during specified periods of war. A member must have at least five years of credited service to be eligible and make application for such credit before the effective date of retirement. To obtain such credit, a member must make payments as required in Section 1000 of the Retirement and Social Security Law.

It is not possible to determine the total annual cost to the employers of members of the New York State Teachers' Retirement System since the total amount of service credit which would be claimed under this bill cannot be estimated. However, the cost to the employers of members of the New York State Teachers' Retirement System is estimated to be \$21,400 per year of service credited for Tier 1 and 2 members, \$18,300 per year of service credited for Tier 3 and 4 members, \$16,600 per year of service credited for Tier 5 members and \$10,700 per year of service credited for Tier 6 members if this bill is enacted.

The source of this estimate is Fiscal Note 2013-12 dated February 20, 2013 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2013 Legislative Session. I, Richard A. Young, am the Actuary for the New York State Teachers' Retirement System. I am a member of the American Academy of Actuaries and I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

**FISCAL NOTE.--PROVISIONS OF PROPOSED LEGISLATION:** With respect to certain New York City Retirement Systems ("NYCRS"), this proposed legislation would amend New York State Retirement and Social Security Law ("RSSL") Section 1000 to provide certain members of the New York City Employees' Retirement System ("NYCERS"), the New York City Teachers' Retirement System ("NYCTRS"), the New York City Board of Education Retirement System ("BERS"), the New York City Police Pension Fund ("POLICE") and the New York City Fire Department Pension Fund ("FIRE") the opportunity to obtain additional retirement service credits for certain Military Service.

This proposed legislation would permit any NYCRS member, prior to the effective date of retirement, to make application for these additional service credits.

To obtain such Military Service credits, members would be required to pay to the appropriate NYCRS, for each year of Military Service purchased, a sum equal to 3.0% (6.0% for members who first join on and after April 1, 2012) of such member's compensation earned during the twelve months of credited service immediately preceding the date that the member makes application for credit.

**MEMBERS IMPACTED:** Insofar as this proposed legislation relates to the NYCRS, the number of members who could potentially benefit from this proposed legislation cannot be readily determined.

**IMPACT ON BENEFITS:** With respect to the NYCRS, a member who served in the U.S. military and received an honorable discharge would be permitted, after completing five years of credited service (exclusive of the service credit that could be purchased under this proposed legislation), to purchase a maximum of three years of Military Service (inclusive of any prior purchases of Military Service credit).

In order to purchase the Military Service credits provided in this proposed legislation, a member must have been honorably discharged

following a period of "military duty" as defined in New York State Military Law Section 243.

If a member's Military Service meets these conditions, then that member would be permitted to purchase a maximum of three years of Military Service (inclusive of any previously-received Military Service credit) attributable to any period of the member's military career.

For purposes of the respective NYCERS, each year of Military Service credit purchased would apply toward providing the member with a year of benefit accrual under the particular benefit formula covering the member.

In certain circumstances, the member also may be entitled to utilize such Military Service as qualifying service for benefit eligibility purposes.

For purposes of this Fiscal Note, it has been assumed that members who purchase Military Service in accordance with this proposed legislation would generally be entitled to count such service for benefit accrual purposes and for the purpose of qualifying for benefits.

FINANCIAL IMPACT - OVERVIEW: With respect to an individual member, the additional cost of this proposed legislation would depend on the length of all New York City service, age, salary history and Plan in which the member participates, as well as the number of years of service credit purchased.

With respect to employers participating in the NYCERS, the ultimate employer cost of this proposed legislation would be determined by the increase in benefits to be paid, the impact of certain benefits commencing earlier, a shorter working lifetime, and the reduction in certain future member contributions.

FINANCIAL IMPACT - ACTUARIAL PRESENT VALUES: With respect to the NYCERS and based on the census data and assumptions herein, the enactment of this proposed legislation would increase the Actuarial Present Value ("APV") of benefits ("APVB") by approximately \$204.7 million as of June 30, 2012.

In addition, with respect to the NYCERS, the APV of future member contributions (primarily attributable to the payments by members of 3.0% (6.0% for Tier 6 members) of salary per year of Military Service purchased) would increase by approximately \$31.5 million when measured as of June 30, 2012.

Consequently, with respect to the NYCERS, the APV of net future employer contributions would increase by approximately \$173.2 million as of June 30, 2012.

FINANCIAL IMPACT - ANNUAL EMPLOYER COSTS: With respect to the NYCERS, based on the Actuary's actuarial assumptions and methods in effect as of June 30, 2012, the enactment of this proposed legislation would increase annual employer costs by approximately \$19.8 million per year.

FINANCIAL IMPACT - EMPLOYER CONTRIBUTIONS: With respect to the NYCERS, based on the Actuary's actuarial assumptions and methods in effect as of June 30, 2012, the enactment of this proposed legislation would ultimately increase employer contributions by approximately the estimated additional annual employer costs.

FINANCIAL IMPACT - SUMMARY: The following table summarizes the estimated financial impact of this proposed legislation on the NYCERS.

Estimated Financial Impact to Allow Members of the NYCERS  
To Purchase up to Three Years of Military Service Credit

(\$ Millions)

Retirement System	Additional APV of Benefits	Additional APV of Future Employer Contributions{1}	Estimated First Year Additional Employer Costs{2}
NYCERS	\$ 68.3	\$ 57.4	\$ 6.6
NYCTRS	26.9	22.2	2.5
BERS	7.4	6.2	0.7
POLICE	82.9	70.8	8.1
FIRE	19.2	16.6	1.9
TOTAL	\$204.7	\$173.2	\$19.8

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{1} Equals increase in APVB minus increase in APV of future member contributions.

{2} Estimated Additional Employer Costs are determined without regard to the funded status of the Retirement Systems and represent the best estimates of the ultimate annual financial burden of the proposed legislation. Estimated Additional Employer Contributions would ultimately approximate Estimated Additional Employer Costs.

ADDITIONAL EMPLOYER COSTS - GENERAL: In general, the real cost of the enactment of this proposed legislation would be the additional benefits paid.

OTHER COSTS: Not measured in this Fiscal Note is the impact of this proposed legislation on the Manhattan and Bronx Surface Transit Operating Authority ("MaBSTOA") or on State or Local employers with respect to their participation in the New York State and Local Retirement Systems ("NYSLRS") or the New York State Teachers' Retirement System ("NYSTRS").

Also, this Fiscal Note does not include analyses of the impact of this proposed legislation on the expected increases in administrative costs or costs for Other Post-Employment Benefits ("OPEB").

CENSUS DATA: The census data used for estimates of APV of benefits and employer contributions presented herein are the active members included in the June 30, 2012 (Lag) actuarial valuations of NYCERS, NYCTRS, BERS, POLICE and FIRE used to determine the Preliminary Fiscal Year 2014 employer contributions.

ACTUARIAL ASSUMPTIONS AND METHODS: Additional APV of benefits, of member contributions and of employer contributions have been estimated as of June 30, 2012 using various approximating techniques and assumptions by the Actuary, including, but not limited to:

- \* A certain percentage of Veterans being honorably discharged.

- \* A certain percentage of honorably discharged Veterans being disabled.

- \* Different percentages of members by NYCERS would have prior Military Service.

- \* Each eligible member would purchase an average of 2.5 years of the Military Service.

Changes in employer contributions have been estimated assuming the increase in the APV of Future Employer Contributions would be financed over a time period comparable to that used for actuarial losses under the Entry Age Actuarial Cost Method. Using this approach, the Additional APV of Future Employer Contributions would be amortized over a closed 15-year period (14 payments under One-Year Lag Methodology) using level dollar payments.

ECONOMIC VALUES OF BENEFITS: The actuarial assumptions used to determine the financial impact of the proposed legislation discussed in this Fiscal Note are those appropriate for budgetary models and determining annual employer contributions to the NYCERS.

However, the economic assumptions that are used for determining employer contributions do not develop risk-adjusted economic values of benefits. Such risk-adjusted, economic values of benefits would likely differ significantly from those developed by the budgetary models.

STATEMENT OF ACTUARIAL OPINION: I, Robert C. North, Jr., am the Chief Actuary for the New York City Retirement Systems. I am a Fellow of the Society of Actuaries and a Member of the American Academy of Actuaries. I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

FISCAL NOTE IDENTIFICATION: This estimate is intended for use only during the 2013 Legislative Session. It is Fiscal Note 2013-07, dated April 15, 2013, prepared by the Chief Actuary for the New York City Employees' Retirement System, the New York City Teachers' Retirement System, the New York City Board of Education Retirement System, the New York City Police Pension Fund and the New York City Fire Department Pension Fund.