

7687--B

2013-2014 Regular Sessions

I N A S S E M B L Y

May 30, 2013

Introduced by M. of A. BENEDETTO -- read once and referred to the Committee on Veterans' Affairs -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Veterans' Affairs 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, the civil service law, the social services law and the public officers law, in relation to the dates of certain periods of war and hostilities

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

1 Section 1. Subdivision 1 of section 668 of the education law, as
2 amended by chapter 580 of the laws of 1992, paragraphs (a) and (d) as
3 amended by chapter 261 of the laws of 1995, paragraph (b) as amended by
4 chapter 616 of the laws of 1995, paragraphs (f) and (g) as added by
5 chapter 435 of the laws of 2006, is amended to read as follows:
6 1. Period of military service. For a student to be eligible, the
7 parent, or step-parent where the student is the dependent of the step-
8 parent, (i) must have been a recipient of the armed forces expeditionary
9 medal, the navy expeditionary medal or the marine corps expeditionary
10 medal for participation in operations in Lebanon from [June first]
11 AUGUST TWENTY-FIRST, nineteen hundred [eighty-three] EIGHTY-TWO to
12 December first, nineteen hundred eighty-seven, in Grenada from October
13 twenty-third, nineteen hundred eighty-three to November twenty-first,
14 nineteen hundred eighty-three, or in Panama from December twentieth,
15 nineteen hundred eighty-nine to January thirty-first, nineteen hundred
16 ninety, or (ii) must have served on regular active duty (other than for
17 training) in the armed forces of the United States during part of one of
18 the following periods:

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

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1 (a) April sixth, nineteen hundred seventeen to November eleven, nine-
2 teen hundred eighteen.

3 (b) December seven, nineteen hundred forty-one to December thirty-one,
4 nineteen hundred forty-six, or have been employed by the War Shipping
5 Administration or Office of Defense Transportation or their agents as a
6 merchant seaman documented by the United States Coast Guard or Depart-
7 ment of Commerce, or as a civil servant employed by the United States
8 Army Transport Service (later redesignated as the United States Army
9 Transportation Corps, Water Division) or the Naval Transportation
10 Service; and who served satisfactorily as a crew member during the peri-
11 od of armed conflict, December seventh, nineteen hundred forty-one, to
12 August fifteenth, nineteen hundred forty-five, aboard merchant vessels
13 in oceangoing, i.e., foreign, intercoastal, or coastwise service as such
14 terms are defined under federal law (46 USCA 10301 & 10501) and further
15 to include "near foreign" voyages between the United States and Canada,
16 Mexico, or the West Indies via ocean routes, or public vessels in ocean-
17 going service or foreign waters and who has received a Certificate of
18 Release or Discharge from Active Duty and a discharge certificate, or an
19 Honorable Service Certificate/Report of Casualty, from the Department of
20 Defense or have served as a United States civilian employed by the Amer-
21 ican Field Service and served overseas under United States Armies and
22 United States Army Groups in world war II during the period of armed
23 conflict, December seventh, nineteen hundred forty-one through May
24 eighth, nineteen hundred forty-five, and who was discharged or released
25 therefrom under honorable conditions, or have served as a United States
26 civilian Flight Crew and Aviation Ground Support Employee of Pan Ameri-
27 can World Airways or one of its subsidiaries or its affiliates and
28 served overseas as a result of Pan American's contract with Air Trans-
29 port Command or Naval Air Transport Service during the period of armed
30 conflict, December fourteenth, nineteen hundred forty-one through August
31 fourteenth, nineteen hundred forty-five, and who was discharged or
32 released therefrom under honorable conditions.

33 (c) June twenty-seven, nineteen hundred fifty to January thirty-one,
34 nineteen hundred fifty-five.

35 (d) [December twenty-second] FEBRUARY TWENTY-EIGHTH, nineteen hundred
36 sixty-one to May seventh, nineteen hundred seventy-five.

37 (e) August [two] SECOND, nineteen hundred ninety to the end of hostil-
38 ities in the Persian Gulf conflict.

39 (f) From September eighteenth, two thousand one until the end of the
40 United States military efforts in Afghanistan.

41 (g) From October sixteenth, two thousand two until the end of the
42 United States military efforts in Iraq.

43 (H) ANY OTHER PERIOD OF WAR OR HOSTILITIES IN SUCH LOCATIONS AND
44 DURING SUCH PERIODS OF TIME AS SHALL BE DETERMINED FROM TIME TO TIME BY
45 THE FEDERAL DEPARTMENT OF DEFENSE OR THE UNITED STATES CONGRESS.

46 S 2. Subdivision 1 of section 668-c of the education law, as added by
47 chapter 474 of the laws of 2000, is amended to read as follows:

48 1. Eligible students. Awards shall be made to Vietnam veterans' resi-
49 dent children born with Spina Bifida enrolled in approved undergraduate
50 or graduate programs at degree granting institutions. For the purpose of
51 this section, "Vietnam veteran" shall mean a person who served in Indo-
52 china at any time from the [twenty-second] TWENTY-EIGHTH day of [Decem-
53 ber] FEBRUARY, nineteen hundred sixty-one, to and including the seventh
54 day of May, nineteen hundred seventy-five and was honorably discharged
55 from the armed forces of the United States; "born with Spina Bifida"
56 shall mean a diagnosis at birth of such disease inclusive of all forms,

1 manifestations, complications and associated medical conditions thereof,
2 but shall not include Spina Bifida Occulta. Such diagnosis shall be in
3 accordance with the provisions of the federal Spina Bifida program and
4 shall be documented by the United States Administration of Veterans'
5 Affairs.

6 S 3. Paragraphs (a), (c) and (d) of subdivision 2 of section 1000 of
7 the retirement and social security law, as added by chapter 548 of the
8 laws of 2000, are amended and a new paragraph (e) is added to read as
9 follows:

10 (a) hostilities participated in by the military forces of the United
11 States in Lebanon, from the [first] TWENTY-FIRST day of [June] AUGUST,
12 nineteen hundred [eighty-three] EIGHTY-TWO to the first day of December,
13 nineteen hundred eighty-seven, as established by receipt of the armed
14 forces expeditionary medal, the navy expeditionary medal, or the marine
15 corps expeditionary medal;

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

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

27 (E) ANY OTHER HOSTILITIES OR PERIOD OF WAR PARTICIPATED IN BY THE
28 MILITARY FORCES OF THE UNITED STATES IN SUCH LOCATIONS AND DURING SUCH
29 PERIODS OF TIME AS SHALL BE DETERMINED FROM TIME TO TIME BY THE FEDERAL
30 DEPARTMENT OF DEFENSE OR THE UNITED STATES CONGRESS.

31 S 4. Subparagraph 5 of paragraph (c) of subdivision 1 of section 85 of
32 the civil service law, as added by chapter 467 of the laws of 1991, is
33 amended and a new subparagraph 9 is added to read as follows:

34 (5) Hostilities participated in by the military forces of the United
35 States in Lebanon, from the [first] TWENTY-FIRST day of [June] AUGUST,
36 nineteen hundred [eighty-three] EIGHTY-TWO to the first day of December,
37 nineteen hundred eighty-seven, as established by receipt of the armed
38 forces expeditionary medal, the navy expeditionary medal, or the marine
39 corps expeditionary medal.

40 (9) ANY OTHER HOSTILITIES OR PERIOD OF WAR PARTICIPATED IN BY THE
41 MILITARY FORCES OF THE UNITED STATES IN SUCH LOCATIONS AND DURING SUCH
42 PERIODS OF TIME AS SHALL BE DETERMINED FROM TIME TO TIME BY THE FEDERAL
43 DEPARTMENT OF DEFENSE OR THE UNITED STATES CONGRESS.

44 S 5. Subdivision 1 of section 168 of the social services law, as
45 amended by chapter 467 of the laws of 1991, is amended to read as
46 follows:

47 1. Veteran means a person, male or female, who has served in the armed
48 forces of the United States in time of war, or who was a recipient of
49 the armed forces expeditionary medal, navy expeditionary medal or marine
50 corps expeditionary medal for participation in operations in Lebanon
51 from [June first, nineteen hundred eighty-three] AUGUST TWENTY-FIRST,
52 NINETEEN HUNDRED EIGHTY-TWO to December first, nineteen hundred eighty-
53 seven, in Grenada from October twenty-third, nineteen hundred eighty-
54 three to November twenty-first, nineteen hundred eighty-three, or in
55 Panama from December twentieth, nineteen hundred eighty-nine to January
56 thirty-first, nineteen hundred ninety, and who has been honorably

1 discharged or released under honorable circumstances from such service
2 or furloughed to the reserve.

3 S 6. Subdivision 2 of section 168 of the social services law is
4 amended by adding a new paragraph 9 to read as follows:

5 (9) ANY OTHER PERIOD OF WAR OR HOSTILITIES IN SUCH LOCATIONS AND
6 DURING SUCH PERIODS OF TIME AS SHALL BE DETERMINED FROM TIME TO TIME BY
7 THE FEDERAL DEPARTMENT OF DEFENSE OR THE UNITED STATES CONGRESS.

8 S 7. Section 63 of the public officers law, as amended by chapter 179
9 of the laws of 2006, is amended to read as follows:

10 S 63. Leave of absence for veterans on Memorial day and Veterans' day.
11 It shall be the duty of the head of every public department and of every
12 court of the state of New York, of every superintendent or foreman on
13 the public works of said state, of the county officers of the several
14 counties of said state, of the town officers of the various towns in
15 this state, of the fire district officers of the various fire districts
16 in this state, and of the head of every department, bureau and office in
17 the government of the various cities and villages in this state, and the
18 officers of any public benefit corporation or any public authority of
19 this state, or of any public benefit corporation or public authority of
20 any county or subdivision of this state, to give leave of absence with
21 pay for twenty-four hours on the day prescribed by law as a public holi-
22 day for the observance of Memorial day and on the eleventh day of Novem-
23 ber, known as Veterans' day, to every person in the service of the
24 state, the county, the town, the fire district, the city or village, the
25 public benefit corporation or public authority of this state, or any
26 public benefit corporation or public authority of any county or subdivi-
27 sion of this state, as the case may be, (i) who served on active duty in
28 the armed forces of the United States during world war I or world war
29 II, or who was employed by the War Shipping Administration or Office of
30 Defense Transportation or their agents as a merchant seaman documented
31 by the United States Coast Guard or Department of Commerce, or as a
32 civil servant employed by the United States Army Transport Service
33 (later redesignated as the United States Army Transportation Corps,
34 Water Division) or the Naval Transportation Service; and who served
35 satisfactorily as a crew member during the period of armed conflict,
36 December seventh, nineteen hundred forty-one, to August fifteenth, nine-
37 teen hundred forty-five, aboard merchant vessels in oceangoing, i.e.,
38 foreign, intercoastal, or coastwise service as such terms are defined
39 under federal law (46 USCA 10301 & 10501) and further to include "near
40 foreign" voyages between the United States and Canada, Mexico, or the
41 West Indies via ocean routes, or public vessels in oceangoing service or
42 foreign waters and who has received a Certificate of Release or
43 Discharge from Active Duty and a discharge certificate, or an Honorable
44 Service Certificate/Report of Casualty, from the Department of Defense,
45 or who served as a United States civilian employed by the American Field
46 Service and served overseas under United States Armies and United States
47 Army Groups in world war II during the period of armed conflict, Decem-
48 ber seventh, nineteen hundred forty-one through May eighth, nineteen
49 hundred forty-five, and who was discharged or released therefrom under
50 honorable conditions, or who served as a United States civilian Flight
51 Crew and Aviation Ground Support Employee of Pan American World Airways
52 or one of its subsidiaries or its affiliates and served overseas as a
53 result of Pan American's contract with Air Transport Command or Naval
54 Air Transport Service during the period of armed conflict, December
55 fourteenth, nineteen hundred forty-one through August fourteenth, nine-
56 teen hundred forty-five, and who was discharged or released therefrom

1 under honorable conditions, or during the period of the Korean conflict
2 at any time between the dates of June twenty-seventh, nineteen hundred
3 fifty and January thirty-first, nineteen hundred fifty-five, or during
4 the period of the Vietnam conflict from the twenty-eighth day of Febru-
5 ary, nineteen hundred sixty-one to the seventh day of May, nineteen
6 hundred seventy-five, or (ii) who served on active duty in the armed
7 forces of the United States and who was a recipient of the armed forces
8 expeditionary medal, navy expeditionary medal or marine corps expedi-
9 tionary medal for participation in operations in Lebanon from [June
10 first, nineteen hundred eighty-three] AUGUST TWENTY-FIRST, NINETEEN
11 HUNDRED EIGHTY-TWO to December first, nineteen hundred eighty-seven, in
12 Grenada from October twenty-third, nineteen hundred eighty-three to
13 November twenty-first, nineteen hundred eighty-three, [or] in Panama
14 from December twentieth, nineteen hundred eighty-nine to January thir-
15 ty-first, nineteen hundred ninety, OR DURING ANY OTHER PERIOD OF WAR OR
16 HOSTILITIES IN SUCH LOCATIONS AND DURING SUCH PERIODS OF TIME AS SHALL
17 BE DETERMINED FROM TIME TO TIME BY THE FEDERAL DEPARTMENT OF DEFENSE OR
18 THE UNITED STATES CONGRESS, or (iii) who served in the armed forces of a
19 foreign country allied with the United States during world war I or
20 world war II, or during the period of the Korean conflict at any time
21 between June twenty-seventh, nineteen hundred fifty and January thirty-
22 first, nineteen hundred fifty-five, or during the period of the Vietnam
23 conflict from the twenty-eighth day of February, nineteen hundred
24 sixty-one to the seventh day of May, nineteen hundred seventy-five, or
25 during the period of the Persian Gulf conflict from the second day of
26 August, nineteen hundred ninety to the end of such conflict, or who
27 served on active duty in the army or navy or marine corps or air force
28 or coast guard of the United States, and who was honorably discharged or
29 separated from such service under honorable conditions, except where
30 such action would endanger the public safety or the safety or health of
31 persons cared for by the state, in which event such persons shall be
32 entitled to leave of absence with pay on another day in lieu thereof.
33 All such persons who are compensated on a per diem, hourly, semi-monthly
34 or monthly basis, with or without maintenance, shall also be entitled to
35 leave of absence with pay under the provisions of this section and no
36 deduction in vacation allowance or budgetary allowable number of working
37 days shall be made in lieu thereof. A refusal to give such leave of
38 absence to one entitled thereto shall be neglect of duty.

39 S 8. Notwithstanding any other provisions of law to the contrary, any
40 provisions of law which grant benefits or eligibility to veterans who
41 served in the armed forces of the United States during a period of war
42 or hostilities, such period shall include any additional period of war
43 or hostilities in such locations and during such periods of time as
44 shall be determined from time to time by the federal Department of
45 Defense or the United States Congress.

46 S 9. This act shall take effect immediately.

FISCAL NOTE.--This bill would extend the benefits of Chapter 548 of the Laws of 2000 to members of public retirement systems in New York State who are in the military during any hostility or period of war as determined by the federal Department of Defense or the United States Congress. In addition, this bill amends the eligibility dates for military service rendered during the period of conflict in Lebanon from 8/21/82- 12/1/87. Currently, the period is defined to be 6/1/83-12/1/87. Affected members may purchase up to a maximum of three years of military service. Tier 1-5 members would be required to make a payment of three percent of their most recent compensation per year of additional service

credit granted by this bill. Tier 6 members would be required to make a payment of six percent of their most recent compensation per year of additional service credit.

If this bill is enacted, insofar as this proposal affects the New York State and Local Employees' Retirement System (ERS), it is estimated that the past service cost will average approximately 12% (9% for Tier 6) of an affected members' compensation for each year of additional service credit that is purchased.

Insofar as this proposal affects the New York State and Local Police and Fire Retirement System (PFRS), it is estimated that the past service cost will average approximately 17% (14% for Tier 6) of an affected members' compensation for each year of additional service that is purchased.

The exact number of current members as well as future members who could be affected by this legislation cannot be readily determined.

ERS Costs: Pursuant to Section 25 of the Retirement and Social Security Law, the increased 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, applies for the service credit. Every year a cost will be determined (and billed to the state) based on those benefiting from this provision.

PFRS Costs: These costs would be shared by the State of New York and the participating employers in the PFRS.

Summary of relevant resources:

The membership data used in measuring the impact of the proposed change was the same as that used in the March 31, 2013 actuarial valuation. Distributions and other statistics can be found in the 2013 Report of the Actuary and the 2013 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2010, 2011, 2012 and 2013 Annual Report to the Comptroller on Actuarial Assumptions, and the Codes Rules and Regulations of the State of New York: Audit and Control.

The Market Assets and GASB Disclosures are found in the March 31, 2013 New York State and Local Retirement System Financial Statements and Supplementary Information.

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 20, 2014 and intended for use only during the 2014 Legislative Session, is Fiscal Note No. 2014-60, 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.