

3689

2013-2014 Regular Sessions

I N S E N A T E

February 11, 2013

Introduced by Sen. ADAMS -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to amend the retirement and social security law, in relation to allowing military service credit for retirement for all honorably discharged veterans

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;
21 2. A member, upon application to such retirement system, may obtain a
22 total not to exceed three years of service credit for up to three years
23 of military duty, as defined in section two hundred forty-three of the
24 military law, if honorably discharged therefrom, if all or part of such

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

LBD04534-02-3

1 services was rendered in the military conflicts referenced below, as
2 follows:

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

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

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

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

25 [3.] 2. A member must have at least five years of credited service
26 (not including service granted hereunder) to be eligible to receive
27 credit under this section.

28 [4.] 3. To obtain such credit, a member shall pay such retirement
29 system, for deposit in the fund used to accumulate employer contrib-
30 utions, a sum equal to the product of the number of years of military
31 service being claimed and three percent of such member's compensation
32 earned during the twelve months of credited service immediately preced-
33 ing the date that the member made application for credit pursuant to
34 this section. If permitted by rule or regulation of the applicable
35 retirement system, the member may pay such member costs by payroll
36 deduction for a period which shall not exceed the time period of mili-
37 tary service to be credited pursuant to this section. In the event the
38 member leaves the employer payroll prior to completion of payment, he or
39 she shall forward all remaining required payments to the appropriate
40 retirement system prior to the effective date of retirement. If the full
41 amount of such member costs is not paid to the appropriate retirement
42 system prior to the member's retirement, the amount of service credited
43 shall be proportional to the total amount of the payments made prior to
44 retirement.

45 [5.] 4. In no event shall the credit granted pursuant to this section,
46 when added to credit granted for military service with any retirement
47 system of this state pursuant to this or any other provision of law,
48 exceed a total of three years.

49 [6.] 5. To be eligible to receive credit for military service under
50 this section, a member must make application for such credit before the
51 effective date of retirement. [Notwithstanding the foregoing provisions
52 of this subdivision, an individual who retired on or after December
53 twenty-first, nineteen hundred ninety-eight and before the effective
54 date of this section may make application for credit pursuant to this
55 section within one year following the effective date of this section, in

1 which event, the cost to the retiree would be based on the twelve month
2 period immediately preceding retirement.

3 7.] 6. All costs for service credited to a member pursuant to this
4 section, other than the member costs set forth in subdivision [three]
5 TWO of this section, shall be paid by the state and all employers which
6 participate in the retirement system in which such member is granted
7 credit.

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

13 [9.] 8. Notwithstanding any other provision of law, in the event of
14 death prior to retirement, amounts paid by the member for the purchase
15 of military service credit pursuant to this section shall be refunded,
16 with interest, to the extent the military service purchased with such
17 amounts does not produce a greater death benefit than would have been
18 payable had the member not purchased such credit.

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

25 [10] 9. Anything to the contrary in subdivision [four] THREE of this
26 section notwithstanding, to obtain such credit, a member who first joins
27 a public retirement system of the state on or after April first, two
28 thousand twelve shall pay such retirement system, for deposit in the
29 fund used to accumulate employer contributions, a sum equal to the prod-
30 uct of the number of years of military service being claimed and six
31 percent of such member's compensation earned during the twelve months of
32 credited service immediately preceding the date that the member made
33 application for credit pursuant to this section.

34 S 2. This act shall take effect immediately.

FISCAL NOTE.-- 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.