

4923--C

2013-2014 Regular Sessions

I N S E N A T E

May 1, 2013

Introduced by Sen. LIBOUS -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Veterans, Homeland Security and Military Affairs in accordance with Senate Rule 6, sec. 8 -- 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

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

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training) in the armed forces of the United States during part of one of the following periods:

(a) April sixth, nineteen hundred seventeen to November eleven, nineteen hundred eighteen.

(b) December seven, nineteen hundred forty-one to December thirty-one, nineteen hundred forty-six, or have been employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service as such terms are defined under federal law (46 USCA 10301 & 10501) and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in oceangoing service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty, from the Department of Defense or have served as a United States civilian employed by the American Field Service and served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and who was discharged or released therefrom under honorable conditions, or have served as a United States civilian Flight Crew and Aviation Ground Support Employee of Pan American World Airways or one of its subsidiaries or its affiliates and served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict, December fourteenth, nineteen hundred forty-one through August fourteenth, nineteen hundred forty-five, and who was discharged or released therefrom under honorable conditions.

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

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

(e) August [two] SECOND, nineteen hundred ninety to the end of hostilities in the Persian Gulf conflict.

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

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

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

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

1. Eligible students. Awards shall be made to Vietnam veterans' resident children born with Spina Bifida enrolled in approved undergraduate or graduate programs at degree granting institutions. For the purpose of this section, "Vietnam veteran" shall mean a person who served in Indochina at any time from the [twenty-second] TWENTY-EIGHTH day of [December] FEBRUARY, nineteen hundred sixty-one, to and including the seventh day of May, nineteen hundred seventy-five and was honorably discharged

1 from the armed forces of the United States; "born with Spina Bifida"
2 shall mean a diagnosis at birth of such disease inclusive of all forms,
3 manifestations, complications and associated medical conditions thereof,
4 but shall not include Spina Bifida Occulta. Such diagnosis shall be in
5 accordance with the provisions of the federal Spina Bifida program and
6 shall be documented by the United States Administration of Veterans'
7 Affairs.

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

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

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

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

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

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

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

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

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

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

1 Panama from December twentieth, nineteen hundred eighty-nine to January
2 thirty-first, nineteen hundred ninety, and who has been honorably
3 discharged or released under honorable circumstances from such service
4 or furloughed to the reserve.

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

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

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

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

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

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

48 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.