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

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I N  S E N A T E

January 21, 2014

Introduced by Sen. GRISANTI -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs

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:

Section 1. Section 1000 of the retirement and social security law, as added by chapter 548 of the laws of 2000, subdivision 9 as added by chapter 547 of the laws of 2002 and subdivision 10 as added by chapter 18 of the laws of 2012, is amended to read as follows:

S 1000. Military service credit. Notwithstanding any law to the contrary, a member of a public retirement system of the state, as defined in subdivision twenty-three of section five hundred one of this chapter, shall be eligible for credit for military service as hereinafter provided:

1. 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 the member was honorably discharged from the military [and all or part of such military service was rendered during the following periods: (a) commencing December seventh, nineteen hundred forty-one and terminating December thirty-first, nineteen hundred forty-six; (b) commencing June twenty-seventh, nineteen hundred fifty and terminating January thirty-first, nineteen hundred fifty-five; or (c) commencing February twenty-eighth, nineteen hundred sixty-one and terminating May seventh, nineteen hundred seventy-five;

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:

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

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(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. 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).

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 statement of actuarial opinion contained herein.

This estimate, dated October 28, 2013 and intended for use only during the 2014 Legislative Session, is Fiscal Note No. 2014-5, 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."