

5301--A

2015-2016 Regular Sessions

I N   A S S E M B L Y

February 17, 2015

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Introduced by M. of A. GIGLIO, THIELE, CROUCH, HAWLEY -- read once and referred to the Committee on Governmental Employees -- recommitted to the Committee on Governmental Employees 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 civil service law and the executive law, in relation to eliminating the maximum age limitation for appointment as a police officer or as an environmental conservation officer

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

1     Section 1. Paragraph (a) of subdivision 1 of section 58 of the civil  
2     service law, as amended by chapter 244 of the laws of 2013, is amended  
3     to read as follows:  
4     (a) he or she is not less than twenty years of age as of the date of  
5     appointment [nor more than thirty-five years of age as of the date when  
6     the applicant takes the written examination, provided that the maximum  
7     age requirement of thirty-five years of age as set forth in this para-  
8     graph shall not apply to eligible lists finalized pursuant to an exam-  
9     ination administered prior to May thirty-first, nineteen hundred nine-  
10    ty-nine or a police officer in the department of environmental  
11    conservation, provided, however, that:  
12    (i) time spent on military duty or on terminal leave, not exceeding a  
13    total of six years, shall be subtracted from the age of any applicant  
14    who has passed his or her thirty-fifth birthday as provided in subdivi-  
15    sion ten-a of section two hundred forty-three of the military law;  
16    (ii) such maximum age requirement of thirty-five years shall not apply  
17    to any police officer as defined in subdivision thirty-four of section  
18    1.20 of the criminal procedure law, who was continuously employed by the  
19    Buffalo municipal housing authority between January first, two thousand  
20    five and June thirtieth, two thousand five and who takes the next writ-  
21    ten exam offered after the effective date of this subparagraph by the

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

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1 city of Buffalo civil service commission for employment as a police  
2 officer in the city of Buffalo police department, or June thirtieth, two  
3 thousand six, whichever is later; and

4 (iii) such maximum age requirement of thirty-five years shall not  
5 apply to any police officer of any county, town, city or village police  
6 force not otherwise provided for in this section if the eligible list  
7 has been exhausted and there are no other eligible candidates; provided,  
8 however, the police officer themselves are on the eligible list of such  
9 county, town, city or village and meet all other requirements of merit  
10 and fitness set forth by this chapter and do not exceed the maximum age  
11 of thirty-nine];

12 S 2. Subdivision 2 of section 58 of the civil service law, as amended  
13 by chapter 244 of the laws of 2013, is amended to read as follows:

14 2. The provisions of this section shall not prevent any county, city,  
15 town, village, housing authority, transit authority, police district or  
16 the department of environmental conservation from setting more restric-  
17 tive requirements of eligibility for its police officers[, except the  
18 maximum age to be a police officer as provided in paragraph (a) of  
19 subdivision one of this section].

20 S 3. Subdivision 4 of section 58 of the civil service law, as sepa-  
21 rately amended by chapters 375 and 397 of the laws of 1990, paragraphs  
22 (a) and (b) as amended by chapter 561 of the laws of 2015, paragraph (c)  
23 as amended by chapter 190 of the laws of 2008 and subparagraphs (ii) and  
24 (iv) of paragraph (c) as amended by section 58 of subpart B of part C of  
25 chapter 62 of the laws of 2011, is amended to read as follows:

26 4. (a) [Any person who has received provisional or permanent appoint-  
27 ment in the competitive class of the civil service as a police officer  
28 of the regional state park police, the state university of New York  
29 police, the department of environmental conservation or any police force  
30 or police department of any county, city, town, village, housing author-  
31 ity, transit authority or police district shall be eligible to resign  
32 from any police force or police department, and to be appointed as a  
33 police officer in the same or any other police force or police depart-  
34 ment without satisfying the age requirements set forth in paragraph (a)  
35 of subdivision one of this section at the time of such second or subse-  
36 quent appointment, provided such second or subsequent appointment occurs  
37 within thirty days of the date of resignation.

38 (b) Any person who has received permanent appointment in the compet-  
39 itive class of the civil service as a police officer of the regional  
40 state park police, the state university of New York police, the depart-  
41 ment of environmental conservation or any police force or police depart-  
42 ment of any county, city, town, village, housing authority, transit  
43 authority or police district shall be eligible to resign from any police  
44 force or police department and, subject to such civil service rules as  
45 may be applicable, shall be eligible for reinstatement in the same  
46 police force or police department or in any other police force or police  
47 department to which he or she was eligible for transfer, without satis-  
48 fying the age requirements set forth in paragraph (a) of subdivision one  
49 of this section at the time of such reinstatement, provided such rein-  
50 statement occurs within one year of the date of resignation.

51 (c) (i) Legislative findings and declaration. The legislature hereby  
52 finds and declares that it is frequently impracticable to ascertain  
53 fitness for the positions of detective and investigator within various  
54 police or sheriffs departments around the state by means of a compet-  
55 itive examination due to the unique nature of the duties assigned and  
56 the intangible personal qualities needed to perform such duties. The

1 legislature further finds that competitive examination has never been  
2 employed in many police, correction or sheriffs departments, to ascer-  
3 tain fitness for the positions of detective and investigator within such  
4 police, correction or sheriffs departments; such fitness has always been  
5 determined by evaluation of the capabilities of an individual (who has  
6 in any case received permanent appointment to the position of police  
7 officer, correction officer of any rank or deputy sheriff) by superviso-  
8 ry personnel. The legislature further finds that an individual who  
9 performs in an investigatory position in a manner sufficiently satisfac-  
10 tory to the appropriate supervisors to hold such an assignment for a  
11 period of eighteen months, has demonstrated fitness for the position of  
12 detective or investigator within such police, correction or sheriffs  
13 department at least as sufficiently as could be ascertained by means of  
14 a competitive examination.

15 [(ii)] (B) Notwithstanding any other provision of law, in any juris-  
16 diction, other than a city with a population of one million or more or  
17 the state department of corrections and community supervision, which  
18 does not administer examinations for designation to detective or inves-  
19 tigator, any person who has received permanent appointment to the posi-  
20 tion of police officer, correction officer of any rank or deputy sheriff  
21 and is temporarily assigned to perform the duties of detective or inves-  
22 tigator shall, whenever such assignment to the duties of a detective or  
23 investigator exceeds eighteen months, be permanently designated as a  
24 detective or investigator and receive the compensation ordinarily paid  
25 to persons in such designation.

26 [(iii)] (C) Nothing contained in [subparagraph (ii)] PARAGRAPH (B) of  
27 this [paragraph] SUBDIVISION shall be construed to limit any jurisdic-  
28 tion's ability to administer examinations for appointment to the posi-  
29 tions of detective and investigator, provided however that any person  
30 temporarily assigned to perform the duties of detective or investigator  
31 within the period commencing September twenty-third, nineteen hundred  
32 ninety-three through and including the date upon which this paragraph  
33 shall have become a law and who has not been designated as a detective  
34 or investigator and who has not been subject to an examination for which  
35 there is a certified eligible list, shall be permanently designated as a  
36 detective or investigator whenever such assignment to the duties of  
37 detective or investigator exceeds eighteen months.

38 [(iv)] (D) Detectives and investigators designated since September  
39 twenty-third, nineteen hundred ninety and prior to February twenty-  
40 fourth, nineteen hundred ninety-five by any state, county, town, village  
41 or city (other than a city with a population of one million or more or  
42 the state department of corrections and community supervision) police,  
43 correction or sheriffs department, pursuant to the provisions of this  
44 paragraph in effect during such period, who continue to serve in such  
45 positions, shall retain their detective or investigator status without  
46 any right to retroactive financial entitlement.

47 S 4. Subdivision 3 of section 215 of the executive law, as amended by  
48 chapter 478 of the laws of 2004, is amended to read as follows:

49 3. The sworn members of the New York state police shall be appointed  
50 by the superintendent and permanent appointees may be removed by the  
51 superintendent only after a hearing. No person shall be appointed to the  
52 New York state police force as a sworn member unless he or she shall be  
53 a citizen of the United States, [between the ages of] AND AT LEAST twen-  
54 ty-one [and twenty-nine years except that in the superintendent's  
55 discretion, the maximum age may be extended to thirty-five years.  
56 Notwithstanding any other provision of law or any general or special law

1 to the contrary the time spent on military duty, not exceeding a total  
2 of six years, shall be subtracted from the age of any applicant who has  
3 passed his or her twenty-ninth birthday, solely for the purpose of  
4 permitting qualification as to age and for no other purpose. Such limi-  
5 tations as to age however shall not apply to persons appointed to the  
6 positions of counsel, first assistant counsel, assistant counsel, and  
7 assistant deputy superintendent for employee relations nor to any person  
8 appointed to the bureau of criminal investigation pursuant to section  
9 two hundred sixteen of this article nor] YEARS OF AGE. NOR shall any  
10 person be appointed unless he or she has fitness and good moral charac-  
11 ter and shall have passed a physical and mental examination based upon  
12 standards provided by the rules and regulations of the superintendent.  
13 Appointments shall be made for a probationary period which, in the case  
14 of appointees required to attend and complete a basic training program  
15 at the state police academy, shall include such time spent attending the  
16 basic school and terminate one year after successful completion thereof.  
17 All other sworn members shall be subject to a probationary period of one  
18 year from the date of appointment. Following satisfactory completion of  
19 the probationary period the member shall be a permanent appointee.  
20 Voluntary resignation or withdrawal from the New York state police  
21 during such appointment shall be submitted to the superintendent for  
22 approval. Reasonable time shall be required to account for all equip-  
23 ment issued or for debts or obligations to the state to be satisfied.  
24 Resignation or withdrawal from the division during a time of emergency,  
25 so declared by the governor, shall not be approved if contrary to the  
26 best interest of the state and shall be a misdemeanor. No sworn member  
27 removed from the New York state police shall be eligible for reappoint-  
28 ment. The superintendent shall make rules and regulations subject to  
29 approval by the governor for the discipline and control of the New York  
30 state police and for the examination and qualifications of applicants  
31 for appointment as members thereto and such examinations shall be held  
32 and conducted by the superintendent subject to such rules and regu-  
33 lations. The superintendent is authorized to charge a fee of twenty  
34 dollars as an application fee for any person applying to take a compet-  
35 itive examination for the position of trooper, and a fee of five dollars  
36 for any competitive examination for a civilian position. The superinten-  
37 dent shall promulgate regulations subject to the approval of the direc-  
38 tor of the budget, to provide for a waiver of the application fee when  
39 the fee would cause an unreasonable hardship on the applicant and to  
40 establish a fee schedule and charge fees for the use of state police  
41 facilities.

42 S 5. This act shall take effect immediately.