

4124

2015-2016 Regular Sessions

I N   S E N A T E

March 2, 2015

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Introduced by Sens. LARKIN, AVELLA, CROCI, FARLEY, FLANAGAN, GALLIVAN, GOLDEN, LAVALLE, LIBOUS, MARTINS, NOZZOLIO, ORTT, RANZENHOFER, RITCHIE, ROBACH, SEWARD, SKELOS, YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the retirement and social security law, in relation to providing credit to members of public retirement systems of the state for military service; and making an appropriation therefor

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 hereinaft-  
9 er 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

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

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1 of military duty, as defined in section two hundred forty-three of the  
2 military law, if honorably discharged therefrom, if all or part of such  
3 services was rendered in the military conflicts referenced below, as  
4 follows:

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

10 (b) hostilities participated in by the military forces of the United  
11 States in Grenada, from the twenty-third day of October, nineteen  
12 hundred eighty-three to the twenty-first day of November, nineteen  
13 hundred eighty-three, as established by receipt of the armed forces  
14 expeditionary medal, the navy expeditionary medal, or the marine corps  
15 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].

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

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

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

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

1 section within one year following the effective date of this section, in  
2 which event, the cost to the retiree would be based on the twelve month  
3 period immediately preceding retirement.]

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

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

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

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

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

35 S 2. The sum of thirty-one million five hundred thousand dollars  
36 (\$31,500,000), or so much thereof as may be necessary, is hereby appro-  
37 priated to the department of audit and control out of any moneys in the  
38 state treasury in the general fund to the credit of the state purposes  
39 account, not otherwise appropriated, and made immediately available, for  
40 the purpose of carrying out the provisions of this act. Such moneys  
41 shall be payable on the audit and warrant of the comptroller on vouchers  
42 certified or approved by the head of the appropriate public retirement  
43 system in the manner prescribed by law.

44 S 3. This act shall take effect immediately.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

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 hostil-  
ities 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, 2014 actuarial valuation. Distributions and other statistics can be found in the 2014 Report of the Actuary and the 2014 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2010, 2011, 2012, 2013 and 2014 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, 2014 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 February 11, 2015 and intended for use only during the 2015 Legislative Session, is Fiscal Note No. 2015-65, 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.