

# STATE OF NEW YORK

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5446

2017-2018 Regular Sessions

## IN SENATE

March 29, 2017

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

AN ACT to authorize members of the New York state and New York city teachers' retirement systems and the New York state and local employees' retirement system to claim retirement credit for certain private school teaching service

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1     Section 1. Notwithstanding any other provision of law, a member of the  
2     New York state teachers' retirement system or the New York city teachers'  
3     retirement system, or any member of the New York state and local  
4     employees' retirement system who is employed by a school district, a  
5     board of cooperative educational services, a vocational education and  
6     extension board, an institution for the instruction of the deaf and  
7     blind as enumerated in section 4201 of the education law or a school  
8     district as enumerated in section 1 of chapter 566 of the laws of 1967,  
9     or who is employed by the state of New York as an institutional teacher  
10    as defined by section 136 of the civil service law, shall be entitled to  
11    obtain credit for up to five years of service rendered as a teacher  
12    employed by a private elementary or secondary school within the state of  
13    New York chartered by or registered with the board of regents, or in a  
14    private college within the state of New York authorized by the board of  
15    regents to grant degrees, which would constitute service as a teacher,  
16    had it been performed within New York state for an employer subject to  
17    the applicable provisions of law governing such retirement system.

18    § 2. The crediting of service pursuant to this act shall be in accordance  
19    with such rules and regulations as shall be adopted by the retirement  
20    board of the New York state teachers' retirement system, the  
21    retirement board of the New York city teachers' retirement system or the  
22    state comptroller, as appropriate, provided that such rules and regulations  
23    shall be substantially equivalent to the rules and regulations

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

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otherwise applicable for the crediting of service pursuant to applicable provisions of law governing each such retirement system, and provided further that if such provisions have not expired such member makes the applicable payments required pursuant to the provisions of sections 517 and 613, and paragraph 2 of subdivision b of section 609 of the retirement and social security law.

§ 3. The service credit granted pursuant to this act shall constitute service for the sole purpose of computing the pension payable upon retirement for service and under no circumstances shall the service credit granted pursuant to this act be used either in determining the total length of service credit for purposes of eligibility for a service retirement benefit or in computing final average salary. Provided further, no such credit shall be allowed for any service for which the person is receiving a benefit or will be entitled to receive a benefit at any future time from any other public or private retirement system or plan in this state, any other state or from the federal government.

§ 4. This act shall take effect June 30, 2017, except that any rule or regulation necessary for the timely implementation of the provisions of this act on its effective date are authorized and directed to be promulgated on or before such date.

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

This bill will allow members of certain public retirement systems who are currently employed by a school district, a board of cooperative educational service, a vocational education and extension board, an institution for the deaf and blind or as an institutional teacher to receive up to five years of service credit in such public retirement systems for employment as a teacher in private schools in New York State. The additional service credit granted pursuant to this legislation shall constitute service credit solely for the purpose of computing the pension payable upon retirement, and shall not be used to determine eligibility for a service benefit. For certain individuals, member contributions will be required to be paid to obtain such additional service credit. 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.

Granting service credit for employment rendered to any organization that may potentially be considered a non-governmental or private employer, such as certain types of educational institutions described in this bill, could jeopardize the Retirement System's governmental plan status and its exemption from ERISA. This development could result in the loss of qualified status, which would mean the loss of tax benefits. This result would substantially impair the System's value to our approximately one million participants.

If this bill is enacted, insofar as it affects the New York State and Local Employees' Retirement System (ERS), it is estimated that the past service cost will average approximately 15% (12% for Tier 6) of an affected members' compensation for each year of additional service credit 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.

Pursuant to Section 25 of the Retirement and Social Security Law, the past service cost for the ERS will 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.

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, 2016 actuarial valuation. Distributions and other statistics can be found in the 2016 Report of the Actuary and the 2016 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2015 and 2016 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, 2016 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 March 20, 2017, and intended for use only during the 2017 Legislative Session, is Fiscal Note No. 2017-74, prepared by the Actuary for the New York State and Local Retirement System.