STATE OF NEW YORK

4617

2021-2022 Regular Sessions

IN SENATE

February 8, 2021

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

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:

Section 1. Paragraph (a) of subdivision 1 of section 58 of the civil service law, as amended by chapter 244 of the laws of 2013, is amended to read as follows:

(a) he or she is not less than twenty years of age as of the date of appointment [~~nor more than thirty-five years of age as of the date when the applicant takes the written examination, provided that the maximum age requirement of thirty-five years of age as set forth in this paragraph shall not apply to eligible lists finalized pursuant to an examination administered prior to May thirty-first, nineteen hundred ninety-nine or a police officer in the department of environmental conservation, provided, however, that:~~

~~(i) time spent on military duty or on terminal leave, not exceeding a total of six years, shall be subtracted from the age of any applicant who has passed his or her thirty-fifth birthday as provided in subdivision ten-a of section two hundred forty-three of the military law;~~

~~(ii) such maximum age requirement of thirty-five years shall not apply to any police officer as defined in subdivision thirty-four of section 1.20 of the criminal procedure law, who was continuously employed by the Buffalo municipal housing authority between January first, two thousand five and June thirtieth, two thousand five and who takes the next written exam offered after the effective date of this subparagraph by the city of Buffalo civil service commission for employment as a police officer in the city of Buffalo police department, or June thirtieth, two thousand six, whichever is later; and~~

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

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

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

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

§ 3. Subdivision 4 of section 58 of the civil service law, as separately amended by chapters 375 and 397 of the laws of 1990, paragraphs (a) and (b) as amended by chapter 561 of the laws of 2015, paragraph (c) as amended by chapter 190 of the laws of 2008 and subparagraphs (ii) and (iv) of paragraph (c) as amended by section 58 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

4. (a) [~~Any person who has received provisional or permanent appointment in the competitive class of the civil service as a police officer of the regional state park police, the state university of New York police, the department of environmental conservation or any police force or police department of any county, city, town, village, housing authority, transit authority or police district shall be eligible to resign from any police force or police department, and to be appointed as a police officer in the same or any other police force or police department without satisfying the age requirements set forth in paragraph (a) of subdivision one of this section at the time of such second or subsequent appointment, provided such second or subsequent appointment occurs within thirty days of the date of resignation.~~

~~(b) Any person who has received permanent appointment in the competitive class of the civil service as a police officer of the regional state park police, the state university of New York police, the department of environmental conservation or any police force or police department of any county, city, town, village, housing authority, transit authority or police district shall be eligible to resign from any police force or police department and, subject to such civil service rules as may be applicable, shall be eligible for reinstatement in the same police force or police department or in any other police force or police department to which he or she was eligible for transfer, without satisfying the age requirements set forth in paragraph (a) of subdivision one of this section at the time of such reinstatement, provided such reinstatement occurs within one year of the date of resignation.~~

~~(c) (i)~~] Legislative findings and declaration. The legislature hereby finds and declares that it is frequently impracticable to ascertain fitness for the positions of detective and investigator within various police or sheriffs departments around the state by means of a competitive examination due to the unique nature of the duties assigned and the intangible personal qualities needed to perform such duties. The legislature further finds that competitive examination has never been employed in many police, correction or sheriffs departments, to ascertain fitness for the positions of detective and investigator within such

police, correction or sheriffs departments; such fitness has always been determined by evaluation of the capabilities of an individual (who has in any case received permanent appointment to the position of police officer, correction officer of any rank or deputy sheriff) by supervisory personnel. The legislature further finds that an individual who performs in an investigatory position in a manner sufficiently satisfactory to the appropriate supervisors to hold such an assignment for a period of eighteen months, has demonstrated fitness for the position of detective or investigator within such police, correction or sheriffs department at least as sufficiently as could be ascertained by means of a competitive examination.

[~~(ii)~~] **(b)** Notwithstanding any other provision of law, in any jurisdiction, other than a city with a population of one million or more or the state department of corrections and community supervision, which does not administer examinations for designation to detective or investigator, any person who has received permanent appointment to the position of police officer, correction officer of any rank or deputy sheriff and is temporarily assigned to perform the duties of detective or investigator shall, whenever such assignment to the duties of a detective or investigator exceeds eighteen months, be permanently designated as a detective or investigator and receive the compensation ordinarily paid to persons in such designation.

[~~(iii)~~] **(c)** Nothing contained in [~~subparagraph (ii)~~] **paragraph (b)** of this [~~paragraph~~] **subdivision** shall be construed to limit any jurisdiction's ability to administer examinations for appointment to the positions of detective and investigator, provided however that any person temporarily assigned to perform the duties of detective or investigator within the period commencing September twenty-third, nineteen hundred ninety-three through and including the date upon which this paragraph shall have become a law and who has not been designated as a detective or investigator and who has not been subject to an examination for which there is a certified eligible list, shall be permanently designated as a detective or investigator whenever such assignment to the duties of detective or investigator exceeds eighteen months.

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

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

3. The sworn members of the New York state police shall be appointed by the superintendent and permanent appointees may be removed by the superintendent only after a hearing. No person shall be appointed to the New York state police force as a sworn member unless he or she shall be a citizen of the United States, [~~between the ages of~~] **and at least** twenty-one [~~and twenty-nine years except that in the superintendent's discretion, the maximum age may be extended to thirty-five years. Notwithstanding any other provision of law or any general or special law to the contrary the time spent on military duty, not exceeding a total of six years, shall be subtracted from the age of any applicant who has passed his or her twenty-ninth birthday, solely for the purpose of~~

~~permitting qualification as to age and for no other purpose. Such limitations as to age however shall not apply to persons appointed to the positions of counsel, first assistant counsel, assistant counsel, and assistant deputy superintendent for employee relations nor to any person appointed to the bureau of criminal investigation pursuant to section two hundred sixteen of this article nor~~] years of age. Nor shall any person be appointed unless he or she has fitness and good moral character and shall have passed a physical and mental examination based upon standards provided by the rules and regulations of the superintendent. Appointments shall be made for a probationary period which, in the case of appointees required to attend and complete a basic training program at the state police academy, shall include such time spent attending the basic school and terminate one year after successful completion thereof. All other sworn members shall be subject to a probationary period of one year from the date of appointment. Following satisfactory completion of the probationary period the member shall be a permanent appointee. Voluntary resignation or withdrawal from the New York state police during such appointment shall be submitted to the superintendent for approval. Reasonable time shall be required to account for all equipment issued or for debts or obligations to the state to be satisfied. Resignation or withdrawal from the division during a time of emergency, so declared by the governor, shall not be approved if contrary to the best interest of the state and shall be a misdemeanor. No sworn member removed from the New York state police shall be eligible for reappointment. The superintendent shall make rules and regulations subject to approval by the governor for the discipline and control of the New York state police and for the examination and qualifications of applicants for appointment as members thereto and such examinations shall be held and conducted by the superintendent subject to such rules and regulations. The superintendent is authorized to charge a fee of twenty dollars as an application fee for any person applying to take a competitive examination for the position of trooper, and a fee of five dollars for any competitive examination for a civilian position. The superintendent shall promulgate regulations subject to the approval of the director of the budget, to provide for a waiver of the application fee when the fee would cause an unreasonable hardship on the applicant and to establish a fee schedule and charge fees for the use of state police facilities.

§ 5. This act shall take effect immediately.