

STATE OF NEW YORK

6022--A

2021-2022 Regular Sessions

IN SENATE

March 29, 2021

Introduced by Sen. HOYLMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the retirement and social security law, in relation to discharged LGBT veterans

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

1 Section 1. Paragraph a of subdivision 29 of section 2 of the retire-
2 ment and social security law is amended to read as follows:

3 a. (1) Has been honorably discharged or released therefrom under
4 honorable circumstances, or (2) has a qualifying condition, as defined
5 in section three hundred fifty of the executive law, and has received a
6 discharge other than bad conduct or dishonorable from such service, or
7 (3) is a discharged LGBT veteran, as defined in section three hundred
8 fifty of the executive law, and has received a discharge other than bad
9 conduct or dishonorable from such service, and

10 § 2. Paragraph d of subdivision 29-a of section 2 of the retirement
11 and social security law, as amended by chapter 528 of the laws of 1964,
12 is amended to read as follows:

13 d. Credit under this section shall not accrue to a person who is
14 released from active duty under conditions other than honorable, unless
15 such person has a qualifying condition, as defined in section three
16 hundred fifty of the executive law, and has received a discharge other
17 than bad conduct or dishonorable from such service, or is a discharged
18 LGBT veteran, as defined in section three hundred fifty of the executive
19 law, and has received a discharge other than bad conduct or dishonorable
20 from such service.

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

LBD05266-06-1

§ 3. Subdivision 31 of section 2 of the retirement and social security law, as amended by chapter 616 of the laws of 1995, is amended to read as follows:

31. "Service in world war II." (1) Military service during the period commencing July first, nineteen hundred forty, and terminating December thirty-first, nineteen hundred forty-six, as a member of the armed forces of the United States, or service by one who was employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service as such terms are defined under federal law (46 USCA 10301 & 10501) and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in oceangoing service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty, from the Department of Defense, or service by one who served as a United States civilian employed by the American Field Service and served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and who (i) was discharged or released therefrom under honorable conditions, or (ii) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or service by one who served as a United States civilian Flight Crew and Aviation Ground Support Employee of Pan American World Airways or one of its subsidiaries or its affiliates and served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict, December fourteenth, nineteen hundred forty-one through August fourteenth, nineteen hundred forty-five, and who (iv) was discharged or released therefrom under honorable conditions, or (v) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (vi) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or of any person who:

a. (i) Has been honorably discharged or released therefrom under honorable circumstances, or (ii) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, and

b. Was a resident of this state at the time of his entrance into such armed forces, or, if not a resident of this state at that time, was then

1 or thereafter became an employee of a participating employer created by
2 and deriving its powers from an agreement between this state and any
3 other state and was a resident of such other state at the time of his
4 entrance into such armed forces, and

5 c. Was either a member of the retirement system and an employee of the
6 state or of a participating employer at the time he entered such armed
7 forces or became such employee and such member while in such armed forces
8 on or before July first, nineteen hundred forty-eight, or became such
9 employee while in such armed forces and subsequently became such member
10 on or before July first, nineteen hundred forty-eight, or was an employee
11 of an employer which was not a participating employer at the time he
12 entered such armed forces but which elected to become a participating
13 employer while he was absent on military duty, or was an employee of the
14 state or of a participating employer or was a teacher as defined in
15 article eleven of the education law at the time of his entrance into the
16 armed forces and became a member of the retirement system subsequent to
17 separation or discharge from the armed services, and

18 d. Returned to the employment of the state or a participating employer,
19 within one year following discharge or release or completion of
20 advanced education provided under the servicemen's readjustment act of
21 nineteen hundred forty-four, certified on a world war II military
22 service certificate, and allowable as provided in section forty-one of
23 this article. Such service shall not include any periods during which
24 civil compensation was received by the member under the provisions of
25 section two hundred forty-two of the military law, or section six of
26 chapter six hundred eight of the laws of nineteen hundred fifty-two; or

27 (2) Military service, not in excess of three years and not otherwise
28 creditable under paragraph one hereof, rendered on active duty in the
29 armed forces of the United States during the period commencing July
30 first, nineteen hundred forty, and terminating December thirty-first,
31 nineteen hundred forty-six, or service by one who was employed by the
32 War Shipping Administration or Office of Defense Transportation or their
33 agents as a merchant seaman documented by the United States Coast Guard
34 or Department of Commerce, or as a civil servant employed by the United
35 States Army Transport Service (later redesignated as the United States
36 Army Transportation Corps, Water Division) or the Naval Transportation
37 Service; and who served satisfactorily as a crew member during the period
38 of armed conflict, December seventh, nineteen hundred forty-one, to
39 August fifteenth, nineteen hundred forty-five, aboard merchant vessels
40 in oceangoing, i.e., foreign, intercoastal, or coastwise service as such
41 terms are defined under federal law (46 USCA 10301 & 10501) and further
42 to include "near foreign" voyages between the United States and Canada,
43 Mexico, or the West Indies via ocean routes, or public vessels in ocean-
44 going service or foreign waters and who has received a Certificate of
45 Release or Discharge from Active Duty and a discharge certificate, or an
46 Honorable Service Certificate/Report of Casualty, from the Department of
47 Defense, or service by one who served as a United States civilian
48 employed by the American Field Service and served overseas under United
49 States Armies and United States Army Groups in world war II during the
50 period of armed conflict, December seventh, nineteen hundred forty-one
51 through May eighth, nineteen hundred forty-five, and who (i) was
52 discharged or released therefrom under honorable conditions, or (ii) has
53 a qualifying condition, as defined in section three hundred fifty of the
54 executive law, and has received a discharge other than bad conduct or
55 dishonorable from such service, or (iii) is a discharged LGBT veteran,
56 as defined in section three hundred fifty of the executive law, and has

1 received a discharge other than bad conduct or dishonorable from such
2 service, or service by one who served as a United States civilian Flight
3 Crew and Aviation Ground Support Employee of Pan American World Airways
4 or one of its subsidiaries or its affiliates and served overseas as a
5 result of Pan American's contract with Air Transport Command or Naval
6 Air Transport Service during the period of armed conflict, December
7 fourteenth, nineteen hundred forty-one through August fourteenth, nine-
8 teen hundred forty-five, and who (iv) was discharged or released there-
9 from under honorable conditions, or (v) has a qualifying condition, as
10 defined in section three hundred fifty of the executive law, and has
11 received a discharge other than bad conduct or dishonorable from such
12 service, or (vi) is a discharged LGBT veteran, as defined in section
13 three hundred fifty of the executive law, and has received a discharge
14 other than bad conduct or dishonorable from such service, by a person
15 who was a resident of New York state at the time of entry into such
16 service and at the time of being discharged therefrom (vii) under honor-
17 able circumstances, or (viii) with a qualifying condition, as defined in
18 section three hundred fifty of the executive law, and received a
19 discharge other than bad conduct or dishonorable from such service, or
20 (ix) as a discharged LGBT veteran, as defined in section three hundred
21 fifty of the executive law, and received a discharge other than bad
22 conduct or dishonorable from such service, or, if not a resident of this
23 state at such times was then or thereafter became an employee of a
24 participating employer created by and deriving its powers from an agree-
25 ment between this state and any other state, and was a resident of such
26 other state at the time of entry into and discharge from such service,
27 and who makes the payments required by subdivision k of section forty-
28 one of this article.

29 However, no military service shall be creditable under this paragraph
30 two in the case of a member under an existing plan permitting retirement
31 upon twenty years of creditable service who is receiving a federal
32 pension (other than for disability) based upon a minimum of twenty years
33 of full time active military service in the armed forces of the United
34 States nor shall any military service be creditable in the case of a
35 member under any other plan who is receiving a military pension (other
36 than for disability) for military service in the armed forces of the
37 United States.

38 § 4. Subparagraph (c) of paragraph 8 of subdivision a of section 80-a
39 of the retirement and social security law, as added by chapter 219 of
40 the laws of 1968, is amended to read as follows:

41 (c) In the case of a senator or assemblyman, service, not in excess of
42 three years and not otherwise creditable under subparagraph (b) of this
43 paragraph ~~eight~~, rendered on active duty in the armed forces of the
44 United States during the period commencing July first, nineteen hundred
45 forty, and terminating December thirty-first, nineteen hundred forty-
46 six, by a person who was a resident of the state at the time of entry
47 into service and at the time of being discharged therefrom (i) under
48 honorable circumstances, or (ii) has a qualifying condition, as defined
49 in section three hundred fifty of the executive law, and was a resident
50 of the state at the time of entry into service and at the time of
51 receiving a discharge other than bad conduct or dishonorable from such
52 service, or (iii) is a discharged LGBT veteran, as defined in section
53 three hundred fifty of the executive law, and was a resident of the
54 state at the time of entry into service and at the time of receiving a
55 discharge other than bad conduct or dishonorable from such service.

§ 5. Subdivision (i) of section 89-a of the retirement and social security law, as added by chapter 996 of the laws of 1966 and such section as renumbered by chapter 1059 of the laws of 1968, is amended to read as follows:

(i) In computing the twenty-five years of total service of a member pursuant to this section full credit shall be given and full allowance shall be made for service of such member in time of war after world war I as defined in section two of this chapter, provided such member at the time of his entrance into the military service of the United States was then a resident of this state and in the service of a sheriffs department and (1) had been honorably discharged or released under honorable circumstances from such military service, or (2) has a qualifying condition, as defined in section three hundred fifty of the executive law, and received a discharge other than bad conduct or dishonorable from such service, or (3) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and received a discharge other than bad conduct or dishonorable from such service, and such member returned to the service of a sheriffs department within the time limited by section two of this chapter.

§ 6. Paragraph a of subdivision 29 of section 302 of the retirement and social security law, as added by chapter 1000 of the laws of 1966, is amended to read as follows:

a. (1) Has been honorably discharged or released therefrom under honorable circumstances, or (2) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (3) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, and

§ 7. Paragraph d of subdivision 29-a of section 302 of the retirement and social security law, as added by chapter 1000 of the laws of 1966, is amended to read as follows:

d. Credit under this section shall not accrue to a person who is released from active duty under conditions other than honorable, unless such person has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service.

§ 8. Subdivision 31 of section 302 of the retirement and social security law, as amended by chapter 616 of the laws of 1995, subparagraph c of paragraph 1 as amended by chapter 476 of the laws of 2018, is amended to read as follows:

31. "Service in world war II." (1) Military service during the period commencing July first, nineteen hundred forty, and terminating December thirty-first, nineteen hundred forty-six, as a member of the armed forces of the United States, or service by one who was employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels

1 in oceangoing, i.e., foreign, intercoastal, or coastwise service as such
2 terms are defined under federal law (46 USCA 10301 & 10501) and further
3 to include "near foreign" voyages between the United States and Canada,
4 Mexico, or the West Indies via ocean routes, or public vessels in ocean-
5 going service or foreign waters and who has received a Certificate of
6 Release or Discharge from Active Duty and a discharge certificate, or an
7 Honorable Service Certificate/Report of Casualty, from the Department of
8 Defense, or service by one who served as a United States civilian
9 employed by the American Field Service and served overseas under United
10 States Armies and United States Army Groups in world war II during the
11 period of armed conflict, December seventh, nineteen hundred forty-one
12 through May eighth, nineteen hundred forty-five, and who (i) was
13 discharged or released therefrom under honorable conditions, or (ii) has
14 a qualifying condition, as defined in section three hundred fifty of the
15 executive law, and has received a discharge other than bad conduct or
16 dishonorable from such service, or (iii) is a discharged LGBT veteran,
17 as defined in section three hundred fifty of the executive law, and has
18 received a discharge other than bad conduct or dishonorable from such
19 service, or service by one who served as a United States civilian Flight
20 Crew and Aviation Ground Support Employee of Pan American World Airways
21 or one of its subsidiaries or its affiliates and served overseas as a
22 result of Pan American's contract with Air Transport Command or Naval
23 Air Transport Service during the period of armed conflict, December
24 fourteenth, nineteen hundred forty-one through August fourteenth, nine-
25 teen hundred forty-five, and who (iv) was discharged or released there-
26 from under honorable conditions, or (v) has a qualifying condition, as
27 defined in section three hundred fifty of the executive law, and has
28 received a discharge other than bad conduct or dishonorable from such
29 service, or (vi) is a discharged LGBT veteran, as defined in section
30 three hundred fifty of the executive law, and has received a discharge
31 other than bad conduct or dishonorable from such service, or of any
32 person who:

33 a. (i) Has been honorably discharged or released therefrom under
34 honorable circumstances, or (ii) has a qualifying condition, as defined
35 in section three hundred fifty of the executive law, and has received a
36 discharge other than bad conduct or dishonorable from such service, or
37 (iii) is a discharged LGBT veteran, as defined in section three hundred
38 fifty of the executive law, and has received a discharge other than bad
39 conduct or dishonorable from such service, and

40 b. Was a resident of this state at the time of his entrance into such
41 armed forces, or, if not a resident of this state at that time, was then
42 or thereafter became an employee of a participating employer created by
43 and deriving its powers from an agreement between this state and any
44 other state and was a resident of such other state at the time of his
45 entrance into such armed forces, and

46 c. Was either a member of the New York state and local employees'
47 retirement system and an employee of the state or of a participating
48 employer of such system at the time he or she entered such armed forces
49 or became such employee and such member while in such armed forces on or
50 before July first, nineteen hundred forty-eight, or became such employee
51 while in such armed forces and subsequently became such member on or
52 before July first, nineteen hundred forty-eight, or was an employee of
53 an employer which was not a participating employer at the time he or she
54 entered such armed forces but which elected to become a participating
55 employer while he or she was absent on military duty, or was an employee
56 of the state or of a participating employer or was a teacher as defined

1 in article eleven of the education law at the time of his or her
2 entrance into the armed forces and became a member of the police and
3 fire retirement system subsequent to separation or discharge from the
4 armed services, and

5 d. Returned to the employment of the state or a participating employ-
6 er, within one year following discharge or release or completion of
7 advanced education provided under the servicemen's readjustment act of
8 nineteen hundred forty-four, certified on a world war II military
9 service certificate, and allowable as provided in section forty-one of
10 this article. Such service shall not include any periods during which
11 civil compensation was received by the member under the provisions of
12 section two hundred forty-two of the military law, or section six of
13 chapter six hundred eight of the laws of nineteen hundred fifty-two; or

14 (2) Military service, not in excess of three years and not otherwise
15 creditable under paragraph one hereof, rendered on active duty in the
16 armed forces of the United States during the period commencing July
17 first, nineteen hundred forty, and terminating December thirty-first,
18 nineteen hundred forty-six, or service by one who was employed by the
19 War Shipping Administration or Office of Defense Transportation or their
20 agents as a merchant seaman documented by the United States Coast Guard
21 or Department of Commerce, or as a civil servant employed by the United
22 States Army Transport Service (later redesignated as the United States
23 Army Transportation Corps, Water Division) or the Naval Transportation
24 Service; and who served satisfactorily as a crew member during the peri-
25 od of armed conflict, December seventh, nineteen hundred forty-one, to
26 August fifteenth, nineteen hundred forty-five, aboard merchant vessels
27 in oceangoing, i.e., foreign, intercoastal, or coastwise service as such
28 terms are defined under federal law (46 USCA 10301 & 10501) and further
29 to include "near foreign" voyages between the United States and Canada,
30 Mexico, or the West Indies via ocean routes, or public vessels in ocean-
31 going service or foreign waters and who has received a Certificate of
32 Release or Discharge from Active Duty and a discharge certificate, or an
33 Honorable Service Certificate/Report of Casualty, from the Department of
34 Defense, or service by one who served as a United States civilian
35 employed by the American Field Service and served overseas under United
36 States Armies and United States Army Groups in world war II during the
37 period of armed conflict, December seventh, nineteen hundred forty-one
38 through May eighth, nineteen hundred forty-five, and who (i) was
39 discharged or released therefrom under honorable conditions, or (ii) has
40 a qualifying condition, as defined in section three hundred fifty of the
41 executive law, and has received a discharge other than bad conduct or
42 dishonorable from such service, or (iii) is a discharged LGBT veteran,
43 as defined in section three hundred fifty of the executive law, and has
44 received a discharge other than bad conduct or dishonorable from such
45 service, or service by one who served as a United States civilian Flight
46 Crew and Aviation Ground Support Employee of Pan American World Airways
47 or one of its subsidiaries or its affiliates and served overseas as a
48 result of Pan American's contract with Air Transport Command or Naval
49 Air Transport Service during the period of armed conflict, December
50 fourteenth, nineteen hundred forty-one through August fourteenth, nine-
51 teen hundred forty-five, and who (iv) was discharged or released there-
52 from under honorable conditions, or (v) has a qualifying condition, as
53 defined in section three hundred fifty of the executive law, and has
54 received a discharge other than bad conduct or dishonorable from such
55 service, or (vi) is a discharged LGBT veteran, as defined in section
56 three hundred fifty of the executive law, and has received a discharge

1 other than bad conduct or dishonorable from such service, or by a person
2 who was a resident of New York state at the time of entry into such
3 service and at the time of being discharged therefrom (vii) under honor-
4 able circumstances, or (viii) with a qualifying condition, as defined in
5 section three hundred fifty of the executive law, and received a
6 discharge other than bad conduct or dishonorable from such service, or
7 (ix) as a discharged LGBT veteran, as defined in section three hundred
8 fifty of the executive law, and received a discharge other than bad
9 conduct or dishonorable from such service, or, if not a resident of this
10 state at such times was then or thereafter became an employee of a
11 participating employer created by and deriving its powers from an agree-
12 ment between this state and any other state, and was a resident of such
13 other state at the time of entry into and discharge from such service,
14 and who makes the payments required by subdivision k of section three
15 hundred forty-one of this chapter.

16 However, no military service shall be creditable under this paragraph
17 two in the case of a member under an existing plan permitting retirement
18 upon twenty years of creditable service who is receiving a federal
19 pension (other than for disability) based upon a minimum of twenty years
20 of military service in the armed forces of the United States nor shall
21 such military service be creditable in the case of a member under any
22 other plan who is receiving a military pension (other than for disabili-
23 ty) for such service.

24 § 9. Subdivision 1 of section 1000 of the retirement and social secu-
25 rity law, as amended by chapter 41 of the laws of 2016, is amended to
26 read as follows:

27 1. A member, upon application to such retirement system, may obtain a
28 total not to exceed three years of service credit for up to three years
29 of military duty, as defined in section two hundred forty-three of the
30 military law, if the member (a) was honorably discharged from the mili-
31 tary, or (b) has a qualifying condition, as defined in section three
32 hundred fifty of the executive law, and has received a discharge other
33 than bad conduct or dishonorable from such service, or (c) is a
34 discharged LGBT veteran, as defined in section three hundred fifty of
35 the executive law, and has received a discharge other than bad conduct
36 or dishonorable from such service.

37 § 10. Notwithstanding any other provision of law to the contrary, none
38 of the provisions of this act shall be subject to section 25 of the
39 retirement and social security law.

40 § 11. This act shall take effect one year after it shall have become a
41 law. Effective immediately, the addition, amendment and/or repeal of any
42 rule or regulation necessary for the implementation of this act on its
43 effective date are authorized to be made and completed on or before such
44 effective date.

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

This bill would extend the benefits of Section 1000 of Retirement and Social Security Law to any member of a public retirement system in New York State who has a qualifying condition or is a discharged LGBT veteran as defined in section 350 of the Executive Law. The total service credit granted for any military service shall not exceed three years. Members must have at least five years of credited service (not including military service). Tier 1-5 members would be required to make a payment of three percent of their most recent compensation per year of additional service credit granted by this bill. Tier 6 members would be required to make a payment of six percent of their most recent compensation per year of additional service credit.

If this bill is enacted during the 2021 legislative session, 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 15% (12% 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 19% (16% 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.

Costs arising in ERS would be shared by the State of New York and the participating employers in the ERS

Costs arising in PFRS would be shared by the State of New York and the participating employers in the PFRS.

Summary of relevant resources:

Membership data as of March 31, 2020 was used in measuring the impact of the proposed change, the same data used in the April 1, 2020 actuarial valuation. Distributions and other statistics can be found in the 2020 Report of the Actuary and the 2020 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2020 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, 2020 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 fiscal note does not constitute a legal opinion on the viability of the proposed change nor is it intended to serve as a substitute for the professional judgment of an attorney.

This estimate, dated May 18, 2021, and intended for use only during the 2021 Legislative Session, is Fiscal Note No. 2021-148, prepared by the Actuary for the New York State and Local Retirement System.

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

As it applies to members of the New York State Teachers' Retirement System, section 9 of this bill (legislative bill drafts 05266-03-1/05266-04-1) would amend subdivision 1 of Section 1000 of the Retirement and Social Security Law to allow a member who has a qualifying condition as defined in Section 350 of the Executive Law (post-traumatic stress disorder or traumatic brain injury) or a member who is a discharged LGBT veteran as defined in Section 350 of the Executive Law to purchase up to three years of military service credit provided such member did not receive a dishonorable discharge and was not discharged for bad conduct. To obtain such credit, a member must make payments as required by Section 1000 of the Retirement and Social Security Law. Tier 1, 2, 3, 4 and 5 members are required to pay three percent of salary earned during the twelve months of credited service immediately preceding the year in which a claim is made for each year of military service. Tier 6 members are required to pay six percent of salary earned during the twelve months of credited service immediately preceding the year in which a claim is made for each year of military service.

It is not possible to determine the number of eligible current and future members, or the number of years of military service credit each such member may purchase under this bill. Therefore, it is not possible to estimate the annual increase in the employers' cost for this bill. Whatever increase in liability that arises for service credited under this bill above that paid by the member would be included in the cost that would be shared by employers through the employer contribution rate.

It is estimated that the cost, expressed as a percentage of a member's salary for each year of service credit a member purchases under this bill is as follows:

| Cost per year of Service Purchased (as a percentage of the member's salary) | | | |
|---|-------|-------|------|
| Tier(s) | 1-4 | 5 | 6 |
| Cost | 11.4% | 10.6% | 9.0% |
| Member Contribution offset | 3.0% | 3.0% | 6.0% |
| Net cost to participating employers | 8.4% | 7.6% | 3.0% |

Member data is from the System's most recent actuarial valuation files, consisting of data provided by the employers to the Retirement System. Data distributions and statistics can be found in the System's Annual Report. System assets are as reported in the System's financial statements, and can also be found in the System's Annual Report. Actuarial assumptions and methods are provided in the System's Actuarial Valuation Report.

The source of this estimate is Fiscal Note 2021-56 dated May 26, 2021 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2021 Legislative Session. I, Richard A. Young, am the Actuary for the New York State Teachers' Retirement System. I am a member of the American Academy of Actuaries and I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

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

SUMMARY OF BILL: This proposed legislation, as it relates to members of the New York City Retirement Systems and Pension Funds (NYCRS), amends Retirement and Social Security Law (RSSL) Section 1000 to permit the purchase of qualifying, other than honorably discharged, military service for NYCRS service credit.

Effective Date: One year after enactment.

BACKGROUND: Members of NYCRS who were other than honorably discharged from military service due to (1) post-traumatic stress disorder; (2) traumatic brain injury; (3) an experience of military sexual trauma; (4) sexual orientation, gender identity, or gender expression; or (5) conduct or acts relating to sexual orientation, gender identity, or gender expression that was prohibited by the military at the time of discharge, are generally ineligible to purchase such military service for purposes of NYCRS benefits.

IMPACT ON BENEFITS: Under the proposed legislation, if enacted, military service with qualifying discharges described above, would become eligible for purchase pursuant to RSSL Section 1000. RSSL Section 1000 allows for up to three years of military service to be purchased as NYCRS service credit.

Prior military service with discharges due to bad conduct or dishonorable discharge would remain ineligible to purchase for purposes of NYCRS benefits.

IMPACT ON PAYABILITY: In addition to the impact on benefits above, once purchased, eligible military service would count towards meeting the minimum eligibility requirements for NYCERS pension benefits.

ADDITIONAL MEMBER CONTRIBUTIONS: Eligible NYCERS members are required to make contributions, equal to 3% of compensation earned during the year of credited service immediately preceding the date of application, for all military service being purchased.

FINANCIAL IMPACT - OVERVIEW: There is no data available to estimate the number of members who were previously ineligible to purchase qualifying military service and potentially benefit from this proposed legislation. Therefore, the estimated financial impact has been calculated on a per event basis equal to the increase in the Present Value of Future Benefits (PVFB) for an average NYCERS member who has purchased military service under Chapter 41 of the Laws of 2016. In determining the increase in the PVFB, it has been assumed that 2.4 years were purchased.

FINANCIAL IMPACT - PRESENT VALUES: Based on the census data and the actuarial assumptions and methods described herein, the enactment of this proposed legislation would increase the PVFB by approximately \$49,300, on average, for each military buyback of 2.4 years purchased. The average cost to the member for each buyback was approximately \$8,300. This results in a net increase in the Present Value of future employer contributions of approximately \$41,000 for each military buyback of 2.4 years purchased.

With respect to an individual member, the additional cost of this proposed legislation could vary greatly depending on the member's length of service, age, and salary history.

FINANCIAL IMPACT - ANNUAL EMPLOYER CONTRIBUTIONS: Enactment of this proposed legislation would increase employer contributions, where such amount would depend on the number of members affected as well as other member characteristics as described above.

As there is no data currently available to estimate the number of members who might become eligible and purchase military service due to the proposed legislation, the financial impact would be recognized at the time of the event. Consequently, changes in employer contributions have been estimated assuming that the increase in the PVFB will be financed over a time period used under the current amortization period for actuarial losses under the Entry Age Normal cost method. Using this approach, the additional PVFB would be amortized over a closed 15-year period (14 payments under the One-Year Lag Methodology (OYLM)) using level dollar payments.

Based on the Actuary's actuarial assumptions and methods in effect described herein, the enactment of this proposed legislation is estimated to increase annual employer contributions by approximately \$4,900 for each military buyback of 2.4 years purchased. With respect to the timing, increases in employer contributions would depend upon when members elect to purchase the service. Generally, increased employer contributions will first occur the second fiscal year following processing and payment of the buyback application.

The proposed legislation, pursuant to section 10 of the bill, is not subject to RSSL section 25. Therefore, costs associated with the enactment of this bill would not be subject to State reimbursement notwithstanding the increased cost of prior service associated with the bill.

CENSUS DATA: The estimates presented herein are based on the census data of members who have purchased military service under Chapter 41 of the Laws of 2016 as of June 30, 2020.

As of June 30, 2020, there were 3,202 NYCERS members who have purchased prior military service under Chapter 41. Those members had an average age of approximately 48.6 years, average service of approximately 16.9 years before buyback, and an average salary of approximately \$107,700. The average amount of service credit purchased was approximately 2.4 years.

ACTUARIAL ASSUMPTIONS AND METHODS: The changes in the Present Value of future employer contributions and annual employer contributions presented herein have been calculated based on the actuarial assumptions and methods in effect for the June 30, 2019 (Lag) actuarial valuations used to determine the Preliminary Fiscal Year 2021 employer contributions of each respective NYCERS.

The Actuary is proposing a set of changes for use beginning with the June 30, 2019 (Lag) actuarial valuations of each NYCERS to determine the respective Final Fiscal Year 2021 Employer Contributions (2021 A&M). If the 2021 A&M is enacted, it is estimated that it would produce PVFB and annual employer contribution results that are within 1% from the results shown above.

RISK AND UNCERTAINTY: The costs presented in this Fiscal Note depend highly on the realization of the actuarial assumptions used, as well as certain demographic characteristics of each respective NYCERS and other exogenous factors such as investment, contribution, and other risks. If actual experience deviates from actuarial assumptions, the actual costs could differ from those presented herein. Costs are also dependent on the actuarial methods used, and therefore different actuarial methods could produce different results. Quantifying these risks is beyond the scope of this Fiscal Note.

Not measured in this Fiscal Note are the following:

- * The initial, additional administrative costs of NYCERS and other New York City agencies to implement the proposed legislation.
- * The impact of this proposed legislation on Other Postemployment Benefit (OPEB) costs.

STATEMENT OF ACTUARIAL OPINION: I, Sherry S. Chan, am the Chief Actuary for, and independent of, the New York City Retirement Systems and Pension Funds. I am a Fellow of the Society of Actuaries, an Enrolled Actuary under the Employee Retirement Income and Security Act of 1974, a Member of the American Academy of Actuaries, and a Fellow of the Conference of Consulting Actuaries. I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein. To the best of my knowledge, the results contained herein have been prepared in accordance with generally accepted actuarial principles and procedures and with the Actuarial Standards of Practice issued by the Actuarial Standards Board.

FISCAL NOTE IDENTIFICATION: This Fiscal Note 2021-43 dated June 8, 2021 was prepared by the Chief Actuary for the New York City Retirement Systems and Pension Funds. This estimate is intended for use only during the 2021 Legislative Session.