# STATE OF NEW YORK

3274

2023-2024 Regular Sessions

# IN ASSEMBLY

February 2, 2023

Introduced by M. of A. EPSTEIN -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the civil service law, the retirement and social security law, the administrative code of the city of New York and the New York city charter, in relation to suspension of retirement allowance upon re-employment with a public authority or public benefit corporation

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

Section 1. Section 150 of the civil service law, as amended by chapter 211 of the laws of 1995, is amended to read as follows:

§ 150. Suspension of pension and annuity during public employment. Except as otherwise provided by sections one hundred one, two hundred eleven, and two hundred twelve of the retirement and social security law, section five hundred three of the education law, and except as now provided by any local law or charter, if any person subsequent to his or her retirement from the civil service of the state or of any municipal corporation or political subdivision of the state, shall accept any office, position or employment in the civil service of the state or of any municipal corporation [~~or~~], political subdivision of the state **or any public authority or public benefit corporation** to which any salary or emolument is attached, except jury duty or the office of inspector of election, poll clerk or ballot clerk under the election law, or the office of notary public or commissioner of deeds, or an elective public office, any pension or annuity awarded or allotted to him or her upon retirement, and payable by the state, by such municipal corporation or political subdivision, or out of any fund established by or pursuant to law, shall be suspended during such service or employment and while such person is receiving any salary or emolument therefor except reimbursement for traveling expenses. Notwithstanding the foregoing, if any person, subsequent to his or her retirement from an elective public

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

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office, accepts appointment, is re-elected or takes a new oath of office to the same elective public office from which he or she retired, his or her retirement allowance shall be suspended until the date he or she vacates such elective public office, unless the amount earned for any calendar year for that elective public office does not exceed the earning limitation provided for retired persons in section two hundred twelve of the retirement and social security law. However, for purposes of this section the age seventy unlimited earnings provision of section two hundred twelve of the retirement and social security law will not pertain to any person, subsequent to his or her retirement from an elective public office, if such person accepts appointment, is re-elected or takes a new oath of office to the same elective public office from which he or she retired.

§ 2. Subdivision 1 of section 211 of the retirement and social security law, as amended by chapter 640 of the laws of 2008, is amended to read as follows:

1. Notwithstanding the provisions of sections one hundred one, two hundred twelve and four hundred one of this chapter or section five hundred three of the education law, or the provisions of any local law or charter, a retired person may be employed and earn compensation in a position or positions in the public service, without any effect on his or her status as retired and without suspension or diminution of his or her retirement allowance subject to one of the following: (a) His or her total compensation in such position or positions in any calendar year, including compensation earned under other provisions of this article, shall not exceed the multiple of five hundred dollars next higher than the difference between (1) the sum of his or her annual retirement allowance computed without optional modification plus annual supplemental retirement payments, if any, and (2) the salary on which his or her retirement allowance is based or his or her final salary, whichever is greater; or (b) The position in which he or she is employed is not a position in the service of a former employer**, or a public authority or public benefit corporation**.

§ 3. Subdivision 1 of section 212 of the retirement and social security law, as amended by chapter 640 of the laws of 2008, is amended to read as follows:

1. Notwithstanding the provisions of section one hundred one, two hundred eleven or four hundred one of this chapter or of section five hundred three of the education law, or the provisions of any local law or charter, any retired person may continue as retired and, without loss, suspension or diminution of his or her retirement allowance, earn in a position or positions in public service**, except for employment with a public authority or public benefit corporation,** in any calendar year an amount not exceeding the amount set forth in the table in subdivision two of this section provided such retired person employed under this section duly executes and files with the retirement system from which he or she is receiving a retirement allowance a statement that he elects to have the provisions of this section apply to him or her. A statement of election executed and filed pursuant to this section may be withdrawn by a retired person at any time by a statement similarly executed and filed. However, there shall be no earning limitations under the provisions of this section on or after the calendar year in which any retired person attains age sixty-five. The retirement board of the New York state teachers' retirement system is authorized to adopt rules and regulations which would allow retired persons receiving a retirement allowance from such system to make such statements of earnings from a

position or positions in public service as such board shall determine necessary to enforce the provisions of this section in lieu of the foregoing statement of election.

§ 4. Subdivision b of section 13-178 of the administrative code for the city of New York is amended to read as follows:

b. Under this section or section eleven hundred seventeen of the charter, during restoration to city-service or service under the state of New York or any municipal corporation or political subdivision of the state **or any public authority or public benefit corporation**, any benefits payable in the event of his or her death by reason of any optional selection in respect to his or her pension and his or her pension-for-increased-take-home-pay, if any, shall be suspended unless the beneficiary shall pay to the fund or funds from which his or her ordinary pension and his or her pension-for-increased-take-home-pay, if any, were payable, the amount by which his or her ordinary pension and his or her pension-for-increased-take-home-pay, if any, exceeded the optional pension and his or her pension-for-increased-take-home-pay, if any, theretofore granted to him or her. In the event of his or her death during any period covered by such contribution, such optional benefit shall be payable. The provisions of this subdivision b shall not apply to any such beneficiary to whom the provisions of subdivision four of section 13-151 of this chapter are applicable.

§ 5. Section 1117 of the New York city charter, as amended by a vote of the people of the city of New York at the general election held in November of 1989, is amended to read as follows:

§ 1117. Pensioner not to hold office. If a person receiving a pension or a retirement allowance made up of such pension and an annuity purchased by the pensioner from the city or any agency, or out of any fund under the city or any agency, by reason of such person's own prior employment by the city or any agency, shall hold and receive any compensation from any office, employment or position under the state or city or any of the counties included within the city or any municipal corporation or political subdivision of the state**, or a public authority or public benefit corporation**, except the offices of inspector of election, poll clerk or ballot clerk under the election law or commissioner of deeds or notary public or jury duty, the payment of said pension only shall be suspended and forfeited during and for the time such person shall hold and receive compensation from such office, position or employment; but this section shall not apply where the pension and the salary or compensation of the office, employment or position amount in the aggregate to less than one thousand eight hundred dollars annually.

§ 6. This act shall take effect immediately.