§ 446. Credit for service. a. Part-time service.

1. A member of a retirement system who is subject to the provisions of this article who works less than full time, which for the purposes of this article shall mean less than thirty hours a week in the cae of a member who has a specified work-week, shall receive retirement credit for such service in accordance with the following provisions:

(a) A member employed on an hourly basis who works for five hundred or more hours a year and who is on the payroll for a minimum of five months in the year shall receive credit on a prorated basis, but in no event shall less than six hours constitute a full day's retirement credit;

(b) A member employed on a per diem basis who works at least sixty days in a year and who is on the payroll for a minimum of five months in the year shall receive retirement credit on a day-for-day basis, but in no event shall less than six hours constitute a full day's retirement credit;

(c) If the annual salary of a member paid on a basis other than per diem or per hour would be less than the product of the state's minimum wage during such period and two thousand hours, the presumption shall be that such a member is a part-time employee and any retirement credit granted shall be prorated; provided, however, such a member shall not receive greater credit than a member working on a per diem basis.

2. Except for retirement credit for military service as specified in subdivision d of this section, a member shall not receive retirement credit for any day that he is not on the payroll of the state, a political subdivision thereof, or a participating employer. Notwithstanding any other provisions of this section, with respect to members of the New York state employees' retirement system, teachers as defined in section one hundred thirty-six of the civil service law, employed full time for the school year, shall be deemed on the payroll of the state, for twelve months in crediting retirement service credit for service rendered. For the purposes of this paragraph the comptroller shall define school year by regulation.

3. The membership of any member who is subject to the provisions of this subdivision a, or to the provisions of any rule or regulation

promulgated and approved in accordance with the provisions of subdivision f of this section, shall be continued and shall not be terminated for so long as such member is actually in service.

b. Previous service.

A member of a retirement system who is subject to the provisions of this article shall be eligible to obtain retirement credit for previous service if retirement credit had previously been granted for such service or if such service that would have been creditable in one of the public retirement systems of the state, as defined in subdivision twenty-three of section five hundred one of this chapter, at the time such service was rendered, if the individual had been a member of such retirement system and the member has rendered a minimum of two years of credited service after July first, nineteen hundred seventy-three; provided, however, retirement credit may be granted for service which predates the date of entry into the retirement system if such service is otherwise creditable and was rendered by an employee during which employment he was ineligible to join a public retirement system.

* b-1. Employer pick-up of contributions in respect of previous service. Notwithstanding any other provision of law, any member of the New York city teachers' retirement system eligible to purchase credit for previous service with a public employer pursuant to subdivision b of this section, may elect to purchase any or all of such service by executing a periodic payroll deduction agreement. Such agreement shall set forth the amount of previous service being purchased, the estimated total cost of such service credit, and the number of payroll periods in which such periodic payments shall be made. Such agreement shall be irrevocable, shall not be subject to amendment or modification in any manner, and shall expire only upon completion of payroll deductions specified therein. Notwithstanding the foregoing, any member who has entered into such a payroll deduction agreement and who terminates employment prior to completion of the payments required therein shall be credited with any service as to which such member shall have paid the contributions required under the terms of such agreement.

* NB Effective until notice of ruling by Internal Revenue Service per ch. 627/2007 §22

* b-1. Employer pick-up of contributions in respect of previous service or military service. Notwithstanding any other provision of law, any member of the New York city teachers' retirement system, the New York state teachers' retirement system, the New York city employees' retirement system, the New York city board of education retirement system, the New York state and local employees' retirement system, the New York state and local police and fire retirement system or the New York city fire department pension fund eligible to purchase credit for previous service with a public employer pursuant to subdivision b of this section or to purchase credit for military service pursuant to article twenty of this chapter, may elect to purchase any or all of such service by executing a periodic payroll deduction agreement where and to the extent such elections are permitted by the member's retirement system by rule or regulation. Such agreement shall set forth the amount of previous service or military service being purchased, the estimated total cost of such service credit, and the number of payroll periods in which such periodic payments shall be made. Such agreement shall be irrevocable, shall not be subject to amendment or modification in any manner, and shall expire only upon completion of payroll deductions specified therein. Notwithstanding the foregoing, any member who has entered into such a payroll deduction agreement and who terminates employment prior to completion of the payments required therein shall be credited with any service as to which such member shall have paid the contributions required under the terms of such agreement.

* NB Takes effect upon notice of ruling by Internal Revenue Service per ch. 627/2007 §22 -- expires per ch. 691/2004 §8

c. Creditable service.

A member of a retirement system who is subject to the provisions of this article shall not be eligible to obtain retirement credit for service with a public employer other than the state of New York, a political subdivision thereof, a public benefit corporation, or a participating employer; provided, however, military service with the federal government may be credited pursuant to section two hundred forty-three of the military law up to a maximum of four years; and further provided that retirement credit may be granted for service with

an agency located within the state of New York currently specified in the law as providing retirement credit for service.

d. To facilitate administration of the provisions of this section the administrative head or the trustees of a retirement system, as may be appropriate, may make interpretations of the provisions of this section which are consistent with the intent of this section, but such interpretations shall not take effect unless publicly promulgated.

f. Notwithstanding any other provision of law, any member of the New York state and local employees' retirement system who is subject to the provisions of this article and who is employed by a school district, a board of cooperative educational services, a vocational education and extension board, an institution for the instruction of the deaf and of the blind as enumerated in section four thousand two hundred one of the education law, or a school district as enumerated in section one of chapter five hundred sixty-six of the laws of nineteen hundred sixty-seven as amended to date, shall have their service credit for service rendered on or after January first, nineteen hundred ninety determined by dividing the number of days worked in a school year by one hundred eighty. For the purpose of this section a school year will begin on July first and end the following June thirtieth. No more than one year of service may be credited during any such fiscal year. Credit for service rendered before January first, nineteen hundred ninety shall be determined in the same manner if a person eligible for such benefit shall file the appropriate application with the state comptroller on or before August second, nineteen hundred ninety-six and, within five years of filing such application, make payment for all costs necessary to finance the receipt of such service credit.

g. Notwithstanding the provisions of subdivision c of this section, a member of a retirement system who is subject to the provisions of this article shall be eligible to obtain retirement credit for previous service if retirement credit has previously been granted for such service rendered prior to January first, nineteen hundred fifty-five and if such member has rendered a minimum of three years of credited service after July first, nineteen hundred seventy-three.

h. The provisions of paragraph one of subdivision a of this section shall not apply to members of the New York city employees' retirement system or the New York city board of education retirement system who are subject to the provisions of this article. The crediting of service for such members of such retirement systems shall be governed by the applicable provisions of subdivision c of section 13-638.4 of the administrative code of the city of New York, and the other applicable provisions of such code and of the rules and regulations of such board of education retirement system.

i. Except for retirement credit for military service as specified in subdivision c of this section, a member shall not receive retirement credit for any day that he is not on the payroll of the state, a political subdivision thereof, or a participating employer. Notwithstanding any other provision of this section to the contrary, with respect to members of the New York state and local employees' retirement system, a member who is employed by a community college as defined in section six thousand three hundred one of the education law or who is employed by any unit of the state university of New York as defined in section three hundred fifty of the education law, and who is in the classified service as that term is defined in section forty of the civil service law, and who is employed for the full academic year, full academic year shall mean the fall and spring semesters during which academic courses are offered, shall be deemed to be on the payroll of such community college or state university for twelve months in crediting retirement service credit for service rendered.

j. Except for retirement credit for military service as specified in subdivision c of this section, a member shall not receive retirement credit for any day that he is not on the payroll of the state, a political subdivision thereof, or a participating employer. Notwithstanding any other provision of this section to the contrary, a member of the New York state and local employees' retirement system who is employed by a community college as defined in section six thousand three hundred one of the education law or who is employed by any unit of the state university of New York as defined in section three hundred

fifty of the education law, and who is in the unclassified service of the civil service as defined in subdivisions (h) and (i) of section thirty-five of the civil service law, and who is employed for the full academic year, full academic year shall mean the fall and spring semesters during which academic courses are offered, shall be deemed to be on the payroll of such community college or state university for twelve months in crediting retirement service credit for service rendered.