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

1. A member who works less than full time, which for the purposes of this article shall mean less than thirty hours a week, shall receive retirement credit for such service in accordance with the following provisions:

(i) 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;

(ii) 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;

(iii) 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 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 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.

* 2-a. 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, 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 for twelve months in crediting retirement service credit for service rendered.

* NB There are 2 paragraph 2-a's in sb a

* 2-a. 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, and who is in the unclassified service of the civil service as defined in subdivision (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 for twelve months in crediting retirement service credit for service rendered.

* NB There are 2 paragraph 2-a's in sb a

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 e of this section, shall be continued and shall not be terminated for so long as such member is actually in service during the period this article is in effect.

4. Notwithstanding any other provision of law, for the purposes of retirement service credit, retirement contribution and final average salary of members of the New York state and local employees' retirement

system, a member who has been granted service credit for a period of time for which he or she received compensation or wages shall not lose such credit by virtue of the fact that the employer has subsequently been reimbursed by a workers' compensation carrier with respect to all or a portion of the compensation or wages paid for such period.

5. Notwithstanding any other provision of law, for the purposes of retirement credit, retirement contribution and final average salary under this chapter, the compensation of a member of the New York city employees' retirement system who is either (i) a Triborough bridge and tunnel member as defined in section six hundred four-c of this chapter as added by chapter four hundred seventy-two of the laws of nineteen hundred ninety-five or as defined in section six hundred four-c of this chapter as added by chapter ninety-six of the laws of nineteen hundred ninety-five or to whom article sixteen of this chapter is applicable, or (ii) a New York city transit authority member as defined in section six hundred four-b of this chapter, for the period during which he or she receives a workers' compensation benefit shall be deemed to be the full compensation or salary such employee would have earned or been entitled to receive had he or she not received the workers' compensation benefit. During the period of time a member receives payment of such workers' compensation benefit, such member shall be deemed on the payroll in full status for the aforementioned purposes.

b. Previous service. A member shall be eligible to obtain retirement credit hereunder for previous service with a public employer if retirement credit had previously been granted for such service or if such service which 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 article, 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-six or after last rejoining a public retirement system, if later; 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 of a public employer during which

employment he was ineligible to join a public retirement system provided that such public employer was participating in a public retirement system of the state at the time of such employment, or is so participating at the time that credit for such previous service is being sought.

* b-1. Employer pick-up of contributions in respect of previous service or military service. Notwithstanding any other provision of law, any member 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 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 required therein. Notwithstanding the foregoing, any member who has entered into such a payroll deduction agreement and who terminates employment prior to the 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 the agreement.

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

c. Creditable service. 1. A member shall not be eligible to obtain 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 law as providing retirement credit for service.

2. (i) A police/fire member shall be eligible to obtain credit for

service with a public employer described in paragraph one only if such service, if rendered prior to July first, nineteen hundred seventy-six by a police/fire member who was subject to article eleven of this chapter, would have been eligible for credit in the police/fire retirement system or plan involved.

(ii) Notwithstanding any other provision of law to the contrary, a member of the New York city fire department pension fund subject to this article shall be eligible to obtain credit for any period of allowable service rendered as an EMT member, as such term is defined in paragraph one of subdivision a of section six hundred four-e of this chapter, as added by chapter five hundred seventy-seven of the laws of two thousand, which immediately precedes service in the uniformed force of the fire department and such service shall be deemed to be in service of the uniformed force of the fire department for purposes of eligibility for benefits and to determine the amount of benefits under the New York city fire department pension fund, provided that such member pays or transfers into the New York city fire department pension fund all member contributions set forth in section five hundred seventeen of this article plus interest, at a rate of five percent per annum. For a member who transfers such contributions from the New York city employees' retirement system to the New York city fire department pension fund or for a member who withdraws such contributions from the New York city employees' retirement system, such member's membership in the New York city employees' retirement system shall cease upon such transfer or withdrawal and such member shall retain no credited service in such system.

(iii) The provisions of this paragraph shall apply to a member with ten or more years of credited service in the New York city employees' retirement system, notwithstanding the provisions of section six hundred thirteen of this chapter or any other provision of law to the contrary.

(iv) Notwithstanding any other provision of law to the contrary, a member of the New York city police pension fund subject to this article shall be eligible to obtain credit for any period of service rendered as a New York city school safety agent or supervisor of school safety agents, a New York city corrections officer or supervisor of New York city corrections officers, a New York city traffic enforcement agent or supervisor of traffic enforcement agents, or in the New York city police

department cadet program in the title of police cadet program or police cadet program II, which immediately precedes service in the uniformed force of the New York city police department, and such service shall be deemed to be in service of the uniformed force of the New York city police department for purposes of eligibility for benefits and to determine the amount of benefits under the New York city police pension fund, provided that such member pays or transfers into the New York city police pension fund all member contributions set forth in section five hundred seventeen of this article plus interest, at a rate of five percent per annum. For a member who transfers such contributions from the New York city employees' retirement system to the New York city police pension fund or for a member who withdraws such contributions from the New York city employees' retirement system, such member's membership in the New York city employees' retirement system shall cease upon such transfer or withdrawal and such member shall retain no credited service in such system.

d. To facilitate administration of the provisions of this section the head of a retirement system 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. 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.

h. Notwithstanding any other provision of this section, any general member in the uniformed correction force of the New York city department of correction and any member of the uniformed force of the New York city department of correction who is a New York city uniformed correction/sanitation revised plan member, who is absent without pay for a child care leave of absence pursuant to regulations of the New York city department of correction shall be eligible for credit for such period of child care leave provided such member files a claim for such service credit with the retirement system by December thirty-first, two thousand five or within ninety days of the termination of the child care leave, whichever is later, and contributes to the retirement system an amount which such member would have contributed during the period of such child care leave, together with interest thereon. Service credit provided pursuant to this subdivision shall not exceed one year of credit for each period of authorized child care leave. In the event there is a conflict between the provisions of this subdivision and the provisions of any other law or code to the contrary, the provisions of this subdivision shall govern.