

(See FISCAL NOTES at end of Chapter.)

1 AN ACT to amend the retirement and social security law, in relation to  
2 providing credit to members of public retirement systems of the state  
3 for military service; and making an appropriation therefor  
4

5 Became a law May 31, 2016, with the approval of the Governor.

6 Passed by a majority vote, three-fifths being present.

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8 The People of the State of New York, represented in Senate and Assem-  
9 bly, do enact as follows:

10  
11 Section 1. Section 1000 of the retirement and social security law, as  
12 added by chapter 548 of the laws of 2000, subdivision 9 as added by  
13 chapter 547 of the laws of 2002 and subdivision 10 as added by chapter  
14 18 of the laws of 2012, is amended to read as follows:

15 § 1000. Military service credit. Notwithstanding any law to the  
16 contrary, a member of a public retirement system of the state, as  
17 defined in subdivision twenty-three of section five hundred one of this  
18 chapter, shall be eligible for credit for military service as hereinaft-  
19 er provided:

20 1. A member, upon application to such retirement system, may obtain a  
21 total not to exceed three years of service credit for up to three years  
22 of military duty, as defined in section two hundred forty-three of the  
23 military law, if the member was honorably discharged from the military  
24 [~~and all or part of such military service was rendered during the~~]  
25 [~~following periods: (a) commencing December seventh, nineteen hundred~~]  
26 [~~forty one and terminating December thirty first, nineteen hundred~~]  
27 [~~forty six; (b) commencing June twenty seventh, nineteen hundred fifty~~]  
28 [~~and terminating January thirty first, nineteen hundred fifty five; or~~]  
29 [~~(c) commencing February twenty eighth, nineteen hundred sixty one and~~]  
30 [~~terminating May seventh, nineteen hundred seventy five;~~]

31 [~~2. A member, upon application to such retirement system, may obtain a~~]  
32 [~~total not to exceed three years of service credit for up to three years~~]  
33 [~~of military duty, as defined in section two hundred forty-three of the~~]  
34 [~~military law, if honorably discharged therefrom, if all or part of such~~]  
35 [~~services was rendered in the military conflicts referenced below, as~~]  
36 [~~follows:~~]

37 [~~(a) hostilities participated in by the military forces of the United~~]  
38 [~~States in Lebanon, from the first day of June, nineteen hundred eighty-~~]  
39 [~~three to the first day of December, nineteen hundred eighty seven, as~~]  
40 [~~established by receipt of the armed forces expeditionary medal, the navy~~]  
41 [~~expeditionary medal, or the marine corps expeditionary medal;~~]

42 [~~(b) hostilities participated in by the military forces of the United~~]  
43 [~~States in Grenada, from the twenty third day of October, nineteen~~]  
44 [~~hundred eighty three to the twenty first day of November, nineteen~~]  
45 [~~hundred eighty three, as established by receipt of the armed forces~~]  
46 [~~expeditionary medal, the navy expeditionary medal, or the marine corps~~]  
47 [~~expeditionary medal;~~]

48 EXPLANATION--Matter in italics is new; matter in brackets [-] is old law  
49 to be omitted.

1 [~~CHAP. 41~~ ~~2~~]

2 [~~(c) hostilities participated in by the military forces of the United~~]

3 [~~States in Panama, from the twentieth day of December, nineteen hundred~~]  
4 [~~eighty nine to the thirty first day of January, nineteen hundred ninety,~~]  
5 [~~as established by receipt of the armed forces expeditionary medal, the~~]  
6 [~~navy expeditionary medal, or the marine corps expeditionary medal; or~~]  
7 [~~(d) hostilities participated in by the military forces of the United~~]  
8 [~~States, from the second day of August, nineteen hundred ninety, to the~~]  
9 [~~end of such hostilities in case of a veteran who served in the theater~~]  
10 [~~of operations including Iraq, Kuwait, Saudi Arabia, Bahrain, Qatar, the~~]  
11 [~~United Arab Emirates, Oman, the Gulf of Aden, the Gulf of Oman, the~~]  
12 [~~Persian Gulf, the Red Sea, and the airspace above these locations~~].

13 [3] 2. A member must have at least five years of credited service (not  
14 including service granted hereunder) to be eligible to receive credit  
15 under this section.

16 [4] 3. To obtain such credit, a member shall pay such retirement  
17 system, for deposit in the fund used to accumulate employer contrib-  
18 utions, a sum equal to the product of the number of years of military  
19 service being claimed and three percent of such member's compensation  
20 earned during the twelve months of credited service immediately preced-  
21 ing the date that the member made application for credit pursuant to  
22 this section. If permitted by rule or regulation of the applicable  
23 retirement system, the member may pay such member costs by payroll  
24 deduction for a period which shall not exceed the time period of mili-  
25 tary service to be credited pursuant to this section. In the event the  
26 member leaves the employer payroll prior to completion of payment, he or  
27 she shall forward all remaining required payments to the appropriate  
28 retirement system prior to the effective date of retirement. If the full  
29 amount of such member costs is not paid to the appropriate retirement  
30 system prior to the member's retirement, the amount of service credited  
31 shall be proportional to the total amount of the payments made prior to  
32 retirement.

33 [5] 4. In no event shall the credit granted pursuant to this section,  
34 when added to credit granted for military service with any retirement  
35 system of this state pursuant to this or any other provision of law,  
36 exceed a total of three years.

37 [6] 5. To be eligible to receive credit for military service under  
38 this section, a member must make application for such credit before the  
39 effective date of retirement. [~~Notwithstanding the foregoing provisions~~]  
40 [~~of this subdivision, an individual who retired on or after December~~]  
41 [~~twenty first, nineteen hundred ninety eight and before the effective~~]  
42 [~~date of this section may make application for credit pursuant to this~~]  
43 [~~section within one year following the effective date of this section, in~~]  
44 [~~which event, the cost to the retiree would be based on the twelve month~~]  
45 [~~period immediately preceding retirement.~~]

46 [7] 6. All costs for service credited to a member pursuant to this  
47 section, other than the member costs set forth in subdivision three of  
48 this section, shall be paid by the state and all employers which partic-  
49 ipate in the retirement system in which such member is granted credit.

50 [8] 7. A member who has purchased military service credit pursuant to  
51 section two hundred forty-four-a of the military law shall be entitled  
52 to a refund of the difference between the amount paid by the member for  
53 such purchase and the amount that would be payable if service had been  
54 purchased pursuant to this section.

55 [9] 8. Notwithstanding any other provision of law, in the event of  
56 death prior to retirement, amounts paid by the member for the purchase  
57 of military service credit pursuant to this section shall be refunded,

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3 with interest, to the extent the military service purchased with such  
4 amounts does not produce a greater death benefit than would have been  
5 payable had the member not purchased such credit.

6 Notwithstanding any other provision of law, in the event of retire-

7 ment, amounts paid by the member for the purchase of military service  
8 credit pursuant to this section shall be refunded, with interest, to the  
9 extent the military service purchased with such amounts does not produce  
10 a greater retirement allowance than would have been payable had the  
11 member not purchased such credit.

12 [~~10.~~] 9. Anything to the contrary in subdivision [~~four~~] three of this  
13 section notwithstanding, to obtain such credit, a member who first joins  
14 a public retirement system of the state on or after April first, two  
15 thousand twelve shall pay such retirement system, for deposit in the  
16 fund used to accumulate employer contributions, a sum equal to the prod-  
17 uct of the number of years of military service being claimed and six  
18 percent of such member's compensation earned during the twelve months of  
19 credited service immediately preceding the date that the member made  
20 application for credit pursuant to this section.

21 § 2. The sum of twenty-four million eight hundred thousand dollars  
22 (\$24,800,000), or so much thereof as may be necessary, is hereby appro-  
23 priated to the department of audit and control out of any moneys in the  
24 state treasury in the general fund to the credit of the state purposes  
25 account, not otherwise appropriated, and made immediately available, for  
26 the purpose of carrying out the provisions of this act. Such moneys  
27 shall be payable on the audit and warrant of the comptroller on vouchers  
28 certified or approved by the head of the appropriate public retirement  
29 system in the manner prescribed by law.

30 § 3. This act shall take effect immediately.

31 -----  
32 FISCAL NOTE.-- Pursuant to Legislative Law, Section 50:

33 This bill would allow up to three (3) years of service credit for  
34 military duty by removing all existing requirements that such military  
35 service be performed during certain war periods, during certain hostil-  
36 ities while in the theater of operations or upon receipt of an expedi-  
37 tionary medal. However, the total service credit granted for active and  
38 peacetime military service shall not exceed three (3) years. Members  
39 must have at least five years of credited service (not including mili-  
40 tary service). Tier 1-5 members would be required to make a payment of  
41 three percent of their most recent compensation per year of additional  
42 service credit granted by this bill. Tier 6 members would be required to  
43 make a payment of six percent of their most recent compensation per year  
44 of additional service credit.

45 If this bill is enacted, insofar as this proposal affects the New York  
46 State and Local Employees' Retirement System (ERS), it is estimated that  
47 the past service cost will average approximately 15% (12% for Tier 6) of  
48 an affected members' compensation for each year of additional service  
49 credit that is purchased.

50 Insofar as this proposal affects the New York State and Local Police  
51 and Fire Retirement System (PFRS), it is estimated that the past service  
52 cost will average approximately 19% (16% for Tier 6) of an affected  
53 members' compensation for each year of additional service that is  
54 purchased.

55 The exact number of current members as well as future members who  
56 could be affected by this legislation cannot be readily determined.

57 ERS costs would be borne entirely by the State of New York. Since a  
58 member can apply for this service credit at any time prior to retire-

1 CHAP. 41

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3 ment, a precise cost can't be determined until each member, as well as  
4 future members, applies for the service credit. Every year a cost will  
5 be determined (and billed to the state) based on those benefiting from  
6 this provision.

7 PFRS costs would be shared by the State of New York and the partic-  
8 ipating employers in the PFRS.

9 Summary of relevant resources:

10 The membership data used in measuring the impact of the proposed  
11 change was the same as that used in the March 31, 2015 actuarial valu-  
12 ation. Distributions and other statistics can be found in the 2015  
13 Report of the Actuary and the 2015 Comprehensive Annual Financial  
14 Report.

15 The actuarial assumptions and methods used are described in the 2015  
16 Annual Report to the Comptroller on Actuarial Assumptions, and the Codes  
17 Rules and Regulations of the State of New York: Audit and Control.

18 The Market Assets and GASB Disclosures are found in the March 31, 2015  
19 New York State and Local Retirement System Financial Statements and  
20 Supplementary Information.

21 I am a member of the American Academy of Actuaries and meet the Quali-  
22 fication Standards to render the actuarial opinion contained herein.

23 This estimate, dated January 14, 2016 and intended for use only during  
24 the 2016 Legislative Session, is Fiscal Note No. 2016-25, prepared by  
25 the Actuary for the New York State and Local Retirement System.

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

27 With respect to certain New York City Retirement Systems (NYCRS), this  
28 proposed legislation would amend New York State Retirement and Social  
29 Security Law (RSSL) Section 1000 to provide certain members of the New  
30 York City Employees' Retirement System (NYCERS), the New York City  
31 Teachers' Retirement System (NYCTRS), the New York City Board of Educa-  
32 tion Retirement System (BERS), the New York City Police Pension Fund  
33 (POLICE) and the New York Fire Department Pension Fund (FIRE), collec-  
34 tively, the New York City Retirement Systems (NYCRS), the opportunity to  
35 obtain additional retirement service credits for certain Military  
36 Service.

37 This proposed legislation would permit any NYCRS member, prior to the  
38 effective date of retirement, to make application for these additional  
39 service credits.

40 To obtain such Military Service credits, members would be required to  
41 pay to the appropriate NYCRS, for each year of Military Service  
42 purchased, a sum equal to 3.0% (6.0% for members who first join on and  
43 after April 1, 2012) of such member's compensation earned during the  
44 twelve months of credited service immediately preceding the date that  
45 the member makes application for credit.

46 MEMBERS IMPACTED: Insofar as this proposed legislation relates to the  
47 NYCRS, the number of members who could potentially benefit from this  
48 proposed legislation cannot be readily determined.

49 IMPACT ON BENEFITS: With respect to the NYCRS, a member who served in  
50 the U.S. military and received an honorable discharge would be permit-  
51 ted, after completing five years of credited service (exclusive of the  
52 service credit that could be purchased under this proposed legislation),  
53 to purchase a maximum of three years of Military Service (inclusive of  
54 any prior purchases of Military Service credit).

55 In order to purchase the Military Service credits provided in this  
56 proposed legislation, a member must have been honorably discharged  
57 following a period of "military duty" as defined in New York State Mili-  
58 tary Law Section 243.

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3 If a member's Military Service meets these conditions, then that  
4 member would be permitted to purchase a maximum of three years of Mili-  
5 tary Service (inclusive of any previously-received Military Service  
6 credit) attributable to any period of the member's military career.

7 For purposes of the respective NYCRS, each year of Military Service  
8 credit purchased would apply toward providing the member with a year of  
9 benefit accrual under the particular benefit formula covering the  
10 member.

11 In certain circumstances, the member also may be entitled to utilize  
12 such Military Service as qualifying service for benefit eligibility

13 purposes.

14 For purposes of this Fiscal Note, it has been assumed that members who  
15 purchase Military Service in accordance with this proposed legislation  
16 would generally be entitled to count such service for benefit accrual  
17 purposes and for the purpose of qualifying for benefits.

18 FINANCIAL IMPACT - OVERVIEW: With respect to an individual member, the  
19 additional cost of this proposed legislation would depend on the length  
20 of all New York City service, age, salary history and Plan in which the  
21 member participates, as well as the number of years of service credit  
22 purchased.

23 With respect to employers participating in the NYCERS, the ultimate  
24 employer cost of this proposed legislation would be determined by the  
25 increase in benefits to be paid, the impact of certain benefits commencing  
26 earlier and the reduction in certain future member contributions.

27 FINANCIAL IMPACT - ACTUARIAL PRESENT VALUES: The additional Actuarial  
28 Present Value (APV) of benefits would depend on the number, salaries,  
29 ages and lengths of Military Service purchased by members who would be  
30 affected by this proposed legislation.

31 With respect to the NYCERS and based on the census data and assumptions  
32 herein, the enactment of this proposed legislation would increase the  
33 Actuarial Present Value (APV) of benefits (APVB) by approximately \$147.1  
34 million of June 30, 2016.

35 In addition, with respect to the NYCERS, the APV of future member  
36 contributions (primarily attributable to the payments by members of 3.0%  
37 (6.0% for members who first join on and after April 1, 2012) of salary  
38 per year of Military Service purchased) would increase by approximately  
39 \$22.2 million when measured as of June 30, 2016.

40 Consequently, with respect to the NYCERS, the APV of net future employ-  
41 er contributions would increase by approximately \$124.9 million as of  
42 June 30, 2016.

43 FINANCIAL IMPACT - ANNUAL EMPLOYER COSTS: The ultimate cost of a  
44 pension plan is the benefits it pays. With respect to the NYCERS, the  
45 financing of that ultimate cost depends upon the census data used and  
46 the actuarial assumptions and methods employed. Assuming that all eligi-  
47 ble members were to purchase the eligible Military Service during Fiscal  
48 Year 2016 and based on the Actuary's actuarial assumptions and methods  
49 in effect as of June 30, 2015, the enactment of this proposed legis-  
50 lation would increase annual employer costs by approximately \$14.8  
51 million per year.

52 FINANCIAL IMPACT - EMPLOYER CONTRIBUTIONS: The impact of the proposed  
53 legislation on employer contributions would be a function of the census  
54 data (i.e., age/service/salary, etc.) reported to the Actuary and of  
55 the timing of the members electing to buy back their Military Service.

56 With respect to the NYCERS, based on the Actuary's actuarial assump-  
57 tions and methods in effect as of June 30, 2015, the enactment of this  
1 CHAP. 41 6

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3 proposed legislation would ultimately increase employer contributions by  
4 approximately the estimated additional annual employer costs.

5 If applications for buying back Military Service were completed during  
6 Fiscal Year 2016 and the NYCERS census data were updated to reflect this  
7 information by June 30, 2016, then employer contributions would first be  
8 impacted for Fiscal Year 2018.

9 If the Military Service buybacks were completed after Fiscal Year  
10 2016, then the increase in employer contributions would first occur  
11 after Fiscal Year 2018.

12 FINANCIAL IMPACT - SUMMARY: The following table summarizes the esti-  
13 mated financial impact of this proposed legislation on the NYCERS.

14 Estimated Financial Impact to Allow Members of the NYCERS  
15 To Purchase up to Three Years of Military Service Credit  
16 (\$ Millions)

| Retirement System | Additional APV of Benefits | Additional APV of Future Employer Contributions{1} | Estimated First Year Additional Employer Costs{2} |
|-------------------|----------------------------|--|---|
| NYCERS            | \$51.0                     | \$42.9   | \$5.1   |
| NYCTRS            | 15.6                       | 12.8   | 1.5   |
| BERS              | 2.2                        | 1.9  | 0.2   |
| POLICE            | 61.8                       | 53.0   | 6.3   |
| FIRE              | <u>16.5</u>                | <u>14.3</u>  | <u>1.7</u>  |
| TOTAL             | \$147.1                    | 124.9  | \$14.8  |

{1} Equals increase in APVB minus increase in APV of future member contributions.

{2} Estimated Additional Employer Costs are determined without regard to the funded status of the Retirement Systems and represent the best estimates of the ultimate annual financial burden of the proposed legislation. Estimated Additional Employer Contributions would ultimately approximate Estimated Additional Employer Costs.

ADDITIONAL EMPLOYER COSTS - GENERAL: In general, the real cost of the enactment of this proposed legislation would be the additional benefits paid.

This Fiscal Note does not include analyses of the impact of this proposed legislation on the expected increases in administrative costs or costs for Other Post-Employment Benefits (OPEB).

CENSUS DATA: The census data used for estimates of APV of benefits and employer contributions presented herein are the active members included in the June 30, 2015 (Lag) actuarial valuations of NYCERS, NYCTRS, BERS, POLICE and FIRE used to determine the Preliminary Fiscal Year 2017 employer contributions.

ACTUARIAL ASSUMPTIONS AND METHODS: Additional APV of benefits, of member contributions and of employer contributions have been estimated as of June 30, 2017 using various approximating techniques and assumptions by the Actuary, including, but not limited to:

- \* A certain percentage of Veterans being honorably discharged.
- \* A certain percentage of honorably discharged Veterans being disabled.
- \* Different percentages of members by NYCERS having prior Military Service.
- \* Each eligible member purchasing an average of 2.5 years of the Military Service.

Changes in employer contributions have been estimated assuming the increase in the APV of Future Employer Contributions would be financed over a time period comparable to that used for actuarial losses under

1 7 CHAP. 41

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3 the Entry Age Actuarial Cost Method. Using this approach, the Additional  
4 APV of Future Employer Contributions would be amortized over a closed  
5 15-year period (14 payments under One-Year Lag Methodology) using level  
6 dollar payments.

7 STATEMENT OF ACTUARIAL OPINION: I, Sherry S. Chan, am the Chief Actu-  
8 ary for the New York City Retirement Systems. I am an Associate of the  
9 Society of Actuaries, a Fellow of the Conference of Consulting Actuar-  
10 ies, and a Member of the American Academy of Actuaries. I meet the Qual-  
11 ification Standards of the American Academy of Actuaries to render the  
12 actuarial opinion contained herein.

13 FISCAL NOTE IDENTIFICATION: This estimate is intended for use only  
14 during the 2016 Legislative Session. It is Fiscal Note 2016-04, dated  
15 March 1, 2016, prepared by the Chief Actuary for the New York City  
16 Employees' Retirement System, the New York City Teachers' Retirement  
17 System, the New York City Board of Education Retirement System, the New  
18 York City Police Pension Fund and the New York Fire Department Pension  
19 Fund.

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

21 This bill would amend Section 1000 of the Retirement and Social Security Law to allow active members of public retirement systems of New York State to claim service credit for up to three years of military service, regardless of when or where it was performed. Currently, active members can receive service credit for military service performed, but only during specified periods of war. A member must have at least five years of credited service to be eligible and make application for such credit before the effective date of retirement. To obtain such credit, a member must make payments as required in 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.

27 It is not possible to determine the total annual cost of this bill since the total amount of service credit which would be claimed under this bill cannot be estimated. Pursuant to Section 25 of the Retirement and Social Security Law, the cost to the New York State Teachers' Retirement System (NYSTRS) would be borne by the State of New York and would require an itemized appropriation adequate to pay the cost of this bill. The cost to the State of New York is estimated to be \$19,700 per year of service credited for Tier 1, 2, 3, 4 and 5 members and \$15,200 per year of service credited for Tier 6 members if this bill is enacted. Each year a cost will be computed and billed to the State of New York for those members of NYSTRS receiving a benefit under this bill.

48 Employee 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 Comprehensive Annual Financial Report (CAFR). System assets are as reported in the System's financial statements, and can also be found in the CAFR. Actuarial assumptions and methods are provided in the System's Actuarial Valuation Report.

56 The source of this estimate is Fiscal Note 2016-8 dated February 3, 2016 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2016 Legislative Session. I, Richard A. Young, am the Actuary for the New York State Teachers' Retirement System.

1 CHAP. 41

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3 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.

6  
7 The Legislature of the STATE OF NEW YORK ss:

8 Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction and, in accordance with such section, is entitled to be read into evidence.

13 JOHN J. FLANAGAN  
14 Temporary President of the Senate

CARL E. HEASTIE  
Speaker of the Assembly