

A40026 Actions:

BILL NO A40026

12/02/2009 referred to ways and means
12/02/2009 reported referred to rules
12/02/2009 reported
12/02/2009 rules report cal.692
12/02/2009 ordered to third reading rules cal.692
12/02/2009 message of necessity - 3 day message
12/02/2009 passed assembly
12/02/2009 delivered to senate
12/02/2009 REFERRED TO RULES
12/02/2009 SUBSTITUTED FOR S66026
12/02/2009 3RD READING CAL.14
12/02/2009 MESSAGE OF NECESSITY - 3 DAY MESSAGE
12/02/2009 PASSED SENATE
12/02/2009 RETURNED TO ASSEMBLY
12/02/2009 delivered to governor
12/10/2009 signed chap.504

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S T A T E O F N E W Y O R K

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Twentieth Extraordinary Session

S E N A T E - A S S E M B L Y

December 2, 2009

IN SENATE -- Introduced by COMMITTEE ON RULES -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

IN ASSEMBLY -- Introduced by COMMITTEE ON RULES -- (at request of M. of A. Silver, Abbate, Arroyo, Clark, Destito, Englebright, Fields, Galef, Hooper, Kellner, Morelle, Paulin, Peoples-Stokes, Sweeney, Thiele, Zebrowski) -- (at request of the Governor) -- read once and referred to the Committee on Ways and Means

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

amend the laws of 1975, relating to the making of retirement extend- public retirement and social security law and chapter 625 of the laws of 1975, amending the retirement and social security law relating to the extension of temporary rights and benefits, in relation to making the coordinated-escalator retirement plan and the coordinated retirement plan permanent; to amend the civil service law, in relation to extend- ing the expiration of public arbitration of disputes between public employers and employee organizations (Part A); to amend the retirement and social security law and the general municipal law, in relation to persons joining a public retirement system on or after January 1, 2010; and to amend chapter 729 of the laws of 1994 relating to affect- ing the health insurance benefits and contributions of retired employ- ees of school districts and certain boards, in relation to eliminating the expiration of the provisions thereof (Part B); and to amend the retirement and social security law, the administrative code of the city of New York and the education law, in relation to new entrants to the New York city teachers' retirement system and the New York city board of education retirement system (Part C)

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM- BLY, DO ENACT AS FOLLOWS:

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

LBD12149-15-9

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1 Section 1. This act enacts into law legislation relating to retirement
2 for newly hired employees. Each component is wholly contained
within a
3 Part identified as Parts A through C. The effective date
for each
4 particular provision contained within such Part is set forth in
the last

5 section of such Part. Any provision in any section contained
within a
6 Part, including the effective date of the Part, which makes
reference to
7 a section "of this act", when used in connection with that
particular
8 component, shall be deemed to mean and refer to the
corresponding
9 section of the Part in which it is found. Section three of
this act
10 sets forth the general effective date of this act.

11 PART A

12 Section 1. The retirement and social security law is amended
by adding

13 a new article 22 to read as follows:

14 ARTICLE 22

15 POLICE AND FIRE RETIREMENT PROVISIONS

16 SECTION 1200. DEFINITIONS.

17 1201. APPLICABILITY.

18 1202. VESTING.

19 1203. OVERTIME.

20 1204. MEMBER CONTRIBUTIONS.

21 1205. RECALCULATION OF BENEFITS.

22 1206. CONFLICTING PROVISIONS.

23 S 1200. DEFINITIONS. FOR PURPOSES OF THIS ARTICLE THE TERMS:

24 A. "MEMBER" SHALL MEAN A PERSON WHO IS EMPLOYED AS A POLICE
OFFICER OR
25 FIREFIGHTER BY ANY EMPLOYER WHO FIRST JOINS THE RETIREMENT
SYSTEM ON OR

26 AFTER JANUARY FIRST, TWO THOUSAND TEN.

27 B. "RETIREMENT SYSTEM" SHALL MEAN THE NEW YORK STATE AND LOCAL
POLICE
28 AND FIRE RETIREMENT SYSTEM.

29 S 1201. APPLICABILITY. NOTWITHSTANDING ANY PROVISION OF
LAW TO THE
30 CONTRARY, THE PROVISIONS OF THIS ARTICLE SHALL BE APPLICABLE
TO ALL

31 EMPLOYEES IN THE RETIREMENT SYSTEM WHO FIRST JOINED SUCH
SYSTEM ON OR
32 AFTER JANUARY FIRST, TWO THOUSAND TEN.

33 S 1202. VESTING. A. IN ORDER TO QUALIFY FOR A SERVICE
RETIREMENT BENE-

34 FIT, MEMBERS SUBJECT TO THE PROVISIONS OF THIS ARTICLE MUST HAVE
A MINI-
35 MUM OF TEN YEARS OF CREDITABLE SERVICE.

36 B. IN COMPUTING THE YEARS OF TOTAL CREDITABLE SERVICE OF A
MEMBER,
37 FULL CREDIT SHALL BE GIVEN FOR MILITARY SERVICE AS DEFINED IN
SUBDIVI-

38 SIONS TWENTY-NINE-A AND THIRTY OF SECTION THREE HUNDRED TWO
OF THIS
39 CHAPTER.

40 S 1203. OVERTIME. A MEMBER'S FINAL AVERAGE SALARY SHALL BE
CALCULATED

41 IN ACCORDANCE WITH SUCH PROVISIONS OF ARTICLE EIGHT OR ARTICLE
ELEVEN OF

42 THIS CHAPTER AS GOVERN THE MEMBER'S BENEFITS, EXCEPT THAT
EARNINGS CLAS-

43 SIFIED AS OVERTIME COMPENSATION IN AN AMOUNT IN EXCESS OF
FIFTEEN

44 PERCENT OF A MEMBER'S ANNUAL WAGES NOT CLASSIFIED AS OVERTIME
COMPEN-

45 SATION SHALL BE EXCLUDED FROM SUCH CALCULATION. "OVERTIME
COMPENSATION"

46 SHALL MEAN, FOR PURPOSES OF THIS SECTION, COMPENSATION PAID
UNDER ANY

47 LAW OR POLICY UNDER WHICH EMPLOYEES ARE PAID AT A RATE
GREATER THAN

48 THEIR STANDARD RATE FOR ADDITIONAL HOURS WORKED BEYOND THOSE
REQUIRED,

49 INCLUDING COMPENSATION PAID UNDER SECTION ONE HUNDRED THIRTY-
FOUR OF THE

50 CIVIL SERVICE LAW AND SECTION NINETY OF THE GENERAL MUNICIPAL
LAW.

51 S 1204. MEMBER CONTRIBUTIONS. MEMBERS WHO ARE SUBJECT
TO THE

52 PROVISIONS OF THIS ARTICLE SHALL CONTRIBUTE THREE PERCENT OF
ANNUAL

53 WAGES TO THE RETIREMENT SYSTEM IN WHICH THEY HAVE MEMBERSHIP.
MEMBERS

54 WHO ARE ENROLLED IN A RETIREMENT PLAN THAT LIMITS THE AMOUNT OF
CREDITA-

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1 BLE SERVICE A MEMBER CAN ACCRUE SHALL NOT BE REQUIRED TO MAKE
CONTRIB-

2 UTIONS PURSUANT TO THIS SECTION AFTER ACCRUING THE MAXIMUM
AMOUNT OF

3 SERVICE CREDIT ALLOWED BY THE RETIREMENT PLAN IN WHICH
THEY ARE

4 ENROLLED. THE STATE COMPTROLLER SHALL PROMULGATE SUCH
REGULATIONS AS MAY

5 BE NECESSARY AND APPROPRIATE WITH RESPECT TO THE DEDUCTION
OF SUCH

6 CONTRIBUTION FROM MEMBERS' WAGES AND FOR THE MAINTENANCE OF ANY
SPECIAL

7 FUND OR FUNDS WITH RESPECT TO AMOUNTS SO CONTRIBUTED. IN NO
WAY SHALL

8 THE MEMBER CONTRIBUTIONS MADE PURSUANT TO THIS SECTION BE
USED TO

9 PROVIDE FOR PENSION INCREASES OR ANNUITIES OF ANY KIND.

10 S 1205. RECALCULATION OF BENEFITS. NOTWITHSTANDING ANY OTHER
PROVISION

11 OF LAW, ANY MEMBER WHO HAS JOINED THE RETIREMENT SYSTEM
PURSUANT TO THE

12 PROVISIONS OF ARTICLE FOURTEEN OF THIS CHAPTER ON OR AFTER JULY
FIRST,

13 TWO THOUSAND NINE MAY ELECT TO HAVE HIS OR HER RETIREMENT
BENEFITS

14 CALCULATED PURSUANT TO THIS ARTICLE BY FILING WITHIN ONE HUNDRED
TWENTY
15 DAYS OF THE EFFECTIVE DATE OF THIS SECTION A REQUEST FOR
SUCH CALCU-
16 LATION WITH THE RETIREMENT SYSTEM IN THE FORM AND MANNER
PRESCRIBED BY
17 THE STATE COMPTROLLER.
18 S 1206. CONFLICTING PROVISIONS. EXCEPT AS OTHERWISE PROVIDED
IN THIS
19 ARTICLE, OR IN CONFLICT THEREWITH, THE PROVISIONS OF ARTICLE
ELEVEN OF
20 THIS CHAPTER, INCLUDING ANY PLAN THAT HAS BEEN ELECTED BY THE
EMPLOYER
21 OR IS OTHERWISE APPLICABLE UNDER ARTICLE EIGHT OF THIS
CHAPTER SHALL
22 GOVERN THE RETIREMENT BENEFITS PROVIDED UNDER THIS ARTICLE. IN
THE EVENT
23 OF ANY CONFLICT BETWEEN THE PROVISIONS OF THIS ARTICLE AND
ANY OTHER
24 PROVISION OF LAW, THIS ARTICLE SHALL GOVERN.
25 S 2. Subdivision c of section 440 of the retirement and social
securi-
26 ty law, as amended by chapter 63 of the laws of 2007, is amended
to read
27 as follows:
28 c. Notwithstanding any other provision of law, the
provisions and
29 limitations of this article shall apply, as may be
appropriate, to all
30 police officers and firefighters who last joined a public
retirement
31 system of the state or a municipality thereof, on or after
July first,
32 nineteen hundred seventy-six, but prior to July first, two
thousand
33 nine, AND ALL EMPLOYEES SUBJECT TO THE PROVISIONS OF ARTICLE
TWENTY-TWO
34 OF THIS CHAPTER; PROVIDED, HOWEVER, THAT IN THE CASE OF A
CONFLICT
35 BETWEEN THE PROVISIONS OF THIS ARTICLE AND ARTICLE TWENTY-TWO
OF THIS
36 CHAPTER, THE PROVISIONS OF ARTICLE TWENTY-TWO SHALL BE
CONTROLLING.
37 S 3. Intentionally omitted.
38 S 4. Section 470 of the retirement and social security law, as
amended
39 by chapter 79 of the laws of 2009, is amended to read as
follows:
40 S 470. Temporary suspension of retirement negotiations.
[Until July
41 first, two thousand eleven, changes] CHANGES negotiated
between any
42 public employer and public employee, as such terms are
defined in
43 section two hundred one of the civil service law, with
respect to any

44 benefit provided by or to be provided by a public retirement system, or

45 payments to a fund or insurer to provide an income for retirees or

46 payment to retirees or their beneficiaries, shall be prohibited.

[Ther-

47 eafter, such changes shall be made only pursuant to negotiations between

48 public employers and public employees conducted on a coalition basis

49 pursuant to the provisions of this article; provided, however, any such

50 changes not requiring approval by act of the legislature may be imple-

51 mented prior to July first, two thousand eleven, if negotiated as a

52 result of collective bargaining authorized by section six of chapter six

53 hundred twenty-five of the laws of nineteen hundred seventy-five.]

54 S 5. Section 480 of the retirement and social security law, as amended

55 by chapter 79 of the laws of 2009, is amended to read as follows:

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1 S 480. Extension of temporary benefits and supplementation programs.

2 a. Every temporary right, privilege or benefit conferred pursuant to

3 the provisions of a general, special or local law (other than pursuant

4 to articles fourteen and fifteen of this chapter) for any member of a

5 public retirement system or pension plan funded by the state or one of

6 its political subdivisions, which is scheduled to expire or terminate at

7 any time during nineteen hundred seventy-four, nineteen hundred seven-

8 ty-five, nineteen hundred seventy-six, nineteen hundred seventy-seven,

9 nineteen hundred seventy-eight, nineteen hundred seventy-nine, nineteen

10 hundred eighty, nineteen hundred eighty-one, nineteen hundred eighty-

11 two, nineteen hundred eighty-three, nineteen hundred eighty-four, nine-

12 teen hundred eighty-five, nineteen hundred eighty-six, nineteen hundred

13 eighty-seven, nineteen hundred eighty-eight, nineteen hundred eighty-

14 nine, nineteen hundred ninety, nineteen hundred ninety-one, nineteen

15 hundred ninety-two, nineteen hundred ninety-three, nineteen hundred

16 ninety-four, nineteen hundred ninety-five, nineteen hundred
ninety-six,
17 nineteen hundred ninety-seven, nineteen hundred ninety-eight,
nineteen
18 hundred ninety-nine, two thousand, two thousand one, two
thousand two,
19 two thousand three, two thousand four, two thousand five, two
thousand
20 six, two thousand seven, two thousand eight, two thousand
nine, two
21 thousand ten or two thousand eleven, is hereby extended
[until July
22 first, two thousand eleven], notwithstanding the provisions
of such
23 general, special or local law. Notwithstanding the foregoing,
nothing
24 in this section shall be construed to extend the provisions of
article
25 eighteen of this chapter or to affect any statutory deadlines
provided
26 in such article.
27 b. (i) Any program under which an employer in a public
retirement
28 system funded by the state or one of its political subdivisions
assumes
29 all or part of the contribution which would otherwise be
made by its
30 employees toward retirement, which expires or terminates during
nineteen
31 hundred seventy-four, is hereby extended [until July first, two
thousand
32 eleven], notwithstanding the provisions of any other general,
special or
33 local law, except that commencing with the payroll period the
first day
34 of which is nearest to January first, nineteen hundred seventy-
six[, and
35 until July first, two thousand eleven], the rate of such
contribution
36 assumed by an employer in any of the public retirement systems
funded
37 and maintained by a city, shall be one-half the rate of such
contrib-
38 ution assumed by such employer for the immediately preceding
payroll
39 period except as provided in paragraph (ii) of this subdivision.
40 (ii) Commencing with the first payroll period the first day
of which
41 is subsequent to October first, two thousand [and until July
first, two
42 thousand eleven], the rate of such contribution assumed by an
employer
43 in the New York city police pension fund and in the New York
city fire
44 department pension fund shall be equal to the rate of such
contributions

45 assumed by such employer for the payroll period preceding
January first,

46 nineteen hundred seventy-six.

47 c. All supplemental retirement allowances or supplemental
pensions

48 paid to pensioners or beneficiaries of any retirement system
supported

49 in whole or in part by the state or a political subdivision
thereof,

50 which are scheduled to expire at any time during nineteen
hundred seven-

51 ty-five, nineteen hundred seventy-six, nineteen hundred
seventy-seven,

52 nineteen hundred seventy-eight, nineteen hundred seventy-nine,
nineteen

53 hundred eighty, nineteen hundred eighty-one, nineteen hundred
eighty-

54 two, nineteen hundred eighty-three, nineteen hundred eighty-
four, nine-

55 teen hundred eighty-five, nineteen hundred eighty-six, nineteen
hundred

56 eighty-seven, nineteen hundred eighty-eight, nineteen hundred
eighty-

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1 nine, nineteen hundred ninety, nineteen hundred ninety-one,
nineteen

2 hundred ninety-two, nineteen hundred ninety-three, nineteen
hundred

3 ninety-four, nineteen hundred ninety-five, nineteen hundred
ninety-six,

4 nineteen hundred ninety-seven, nineteen hundred ninety-eight,
nineteen

5 hundred ninety-nine, two thousand one, two thousand two, two
thousand

6 three, two thousand four, two thousand five, two thousand six,
two thou-

7 sand seven, two thousand eight, two thousand nine, two
thousand ten or

8 two thousand eleven, shall be continued [for an
additional year]

9 notwithstanding any other provision of any general, special or
local law

10 provided, however, that all such supplemental retirement
allowances or

11 supplemental pensions which are scheduled to expire at any time
during

12 two thousand nine shall be continued [for two additional years]
notwith-

13 standing any other provisions of any general, special or local
law.

14 S 6. Section 615 of the retirement and social security law, as
amended

15 by chapter 79 of the laws of 2009, is amended to read as
follows:

16 S 615. Duration. Notwithstanding any other provisions of this
chapter
17 or of any other law, the provisions of article fourteen of this
chapter
18 shall [expire on June thirtieth, two thousand eleven, but
shall] no
19 longer apply to members to whom this article applies on the date
article
20 fifteen of this chapter becomes effective, provided, however,
any member
21 who has retired pursuant to the provisions of article fourteen
of this
22 chapter before the effective date of this article or any
beneficiary of
23 such a member or a beneficiary of a member who dies before the
effective
24 date of this article and who is entitled to a death benefit
pursuant to
25 article fourteen of this chapter shall receive such benefits
pursuant to
26 the provisions of article fourteen of this chapter, except as
provided
27 pursuant to the provisions of section six hundred seventeen
of this
28 article. [All benefits provided by a public retirement
system of the
29 state shall continue with respect to members to which this
article is
30 applicable only until June thirtieth, two thousand eleven.]
31 S 7. Section 6 of chapter 625 of the laws of 1975,
amending the
32 retirement and social security law relating to the extension of
tempo-
33 rary rights and benefits, as amended by chapter 79 of the laws
of 2009,
34 is amended to read as follows:
35 S 6. Notwithstanding any inconsistent provisions of this act
or of any
36 general, special or local law, on and after July 1, 1975 [and up
to and
37 including June 30, 2011]: (a) a participating employer in the
New York
38 state and local employees' retirement system or the New York
state and
39 local police and fire retirement system and its employees shall
continue
40 to have the right to negotiate with respect to any benefit
provided by
41 or to be provided by such employer to such employees as members
of such
42 system and not requiring approval by act of the legislature;
and (b) a
43 public authority or public benefit corporation which is not a
partic-
44 ipating employer in the New York state and local employees'
retirement

45 system or the New York city employees' retirement system shall
continue

46 to have the right to negotiate with its employees with respect
to bene-

47 fits to be provided by such employer to such employees upon
retirement

48 and not requiring approval by act of the legislature.

49 S 8. Notwithstanding any provision of law to the contrary,
nothing in

50 this act shall limit the eligibility of any member of an
employee organ-

51 ization to join a special retirement plan open to him or her
pursuant to

52 a collectively negotiated agreement with any state or local
government

53 employer, where such agreement is in effect on the effective
date of

54 this act and so long as such agreement remains in effect
thereafter;

55 provided, however, that any such eligibility shall not apply
upon termi-

56 nation of such agreement for employees otherwise subject
to the

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1 provisions of article twenty-two of the retirement and social
security

2 law.

3 S 9. Paragraph (d) of subdivision 4 of section 209 of
the civil

4 service law, as amended by chapter 28 of the laws of 2009, is
amended to

5 read as follows:

6 (d) The provisions of this subdivision shall expire
[thirty-four]

7 THIRTY-SIX years from July first, nineteen hundred seventy-
seven, AND

8 HEREAFTER MAY BE RENEWED EVERY FOUR YEARS.

9 S 9-a. Subdivision c of section 500 of the retirement and
social secu-

10 rity law, as added by chapter 890 of the laws of 1976, is
amended to

11 read as follows:

12 c. If the comptroller certifies that the contribution rate
under this

13 article for any participating employer who is participating
on the

14 effective date hereof would be at least one percent higher than
the rate

15 which would be applicable to such employer for an
employee who is

16 subject to article eleven of this chapter and who was hired
prior to

17 July first, nineteen hundred seventy-six, the provisions of this
article

18 shall not apply with respect to such participating employer,
PROVIDED,
19 HOWEVER THAT MEMBERS WHO FIRST JOIN THE NEW YORK STATE AND LOCAL
POLICE
20 AND FIRE RETIREMENT SYSTEM ON OR AFTER JANUARY FIRST, TWO
THOUSAND TEN
21 SHALL NOT BE SUBJECT TO THE PROVISIONS OF THIS ARTICLE. In such
event,
22 the provisions of article eleven AND ARTICLE TWENTY-TWO OF THIS
CHAPTER
23 shall continue to be applicable to such participating employer
and its
24 employees, as provided in section four hundred fifty-one of
this chap-
25 ter. If, as a result of actuarial experience, such employer's
contrib-
26 ution rate should increase to the extent that it is not at
least one
27 percent lower than the contribution rate under this article,
then, upon
28 certification of such fact by the comptroller, the provisions
of this
29 subdivision shall no longer apply with respect to the employees
of such
30 employer who thereafter first join or rejoin a public retirement
system.
31 S 10. This act shall take effect on the thirtieth day after
it shall
32 have become a law.

33 PART B

34 Section 1. Subdivision 24 of section 501 of the retirement and
social
35 security law, as amended by chapter 891 of the laws of 1976, is
amended
36 to read as follows:
37 24. "Wages" shall mean regular compensation earned by and
paid to a
38 member by a public employer, EXCEPT THAT FOR MEMBERS WHO FIRST
JOIN THE
39 STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM ON OR AFTER JANUARY
FIRST,
40 TWO THOUSAND TEN, OVERTIME COMPENSATION PAID IN ANY YEAR IN
EXCESS OF
41 THE OVERTIME CEILING, AS DEFINED BY THIS SUBDIVISION, SHALL
NOT BE
42 INCLUDED IN THE DEFINITION OF WAGES. "OVERTIME
COMPENSATION" SHALL
43 MEAN, FOR PURPOSES OF THIS SECTION, COMPENSATION PAID UNDER ANY
LAW OR
44 POLICY UNDER WHICH EMPLOYEES ARE PAID AT A RATE GREATER THAN
THEIR STAN-
45 DARD RATE FOR ADDITIONAL HOURS WORKED BEYOND THOSE REQUIRED,
INCLUDING
46 COMPENSATION PAID UNDER SECTION ONE HUNDRED THIRTY-FOUR OF
THE CIVIL

47 SERVICE LAW AND SECTION NINETY OF THE GENERAL MUNICIPAL LAW.
THE "OVER-

48 TIME CEILING" SHALL MEAN FIFTEEN THOUSAND DOLLARS PER ANNUM ON
JANUARY

49 FIRST, TWO THOUSAND TEN, AND SHALL BE INCREASED BY THREE
PERCENT EACH

50 YEAR THEREAFTER. For the purpose of calculation a member's
primary

51 federal social security retirement or disability benefit, wages
shall,

52 in any calendar year, be limited to the portion of the
member's wages

53 which would be subject to tax under section three thousand one
hundred

54 twenty-one of the internal revenue code of nineteen hundred
fifty-four,

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1 or any predecessor or successor provision relating thereto,
if such

2 member was employed by a private employer.

3 S 2. Subdivisions a and b of section 502 of the retirement
and social

4 security law, as amended by chapter 389 of the laws of 1998, are
amended

5 to read as follows:

6 a. A member who first joins a public retirement system of
this state

7 on or after June thirtieth, nineteen hundred seventy-six
shall not be

8 eligible for service retirement benefits hereunder until such
member has

9 rendered a minimum of five years of creditable service after
July first,

10 nineteen hundred seventy-three, EXCEPT THAT A MEMBER WHO FIRST
JOINS THE

11 NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM ON OR
AFTER JANU-

12 ARY FIRST, TWO THOUSAND TEN SHALL NOT BE ELIGIBLE FOR SERVICE
RETIREMENT

13 BENEFITS PURSUANT TO THIS ARTICLE UNTIL SUCH MEMBER HAS RENDERED
A MINI-

14 MUM OF TEN YEARS OF CREDITED SERVICE.

15 b. A member who previously was a member of a public
retirement system

16 of this state shall not be eligible for service retirement
benefits

17 hereunder until such member has rendered a minimum of five
years of

18 service which is creditable pursuant to section five hundred
thirteen of

19 this article. A MEMBER WHO FIRST JOINS THE NEW YORK STATE
AND LOCAL

20 EMPLOYEES' RETIREMENT SYSTEM ON OR AFTER JANUARY FIRST, TWO
THOUSAND TEN

21 SHALL NOT BE ELIGIBLE FOR SERVICE RETIREMENT BENEFITS PURSUANT
TO THIS
22 ARTICLE UNTIL SUCH MEMBER HAS RENDERED A MINIMUM OF TEN YEARS OF
CREDIT-
23 ED SERVICE.
24 S 3. Subdivision c of section 504 of the retirement and social
securi-
25 ty law, as amended by chapter 174 of the laws of 1989, is
amended to
26 read as follows:
27 c. The early service retirement benefit for general
members, except
28 for general members whose early retirement benefit is
specified in
29 subdivision d of this section, shall be the service retirement
benefit
30 specified in subdivision a or b of this section, as the case
may be,
31 without social security offset, reduced by one-fifteenth for
each of the
32 first two years by which early retirement precedes age sixty-
two, plus a
33 further reduction of: (1) one-thirtieth; OR (2) ONE-
TWENTIETH FOR
34 MEMBERS WHO FIRST JOIN THE NEW YORK STATE AND LOCAL EMPLOYEES'
RETIRE-
35 MENT SYSTEM ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN, for
each year
36 by which early retirement precedes age sixty. At age sixty-
two, the
37 benefit shall be reduced by fifty percent of the primary social
security
38 retirement benefit, as provided in section five hundred eleven
of this
39 article.
40 S 4. Subdivision a of section 516 of the retirement and social
securi-
41 ty law, as amended by chapter 389 of the laws of 1998, is
amended to
42 read as follows:
43 a. A member who has five or more years of credited service
OR TEN OR
44 MORE YEARS OF CREDITED SERVICE FOR MEMBERS WHO FIRST JOIN THE
NEW YORK
45 STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM ON OR AFTER
JANUARY FIRST,
46 TWO THOUSAND TEN upon termination of employment shall be
entitled to a
47 deferred vested benefit as provided herein.
48 S 5. Subdivision 1 of section 601 of the retirement and social
securi-
49 ty law, as added by chapter 414 of the laws of 1983, is amended
to read
50 as follows:
51 1. "Wages" shall mean regular compensation earned by and
paid to a

52 member by a public employer, EXCEPT THAT FOR MEMBERS WHO FIRST
JOIN THE
53 NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM OR THE
NEW YORK
54 STATE TEACHERS' RETIREMENT SYSTEM ON OR AFTER JANUARY FIRST,
TWO THOU-
55 SAND TEN, OVERTIME COMPENSATION PAID IN ANY YEAR IN EXCESS OF
THE OVER-
56 TIME CEILING, AS DEFINED BY THIS SUBDIVISION, SHALL NOT BE
INCLUDED IN
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1 THE DEFINITION OF WAGES. "OVERTIME COMPENSATION" SHALL
MEAN, FOR
2 PURPOSES OF THIS SECTION, COMPENSATION PAID UNDER ANY LAW
OR POLICY
3 UNDER WHICH EMPLOYEES ARE PAID AT A RATE GREATER THAN THEIR
STANDARD
4 RATE FOR ADDITIONAL HOURS WORKED BEYOND THOSE REQUIRED,
INCLUDING
5 COMPENSATION PAID UNDER SECTION ONE HUNDRED THIRTY-FOUR OF
THE CIVIL
6 SERVICE LAW AND SECTION NINETY OF THE GENERAL MUNICIPAL LAW.
THE "OVER-
7 TIME CEILING" SHALL MEAN FIFTEEN THOUSAND DOLLARS PER ANNUM ON
JANUARY
8 FIRST, TWO THOUSAND TEN, AND SHALL BE INCREASED BY THREE PER
CENT EACH
9 YEAR THEREAFTER.

10 S 6. Subdivisions a and b of section 602 of the retirement
and social
11 security law, as amended by chapter 389 of the laws of 1998, are
amended

12 to read as follows:
13 a. A member who first joins a public retirement system of
this state
14 on or after July first, nineteen hundred seventy-six shall not
be eligi-
15 ble for service retirement benefits hereunder until such
member has
16 rendered a minimum of five years of credited service, EXCEPT
THAT A
17 MEMBER WHO FIRST JOINS THE NEW YORK STATE AND LOCAL EMPLOYEES'
RETIRE-
18 MENT SYSTEM OR THE NEW YORK STATE TEACHERS' RETIREMENT SYSTEM
ON OR
19 AFTER JANUARY FIRST, TWO THOUSAND TEN SHALL NOT BE ELIGIBLE FOR
SERVICE
20 RETIREMENT BENEFITS PURSUANT TO THIS ARTICLE UNTIL SUCH
MEMBER HAS
21 RENDERED A MINIMUM OF TEN YEARS OF CREDITED SERVICE.
22 b. A member who previously was a member of a public
retirement system
23 of this state shall not be eligible for service retirement
benefits

24 hereunder until such member has rendered a minimum of five
years of
25 service which is credited pursuant to section six hundred nine
of this
26 article. A MEMBER WHO FIRST JOINS THE NEW YORK STATE AND LOCAL
EMPLOY-
27 EES' RETIREMENT SYSTEM OR THE NEW YORK STATE TEACHERS'
RETIREMENT SYSTEM
28 ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN SHALL NOT BE
ELIGIBLE FOR
29 SERVICE RETIREMENT BENEFITS PURSUANT TO THIS ARTICLE UNTIL
SUCH MEMBER
30 HAS RENDERED A MINIMUM OF TEN YEARS OF CREDITED SERVICE.
31 S 7. Subdivision a of section 603 of the retirement and social
securi-
32 ty law, as amended by section 3 of chapter 19 of the laws of
2008, is
33 amended to read as follows:
34 a. The service retirement benefit specified in section six
hundred
35 four of this article shall be payable to members who have met
the mini-
36 mum service requirements upon retirement and attainment of
age sixty-
37 two, other than members who are eligible for early service
retirement
38 pursuant to subdivision c of section six hundred four-b of this
article,
39 subdivision c of section six hundred four-c of this article,
subdivision
40 d of section six hundred four-d of this article,
subdivision c of
41 section six hundred four-e of this article, subdivision c of
section six
42 hundred four-f of this article, subdivision c of section six
hundred
43 four-g of this article, subdivision c of section six hundred
four-h of
44 this article or subdivision c of section six hundred four-i
of this
45 article, provided, however, [a member who is a peace officer
employed by
46 the unified court system or] a member of a teachers'
retirement system
47 or the New York state and local employees' retirement system
WHO FIRST
48 JOINS SUCH SYSTEM BEFORE JANUARY FIRST, TWO THOUSAND TEN OR A
MEMBER WHO
49 IS A UNIFORMED COURT OFFICER OR PEACE OFFICER EMPLOYED BY THE
UNIFIED
50 COURT SYSTEM may retire without reduction of his or her
retirement bene-
51 fit upon attainment of at least fifty-five years of age and
completion
52 of thirty or more years of service, PROVIDED, HOWEVER, THAT A
UNIFORMED

53 COURT OFFICER OR PEACE OFFICER EMPLOYED BY THE UNIFIED COURT
SYSTEM WHO
54 FIRST BECOMES A MEMBER OF THE NEW YORK STATE AND LOCAL
EMPLOYEES'
55 RETIREMENT SYSTEM ON OR AFTER JANUARY FIRST, TWO THOUSAND
TEN AND
56 RETIRES WITHOUT REDUCTION OF HIS OR HER RETIREMENT BENEFIT UPON
ATTAIN-
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A. 26

1 MENT OF AT LEAST FIFTY-FIVE YEARS OF AGE AND COMPLETION OF
THIRTY OR
2 MORE YEARS OF SERVICE PURSUANT TO THIS SECTION SHALL BE REQUIRED
TO MAKE
3 THE MEMBER CONTRIBUTIONS REQUIRED BY SUBDIVISION F OF
SECTION SIX
4 HUNDRED THIRTEEN OF THIS ARTICLE FOR ALL YEARS OF CREDITED AND
CREDITA-
5 BLE SERVICE.
6 S 8. Subdivision i of section 603 of the retirement and social
securi-
7 ty law, as amended by chapter 19 of the laws of 2008, is amended
to read
8 as follows:
9 i. 1. A member of a teachers' retirement system or the New
York state
10 and local employees' retirement system who has met the minimum
service
11 requirements but who has less than thirty years of credited
service OR A
12 MEMBER WHO FIRST JOINS THE NEW YORK STATE AND LOCAL EMPLOYEES'
RETIRE-
13 MENT SYSTEM OR THE NEW YORK STATE TEACHERS' RETIREMENT
SYSTEM ON OR
14 AFTER JANUARY FIRST, TWO THOUSAND TEN may retire prior to normal
retire-
15 ment age, but no earlier than attainment of age fifty-five,
in which
16 event, unless such person is a member of the New York city
teachers'
17 retirement system who is otherwise eligible for early service
retirement
18 pursuant to subdivision c of section six hundred four-i of this
article,
19 the amount of his or her retirement benefit otherwise computed
without
20 optional modification shall be reduced in accordance with the
following
21 schedule:
22 (i) for each of the first twenty-four full months that
retirement
23 predates age sixty-two, one-half of one per centum per month;
PROVIDED,
24 HOWEVER, THAT FOR MEMBERS WHO FIRST JOIN THE NEW YORK STATE
AND LOCAL

25 EMPLOYEES' RETIREMENT SYSTEM OR THE NEW YORK STATE TEACHERS'
RETIREMENT
26 SYSTEM ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN, SUCH
AMOUNTS SHALL
27 BE EQUAL TO ONE-FIFTEENTH PER YEAR; and
28 (ii) for each full month that retirement predates age sixty,
one-quar-
29 ter of one per centum per month; PROVIDED, HOWEVER, THAT FOR
MEMBERS WHO
30 FIRST JOIN THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT
SYSTEM OR
31 THE NEW YORK STATE TEACHERS' RETIREMENT SYSTEM ON OR AFTER
JANUARY
32 FIRST, TWO THOUSAND TEN, SUCH AMOUNTS SHALL BE EQUAL TO ONE-
TWENTIETH
33 PER YEAR, but in no event shall retirement be permitted prior to
attain-
34 ment of age fifty-five.
35 2. A member of the New York city employees' retirement system
or the
36 board of education retirement system of the city of New York who
has met
37 the minimum service requirement, but who is not (a) a
participant in the
38 twenty-five-year early retirement program, as defined in
paragraph ten
39 of subdivision a of section six hundred four-c of this article
(as added
40 by chapter ninety-six of the laws of nineteen hundred ninety-
five), or
41 (b) a participant in the age fifty-seven retirement program, as
defined
42 in paragraph three of subdivision b of section six hundred
four-d of
43 this article, or (c) a New York city transit authority
member, as
44 defined in paragraph one of subdivision a of section six hundred
four-b
45 of this article, may retire prior to normal retirement
age, but no
46 earlier than attainment of age fifty-five, in which event,
unless such
47 person is a member of the board of education retirement system
of such
48 city who is otherwise eligible for early service retirement
pursuant to
49 subdivision c of section six hundred four-i of this article,
the amount
50 of his or her retirement benefit computed without optional
modification
51 shall be reduced in accordance with the following schedule:
52 (i) for each of the first twenty-four full months that
retirement
53 predates age sixty-two, one-half of one per centum per month;
and
54 (ii) for each full month that retirement predates age sixty,
one-quar-

55 ter of one per centum per month, but in no event shall
retirement be
56 permitted prior to attainment of age fifty-five.
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A. 26

1 S 8-a. Section 603 of the retirement and social
security law is

2 amended by adding a new subdivision t to read as follows:

3 T. MEMBERS WHO JOIN THE NEW YORK STATE TEACHERS' RETIREMENT
SYSTEM ON

4 OR AFTER JANUARY FIRST, TWO THOUSAND TEN, SHALL BE ELIGIBLE TO
RETIRE

5 WITHOUT REDUCTION OF HIS OR HER RETIREMENT BENEFIT UPON
ATTAINMENT OF AT

6 LEAST FIFTY-SEVEN YEARS OF AGE AND COMPLETION OF THIRTY OR MORE
YEARS OF

7 SERVICE. MEMBERS WHO RETIRE PURSUANT TO THE PROVISIONS OF THIS
SUBDIVI-

8 SION SHALL BE REQUIRED TO MAKE THE MEMBER CONTRIBUTIONS
REQUIRED BY

9 SUBDIVISION G OF SECTION SIX HUNDRED THIRTEEN OF THIS ARTICLE
FOR ALL

10 YEARS OF CREDITED AND CREDITABLE SERVICE.

11 S 8-b. Subdivisions a and b of section 604 of the
retirement and

12 social security law, as amended by chapter 266 of the laws of
1998, are

13 amended to read as follows:

14 a. The service retirement benefit at normal retirement age
for a

15 member with less than twenty years of credited service, OR
LESS THAN

16 TWENTY-FIVE YEARS CREDITED SERVICE FOR A MEMBER WHO JOINS THE
NEW YORK

17 STATE TEACHERS' RETIREMENT SYSTEM ON OR AFTER JANUARY FIRST,
TWO THOU-

18 SAND TEN, shall be a retirement allowance equal to one-sixtieth
of final

19 average salary times years of credited service.

20 b. The service retirement benefit at normal retirement age
for a

21 member with twenty years or more of credited service,
OR WITH

22 TWENTY-FIVE OR MORE YEARS CREDITED SERVICE FOR A MEMBER WHO
FIRST JOINS

23 THE NEW YORK STATE TEACHERS' RETIREMENT SYSTEM ON OR AFTER
JANUARY

24 FIRST, TWO THOUSAND TEN, shall be a retirement allowance equal
to one-

25 fiftieth of final average salary times years of credited
service not in

26 excess of thirty years.

27 S 8-c. Paragraph 2 of subdivision b of section 609 of the
retirement

28 and social security law, as added by chapter 414 of the laws of
1983, is

29 amended to read as follows:
30 2. Previous service credit shall not be granted unless
such member
31 applies therefor and repays the amount refunded by a public
retirement
32 system of the state for service rendered after July first,
nineteen
33 hundred seventy-six together with interest through the date of
repayment
34 at the rate of five percent per annum compounded annually
and three
35 percent of the wages earned for service prior to that date
together with
36 interest from July first, nineteen hundred seventy-six through
the date
37 of payment at the rate of five percent per annum compounded
annually and
38 three percent of the wages earned for service which predates the
date of
39 entry into the retirement system together with interest at the
rate of
40 five percent per annum compounded annually from the date of such
service
41 until the date of payment. ANYTHING IN THIS PARAGRAPH TO THE
CONTRARY
42 NOTWITHSTANDING, IN ORDER TO OBTAIN CREDIT FOR PREVIOUS SERVICE,
MEMBERS
43 WHO FIRST JOIN THE NEW YORK STATE TEACHERS' RETIREMENT SYSTEM
ON OR
44 AFTER JANUARY FIRST, TWO THOUSAND TEN SHALL PAY THREE AND
ONE-HALF
45 PERCENT OF WAGES EARNED FOR SERVICE WHICH PREDATES THE DATE
OF ENTRY
46 INTO THE RETIREMENT SYSTEM TOGETHER WITH INTEREST AT THE RATE
OF FIVE
47 PERCENT PER ANNUM COMPOUNDED ANNUALLY FROM THE DATE OF SUCH
SERVICE
48 UNTIL THE DATE OF PAYMENT.
49 S 9. Subdivision a of section 612 of the retirement and social
securi-
50 ty law, as amended by chapter 659 of the laws of 1999, is
amended to
51 read as follows:
52 a. A member who has five or more years of credited service, OR
TEN OR
53 MORE YEARS OF CREDITED SERVICE FOR A MEMBER WHO FIRST JOINED
THE NEW
54 YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM OR THE NEW
YORK STATE
55 TEACHERS' RETIREMENT SYSTEM ON OR AFTER JANUARY FIRST, TWO
THOUSAND TEN,
56 upon termination of employment, other than a member who is
entitled to a
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1 deferred vested benefit pursuant to any other provision of this
article,
2 shall be entitled to a deferred vested benefit at normal
retirement age
3 computed in accordance with the provisions of section six
hundred four
4 of this article. A member of a teachers' retirement system or
the New
5 York state and local employees' retirement system who has five
or more
6 years of credited service, OR TEN OR MORE YEARS OF CREDITED
SERVICE FOR
7 A MEMBER WHO FIRST BECOMES A MEMBER OF THE NEW YORK STATE
AND LOCAL
8 EMPLOYEES' RETIREMENT SYSTEM OR THE NEW YORK STATE TEACHERS'
RETIREMENT
9 SYSTEM ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN, upon
termination of
10 employment shall be entitled to a deferred vested benefit
prior to
11 normal retirement age, but no earlier than age fifty-five,
computed in
12 accordance with the provisions of subdivision i of section six
hundred
13 three of this article.
14 S 9-a. Section 613 of the retirement and social security
law is
15 amended by adding two new subdivisions f and g to read as
follows:
16 F. ANYTHING IN SUBDIVISION A OF THIS SECTION TO THE CONTRARY
NOTWITH-
17 STANDING A MEMBER EMPLOYED AS A UNIFORMED COURT OFFICER OR PEACE
OFFICER
18 IN THE UNIFIED COURT SYSTEM WHO FIRST JOINS THE NEW YORK STATE
AND LOCAL
19 EMPLOYEES' RETIREMENT SYSTEM ON OR AFTER JANUARY FIRST, TWO
THOUSAND TEN
20 SHALL CONTRIBUTE FOUR PERCENT OF ANNUAL WAGES TO THE NEW YORK
STATE AND
21 LOCAL EMPLOYEES' RETIREMENT SYSTEM. THE HEAD OF THE NEW YORK
STATE AND
22 LOCAL EMPLOYEES' RETIREMENT SYSTEM SHALL PROMULGATE SUCH
REGULATIONS AS
23 MAY BE NECESSARY AND APPROPRIATE WITH RESPECT TO THE DEDUCTION
OF SUCH
24 CONTRIBUTION FROM MEMBERS' WAGES AND FOR THE MAINTENANCE OF ANY
SPECIAL
25 FUND OR FUNDS WITH RESPECT TO AMOUNTS SO CONTRIBUTED.
26 G. MEMBERS WHO FIRST JOIN THE NEW YORK STATE TEACHERS'
RETIREMENT
27 SYSTEM ON OR AFTER JANUARY FIRST, TWO THOUSAND TEN SHALL
CONTRIBUTE
28 THREE AND ONE-HALF PERCENT OF ANNUAL WAGES TO THE NEW YORK STATE
TEACH-
29 ERS' RETIREMENT SYSTEM. THE HEAD OF THE NEW YORK STATE TEACHERS'
RETIRE-

30 MENT SYSTEM SHALL PROMULGATE SUCH REGULATIONS AS MAY BE
NECESSARY AND

31 APPROPRIATE WITH RESPECT TO THE DEDUCTION OF SUCH
CONTRIBUTION FROM

32 MEMBERS' WAGES AND FOR THE MAINTENANCE OF ANY SPECIAL FUND OR
FUNDS WITH

33 RESPECT TO AMOUNTS SO CONTRIBUTED.

34 S 10. Paragraph 1 of subdivision b of section 902 of the
retirement

35 and social security law, as amended by chapter 110 of the laws
of 2000,

36 is amended to read as follows:

37 1. An eligible employee (i) with a date of membership in a
retirement

38 system on or after July twenty-seventh, nineteen hundred
seventy-six AND

39 BEFORE JANUARY FIRST, TWO THOUSAND TEN, and (ii) who has ten
or more

40 years of membership or ten or more years of credited
service with a

41 retirement system under the provisions of article fourteen or
fifteen of

42 this chapter shall not be required to contribute to a retirement
system

43 pursuant to section five hundred seventeen or six hundred
thirteen of

44 this chapter as of the cessation date.

45 S 11. Intentionally omitted.

46 S 12. Intentionally omitted.

47 S 13. Section 90 of the general municipal law, as amended by
chapter

48 576 of the laws of 1964, is amended to read as follows:

49 S 90. Payment of overtime compensation to public officers or
employ-

50 ees. The governing board of each municipal corporation or
other civil

51 division or political subdivision of the state, or in the
city of New

52 York, the mayor, by ordinance, local law, resolution, order or
rule, may

53 provide for the payment of overtime compensation to any or all
public

54 officers except elective officers and those officers otherwise
excluded

55 by law and to any or all public employees under their
jurisdiction at

56 the regular basic pay rate of such officers or employees for
all time

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1 such officers or employees are required to work in excess of
their regu-

2 larly established hours of employment or at such other rate
as such

3 governing board, or in the city of New York, the mayor, may
authorize.

4 The amounts received as overtime compensation under this
section shall
5 be regarded as salary or compensation for any of the purposes
of any
6 pension or retirement system of which the officer or employee
receiving
7 the same is a member, EXCEPT AS SET FORTH IN SECTIONS FIVE
HUNDRED ONE,
8 SIX HUNDRED ONE, AND TWELVE HUNDRED THREE OF THE RETIREMENT
AND SOCIAL
9 SECURITY LAW. Such overtime compensation shall not be regarded
as sala-
10 ry or compensation for the purpose of determining the right
to any
11 increase of salary or any salary increment on account of
length of
12 service or otherwise. No such overtime compensation shall be
construed
13 to constitute a promotion.
14 S 14. Section 1 of chapter 729 of the laws of 1994 relating to
affect-
15 ing the health insurance benefits and contributions of retired
employees
16 of school districts and certain boards, as amended by chapter
30 of the
17 laws of 2009, is amended to read as follows:
18 Section 1. From on and after June 30, 1994 [until May 15,
2010,] a
19 school district, board of cooperative educational services,
vocational
20 education and extension board or a school district as
enumerated in
21 section 1 of chapter 566 of the laws of 1967, as amended,
shall be
22 prohibited from diminishing the health insurance benefits
provided to
23 retirees and their dependents or the contributions such
board or
24 district makes for such health insurance coverage below the
level of
25 such benefits or contributions made on behalf of such retirees
and their
26 dependents by such district or board unless a corresponding
diminution
27 of benefits or contributions is effected from the present level
during
28 this period by such district or board from the corresponding
group of
29 active employees for such retirees.
30 S 15. Legislative intent. The legislature hereby finds and
declares
31 its intent, in addition to the retirement benefit changes
provided for
32 in this act, to enact legislation, in conjunction with the
executive,
33 which would offer a three-month period during calendar year
2010, during

34 which members of the collective bargaining unit of the New
York State
35 United Teachers ("NYSUT") within the New York state teachers
retirement
36 system and the New York state and local employees' retirement
system who
37 have reached fifty-five years of age and have accumulated
twenty-five
38 years of service as a member of either such retirement
system, may
39 retire early without penalty.
40 S 16. This act shall take effect January 1, 2010; provided,
however,
41 that the amendments to subdivision a of section 603 of the
retirement
42 and social security law made by section seven of this act,
shall not
43 affect the expiration of such subdivision and shall be deemed to
expire
44 therewith.

45 PART C

46 Section 1. Subdivisions a and b of section 602 of the
retirement and
47 social security law, as amended by chapter 389 of the laws of
1998, are
48 amended to read as follows:
49 a. [A] EXCEPT AS PROVIDED IN SUBDIVISION B-1 OF THIS SECTION,
A member
50 who first joins a public retirement system of this state on
or after
51 July first, nineteen hundred seventy-six shall not be
eligible for
52 service retirement benefits hereunder until such member has
rendered a
53 minimum of five years of credited service.

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1 b. [A] EXCEPT AS PROVIDED IN SUBDIVISION B-1 OF THIS SECTION,
A member
2 who previously was a member of a public retirement system of
this state
3 shall not be eligible for service retirement benefits
hereunder until
4 such member has rendered a minimum of five years of service
which is
5 credited pursuant to section six hundred nine of this article.
6 S 2. Section 602 of the retirement and social security law is
amended
7 by adding a new subdivision b-1 to read as follows:
8 B-1. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION A OR B
OF THIS
9 SECTION OR ANY OTHER PROVISION OF LAW TO THE CONTRARY, (I) A
MEMBER OF

10 THE NEW YORK CITY TEACHERS' RETIREMENT SYSTEM WHO HOLDS A
POSITION
11 REPRESENTED BY THE RECOGNIZED TEACHER ORGANIZATION FOR
COLLECTIVE
12 BARGAINING PURPOSES, AND WHO BECAME SUBJECT TO THE PROVISIONS
OF THIS
13 ARTICLE AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION, OR (II)
A MEMBER
14 OF THE NEW YORK CITY BOARD OF EDUCATION RETIREMENT SYSTEM WHO
HOLDS A
15 POSITION REPRESENTED BY THE RECOGNIZED TEACHER ORGANIZATION FOR
COLLEC-
16 TIVE BARGAINING PURPOSES, AND WHO BECAME SUBJECT TO THE
PROVISIONS OF
17 THIS ARTICLE AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION,
SHALL NOT BE
18 ELIGIBLE FOR SERVICE RETIREMENT BENEFITS HEREUNDER UNTIL SUCH
MEMBER HAS
19 RENDERED A MINIMUM OF TEN YEARS OF CREDITED SERVICE.
20 S 3. Subdivision a of section 612 of the retirement and social
securi-
21 ty law, as amended by chapter 659 of the laws of 1999, is
amended to
22 read follows:
23 a. [A] EXCEPT AS PROVIDED IN SUBDIVISION A-1 OF THIS SECTION,
A member
24 who has five or more years of credited service upon
termination of
25 employment, other than a member who is entitled to a deferred
vested
26 benefit pursuant to any other provision of this article, shall
be enti-
27 tled to a deferred vested benefit at normal retirement age
computed in
28 accordance with the provisions of section six hundred four of
this arti-
29 cle. [A] EXCEPT AS PROVIDED IN SUBDIVISION A-1 OF THIS SECTION,
A member
30 of a teachers' retirement system or the New York state and local
employ-
31 ees' retirement system who has five or more years of credited
service
32 upon termination of employment shall be entitled to a deferred
vested
33 benefit prior to normal retirement age, but no earlier than
age fifty-
34 five, computed in accordance with the provisions of
subdivision i of
35 section six hundred three of this article.
36 S 4. Section 612 of the retirement and social security law is
amended
37 by adding a new subdivision a-1 to read as follows:
38 A-1. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION A OF THIS
SECTION
39 OR ANY OTHER PROVISION OF LAW TO THE CONTRARY, (I) A MEMBER OF
THE NEW

40 YORK CITY TEACHERS' RETIREMENT SYSTEM WHO HOLDS A POSITION
REPRESENTED
41 BY THE RECOGNIZED TEACHER ORGANIZATION FOR COLLECTIVE
BARGAINING
42 PURPOSES, WHO BECAME SUBJECT TO THE PROVISIONS OF THIS ARTICLE
AFTER THE
43 EFFECTIVE DATE OF THIS SUBDIVISION, AND WHO HAS TEN OR MORE
YEARS OF
44 CREDITED SERVICE, OR (II) A MEMBER OF THE NEW YORK CITY BOARD
OF EDUCA-
45 TION RETIREMENT SYSTEM WHO HOLDS A POSITION REPRESENTED BY THE
RECOG-
46 NIZED TEACHER ORGANIZATION FOR COLLECTIVE BARGAINING
PURPOSES, WHO
47 BECAME SUBJECT TO THE PROVISIONS OF THIS ARTICLE AFTER THE
EFFECTIVE
48 DATE OF THIS SUBDIVISION, AND WHO HAS TEN OR MORE YEARS OF
CREDITED
49 SERVICE, OTHER THAN SUCH A MEMBER OF EITHER OF SUCH RETIREMENT
SYSTEMS
50 WHO IS ENTITLED TO A DEFERRED VESTED BENEFIT PURSUANT TO
ANY OTHER
51 PROVISION OF THIS ARTICLE, SHALL, UPON TERMINATION OF
EMPLOYMENT, BE
52 ENTITLED TO A DEFERRED VESTED BENEFIT AT NORMAL RETIREMENT AGE
COMPUTED
53 IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED FOUR
OF THIS
54 ARTICLE. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION A
OF THIS
55 SECTION OR ANY OTHER PROVISION OF LAW TO THE CONTRARY, A MEMBER
OF THE
56 NEW YORK CITY TEACHERS' RETIREMENT SYSTEM WHO HOLDS A POSITION
REPRES-

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1 ENTED BY THE RECOGNIZED TEACHER ORGANIZATION FOR COLLECTIVE
BARGAINING
2 PURPOSES, WHO BECAME SUBJECT TO THE PROVISIONS OF THIS ARTICLE
AFTER THE
3 EFFECTIVE DATE OF THIS SUBDIVISION, AND WHO HAS TEN OR MORE
YEARS OF
4 CREDITED SERVICE, SHALL, UPON TERMINATION OF EMPLOYMENT, BE
ENTITLED TO
5 A DEFERRED VESTED BENEFIT PRIOR TO NORMAL RETIREMENT AGE, BUT NO
EARLIER
6 THAN AGE FIFTY-FIVE, COMPUTED IN ACCORDANCE WITH THE
PROVISIONS OF
7 SUBDIVISION I OF SECTION SIX HUNDRED THREE OF THIS ARTICLE.

8 S 5. Paragraph 1 of subdivision b of section 911 of the
retirement and

9 social security law, as amended by chapter 110 of the laws of
2000, is

10 amended to read as follows:

11 1. [An] SUBJECT TO THE PROVISIONS OF PARAGRAPH ONE-A OF THIS
SUBDIVI-

12 SION, AN eligible member (i) with a date of membership in a
retirement
13 system on or after July twenty-seventh, nineteen hundred
seventy-six and
14 (ii) who has ten or more years of membership or ten or more
years of
15 credited service with a retirement system under the provisions
of arti-
16 cle fourteen or fifteen of this chapter shall not be
required to
17 contribute to a retirement system pursuant to section five
hundred
18 seventeen or six hundred thirteen of this chapter as of the
cessation
19 date.
20 S 6. Subdivision b of section 911 of the retirement and social
securi-
21 ty law is amended by adding a new paragraph 1-a to read as
follows:
22 1-A. NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH ONE OF THIS
SUBDIVI-
23 SION OR ANY OTHER PROVISION OF LAW TO THE CONTRARY, A MEMBER OF
THE NEW
24 YORK CITY TEACHERS' RETIREMENT SYSTEM OR THE NEW YORK CITY
BOARD OF
25 EDUCATION RETIREMENT SYSTEM:
26 (I) WHO IS A TWENTY-SEVEN YEAR PARTICIPANT IN THE AGE
FIFTY-FIVE
27 RETIREMENT PROGRAM (AS DEFINED IN PARAGRAPH TWELVE OF
SUBDIVISION A OF
28 SECTION SIX HUNDRED FOUR-I OF THIS CHAPTER), AND
29 (II) WHO BECOMES SUBJECT TO THE PROVISIONS OF ARTICLE FIFTEEN
OF THIS
30 CHAPTER AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH, SHALL
CONTRIBUTE TO
31 A RETIREMENT SYSTEM PURSUANT TO SECTION SIX HUNDRED THIRTEEN
OF THIS
32 CHAPTER UNTIL HE OR SHE HAS COMPLETED TWENTY-SEVEN YEARS OF
CREDITED
33 SERVICE.
34 S 7. Paragraph 2 of subdivision e of section 604-i of the
retirement
35 and social security law, as added by chapter 19 of the laws of
2008, is
36 amended to read as follows:
37 2. A twenty-five-year participant in the age fifty-five
retirement
38 program (as defined in paragraph eleven of subdivision a
of this
39 section) shall contribute additional member contributions
until the
40 later of (i) June twenty-ninth, two thousand eight, or (ii) the
date on
41 which he or she has completed twenty-five years of credited
service. A
42 twenty-seven-year participant in the age fifty-five retirement
program

43 shall contribute additional member contributions only until
he or she
44 has completed twenty-seven years of credited service; PROVIDED,
HOWEVER,
45 THAT A TWENTY-SEVEN-YEAR PARTICIPANT IN THE AGE FIFTY-FIVE
RETIREMENT
46 PROGRAM WHO BECOMES SUBJECT TO THE PROVISIONS OF THIS ARTICLE
AFTER THE
47 EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND
NINE THAT
48 AMENDED THIS PARAGRAPH SHALL CONTRIBUTE ADDITIONAL MEMBER
CONTRIBUTIONS
49 FOR ALL YEARS OF CREDITED SERVICE AS PROVIDED IN SUBPARAGRAPH
(II) OF
50 PARAGRAPH ONE OF THIS SUBDIVISION.
51 S 8. Subdivision d of section 13-582 of the administrative
code of the
52 city of New York is amended to read as follows:
53 d. [Interest] 1. SUBJECT TO THE PROVISIONS OF PARAGRAPH TWO
OF THIS
54 SUBDIVISION, INTEREST shall be allowed on the participant's tax-
deferred
55 account in the annuity savings fund at the same rate and in
accordance
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1 with the same rules and procedures applicable to any
account in the
2 annuity savings fund, as provided in this chapter.
3 2. NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH ONE OF THIS
SUBDIVI-
4 SION, OR ANY OTHER PROVISION OF LAW, OR ANY RETIREMENT BOARD
RULE, REGU-
5 LATION OR RESOLUTION TO THE CONTRARY, ON OR AFTER THE FIRST
BUSINESS DAY
6 IMMEDIATELY FOLLOWING THE EFFECTIVE DATE OF THIS PARAGRAPH,
INTEREST
7 SHALL BE ALLOWED AT THE RATE OF SEVEN PERCENT PER ANNUM,
COMPOUNDED
8 ANNUALLY, ON THE TAX-DEFERRED ACCOUNT IN THE ANNUITY SAVINGS
FUND OF
9 PARTICIPANTS (I) WHO HOLD A POSITION REPRESENTED BY THE
RECOGNIZED
10 TEACHER ORGANIZATION FOR COLLECTIVE BARGAINING PURPOSES, OR
(II) WHO
11 HELD SUCH A POSITION AT THE TIME THEY RETIRED OR DISCONTINUED
SERVICE
12 WITH VESTED RIGHTS TO A RETIREMENT ALLOWANCE AND ELECTED
TO DEFER
13 COMMENCEMENT OF DISTRIBUTION OF THEIR TAX-DEFERRED ACCOUNTS IN
ACCORD-
14 ANCE WITH SUBDIVISION G OF THIS SECTION.
15 S 9. Section 13-582 of the administrative code of the city of
New York
16 is amended by adding two new subdivisions n and o to read as
follows:

17 N. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, OR ANY
RETIREMENT BOARD
18 RULE, REGULATION OR RESOLUTION TO THE CONTRARY, THE AMENDMENT TO
SUBDI-
19 VISION D OF THIS SECTION ENACTED BY THE CHAPTER OF THE LAWS OF
TWO THOU-
20 SAND NINE WHICH ADDED THIS SUBDIVISION SHALL NOT AFFECT THE
RATE OF
21 INTEREST BEING CHARGED ON NEW LOANS FROM THE TAX-DEFERRED
ANNUITY
22 PROGRAM, AND THE RATE OF INTEREST THAT WAS BEING CHARGED ON
SUCH LOANS
23 IMMEDIATELY PRIOR TO THE EFFECTIVE DATE OF THIS SUBDIVISION
SHALL BE
24 USED FOR NEW LOANS FROM THE TAX-DEFERRED ANNUITY PROGRAM
MADE ON OR
25 AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION, UNLESS THE
RETIREMENT
26 BOARD, IN ACCORDANCE WITH ITS AUTHORITY PURSUANT TO
PARAGRAPH TWO OF
27 SUBDIVISION L OF THIS SECTION, AS ADDED BY CHAPTER FIVE HUNDRED
SEVEN-
28 TEEN OF THE LAWS OF NINETEEN HUNDRED NINETY-THREE, SHALL AMEND
ITS RULES
29 AND REGULATIONS GOVERNING LOANS FROM THE TAX-DEFERRED ANNUITY
PROGRAM TO
30 ESTABLISH A DIFFERENT RATE OF INTEREST APPLICABLE TO SUCH LOANS.
31 O. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, OR ANY
RETIREMENT BOARD
32 RULE, REGULATION OR RESOLUTION TO THE CONTRARY, WHERE A
PARTICIPANT IN
33 THE TAX-DEFERRED ANNUITY PROGRAM HAS ELECTED TO TRANSFER
ALL OR A
34 PORTION OF THE AMOUNT CREDITED TO HIS OR HER TAX-DEFERRED
ACCOUNT IN THE
35 ANNUITY SAVINGS FUND TO A TAX-DEFERRED ACCOUNT IN THE VARIABLE
ANNUITY
36 SAVINGS FUND, THE RETIREMENT SYSTEM SHALL EFFECTUATE SUCH
TRANSFER AS
37 EXPEDITIOUSLY AS IS ADMINISTRATIVELY FEASIBLE.
38 S 10. Subdivision 20 of section 2575 of the education law, as
added by
39 chapter 509 of the laws of 1993, is amended by adding a new
paragraph
40 (e) to read as follows:
41 (E) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, OR ANY RULE
OR REGU-
42 LATION, OR THE PROVISIONS OF ANY RETIREMENT BOARD
RESOLUTION TO THE
43 CONTRARY:
44 (1) ON OR AFTER THE FIRST BUSINESS DAY IMMEDIATELY
FOLLOWING THE
45 EFFECTIVE DATE OF THIS PARAGRAPH, INTEREST SHALL BE ALLOWED AT
THE RATE
46 OF SEVEN PERCENT PER ANNUM, COMPOUNDED ANNUALLY, ON THE TAX-
DEFERRED

47 ACCOUNTS IN THE ANNUITY SAVINGS FUND OF PARTICIPANTS (I)
WHO HOLD A
48 POSITION REPRESENTED BY THE RECOGNIZED TEACHER ORGANIZATION FOR
COLLEC-
49 TIVE BARGAINING PURPOSES, OR (II) WHO HELD SUCH A POSITION AT
THE TIME
50 THEY RETIRED OR DISCONTINUED SERVICE WITH VESTED RIGHTS TO A
RETIREMENT
51 ALLOWANCE AND ELECTED TO DEFER COMMENCEMENT OF DISTRIBUTION
OF THEIR
52 TAX-DEFERRED ACCOUNTS IN ACCORDANCE WITH PARAGRAPH (C) OF THIS
SUBDIVI-
53 SION; AND
54 (2) THE PROVISIONS OF SUBPARAGRAPH ONE OF THIS PARAGRAPH
SHALL NOT
55 AFFECT THE RATE OF INTEREST BEING CHARGED ON NEW LOANS FROM THE
TAX-DE-
56 FERRED ANNUITY PROGRAM, AND THE RATE OF INTEREST THAT WAS BEING
CHARGED

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1 ON SUCH LOANS IMMEDIATELY PRIOR TO THE EFFECTIVE DATE OF THIS
PARAGRAPH
2 SHALL BE USED FOR NEW LOANS FROM THE TAX-DEFERRED ANNUITY
PROGRAM MADE
3 ON OR AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH, UNLESS THE
RULES AND
4 REGULATIONS GOVERNING LOANS FROM THE TAX-DEFERRED ANNUITY
PROGRAM ARE
5 AMENDED PURSUANT TO PARAGRAPH (D) OF THIS SUBDIVISION TO
ESTABLISH A
6 DIFFERENT RATE OF INTEREST APPLICABLE TO SUCH LOANS; AND
7 (3) WHERE A PARTICIPANT IN THE TAX-DEFERRED ANNUITY
PROGRAM HAS
8 ELECTED TO TRANSFER ALL OR A PORTION OF THE AMOUNT CREDITED TO
HIS OR
9 HER TAX-DEFERRED ACCOUNT IN THE ANNUITY SAVINGS FUND TO A TAX-
DEFERRED
10 ACCOUNT IN THE VARIABLE ANNUITY SAVINGS FUND, THE RETIREMENT
SYSTEM
11 SHALL EFFECTUATE SUCH TRANSFER AS EXPEDITIOUSLY AS IS
ADMINISTRATIVELY
12 FEASIBLE.

13 S 11. This act shall take effect immediately.

14 S 2. Severability clause. If any clause, sentence, paragraph,
subdivi-
15 sion, section or part of this act shall be adjudged by any
court of
16 competent jurisdiction to be invalid, such judgment shall not
affect,
17 impair, or invalidate the remainder thereof, but shall be
confined in
18 its operation to the clause, sentence, paragraph, subdivision,
section
19 or part thereof directly involved in the controversy in which
such judg-

20 ment shall have been rendered. It is hereby declared to be the
intent of

21 the legislature that this act would have been enacted even
if such

22 invalid provisions had not been included herein.

23 S 3. This act shall take effect immediately provided,
however, that

24 the applicable effective date of Parts A through C of this act
shall be

25 as specifically set forth in the last section of such Parts.

FISCAL NOTE.--PROVISIONS OF PART C OF THE PROPOSED LEGISLATION

- OVER-

VIEW: With respect to the New York City Retirement Systems
("NYCRS"),

Part C of this proposed legislation would amend New York State
Retire-

ment and Social Security Law ("RSSL") Sections 602, 604-i,
612 and

911.b, Administrative Code of the City of New York ("ACNY")
Section

13-582 and Education Law ("Ed Law") Section 2575 to provide
changes in

the service eligibility requirements for certain members for
Vested and

Service Retirement benefits, to revise the duration of
payability for

member contributions for certain Tier IV members hired on and
after the

Effective Date, and to provide a change to the rate of
interest to be

credited on Fixed Fund account balances of certain participants
in the

Tax Deferred Annuity ("TDA") Programs of the New York City
Teachers'

Retirement System ("NYCTRS") and the New York City Board of
Education

Retirement System ("BERS").

The Effective Date of the proposed legislation would be the
date of

enactment.

IMPACT ON SECTIONS OF LAW: The proposed legislation would
amend the

following provisions of law for certain new NYCRS members
hired on and

after the Effective Date ("New Members") and also impact certain
exist-

ing members on the Effective Date with respect to
certain TDA

provisions.

SECTION OF LAW

PROVISIONS BEING

AMENDED

TIER I-IV PROVISIONS

ACNY 13-582.d

Provisions relating

to

NYCTRS TDA.

ACNY 12-582.n.o

Provisions relating

to

NYCTRS TDA loans.

TIER IV PROVISIONS

RSSL Sec. 602.a,b
 ("SR") Service Retirement
 eligibility.

RSSL Sec. 604-i
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Contributions

("AMC").
 RSSL Sec. 612.a Eligibility for
 Vested benefits.

RSSL Sec. 911.b Limitations on
 Basic Member Contributions

TDA PROVISIONS AND TDA LOANS FOR BERS

Ed Law Sec. 2575 TDA provisions and
 TDA loans for BERS.

loans for BERS.

IMPACT ON NYCRS RETIREMENT PLANS - NON-TDA PROVISIONS: Part
 C of the
 proposed legislation would cover certain Tier IV New Members of
 NYCTRS
 and BERS and impact provisions of the following Plans:
 * Basic Tier IV Plan Provisions ("Basic 62/5 Plan") and
 * Optional Age Fifty-five Retirement Program for New York
 City Teach-
 ers and certain other members ("Age 55 Program").

IMPACT ON ELIGIBILITY PROVISIONS - NON-TDA PROVISIONS:
 Under the
 proposed legislation, certain New Members hired on and after
 the Effec-
 tive Date would become subject to the following revised Service
 Retire-
 ment and Vesting eligibility requirements:

SERVICE RETIREMENT

Under the proposed legislation, the minimum service
 required for a
 Service Retirement benefit in the Basic 62/5 Plan would be
 increased to
 10 years from 5 years of credited service.

VESTING

Under the proposed legislation, the minimum service
 required for a
 Vested benefit in the Basic 62/5 Plan would be increased to
 10 years
 from 5 years of credited service.

While such New Members would participate in the Age 55
 Program, in the
 event a participant terminated employment prior to meeting the
 eligibil-
 ity requirements of the Age 55 Program for Service Retirement,
 the bene-
 fits payable upon vesting, retirement, disability or death
 would be

based on the provisions of the Basic 62/5 Plan.

IMPACT ON MEMBER CONTRIBUTIONS - NON-TDA PROVISIONS:
Currently, Basic Member Contributions ("BMC") of 3.0% of salary for Tier IV members are required (per Chapter 126 of the Laws of 2000) for only the first 10 years of membership or the first 10 years of credited service, whichever occurs earliest.

Under the proposed legislation, certain New Members would be required to pay BMC for all years of credited service up to a maximum of 27 years.

Currently, under the existing Age 55 Program, only those participants subject to the 27-year provisions are required to contribute AMC of 1.85% of salary to a maximum of 27 years of credited service.

Under Part C of the proposed legislation, New Member 27-year participants in the Age 55 Program after the Effective Date would be required to contribute AMC for all years of credited service.

FINANCIAL IMPACT - OVERVIEW: If enacted into law, the ultimate employer cost of this proposed legislation would be determined by the net change in benefits paid, offset by any increases in member contributions, and by the reduced amount of interest credited to TDA Fixed Fund account balances.

FINANCIAL IMPACT - NON-TDA PROVISIONS - ACTUARIAL PRESENT VALUES -
CURRENT MEMBERS: Based on the census data and the actuarial assumptions and methods currently in effect, the enactment of this proposed legislation would not change the APV of benefits, the APV of member contributions or the APV of future salary of current members of NYCTRS or BERS as of June 30, 2008.

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IMPACT ON NYCERS RETIREMENT PLANS - TDA PROVISIONS: The proposed legislation changes to the TDA provisions would cover both existing members and New Members of NYCTRS and BERS in Tier I, Tier II, Tier III and Tier IV whose job titles are represented in collective bargaining by the United Federation of Teachers ("UFT") ("Covered Members").

These TDA changes would impact all such NYCTRS and BERS members regardless of the Plan in which they participate.

BACKGROUND - EARNINGS ON TDA ACCOUNTS - CURRENT LAW: Under current

law, eligible members of NYCTRS who elect to participate in the TDA

Program select from among the following funds to allocate their TDA

account balances (100.0% in one Fund or proportions (delineated in mini-

mum 5.0% increments)) within the following six alternative funds:

* A Fixed Fund that provides a guaranteed annual rate of return of

8.25% per annum (for periods on and after July 1, 1988), or

* Five separate Variable Funds (i.e., Diversified Equity Fund, Stable

Value Fund, International Equity Fund, Inflation Protection Fund or

Socially Responsive Equity Fund) that provide alternative risk/reward

characteristics.

Eligible BERS members who participate in the TDA Program select only

from the Fixed Fund and the Diversified Equity Fund.

At retirement after age 59 1/2, TDA participants may receive their TDA

account balances payable as a lump sum, as a monthly annuity based on

annuitization factors used by the NYCTRS or BERS Qualified Pension Plan

("QPP") Programs, respectively, or in other amounts they elect subject

to the Internal Revenue Code ("IRC") Minimum Required Distribution

("MRD") rules for those age 70 1/2 or greater.

BACKGROUND - EARNINGS ON TDA ACCOUNTS - PROPOSED LAW: Under the

proposed legislation, the interest crediting rate for TDA participants

in the Fixed Fund for Covered Members would be decreased (i.e., 8.25%

per annum would decrease to 7.0% per annum).

FINANCIAL IMPACT - TDA FIXED FUND ASSETS - OVERVIEW: If enacted into

law, the ultimate change in employer cost of this proposed legislation

would equal the change in benefits payable by NYCTRS and BERS arising

from revised TDA provisions.

Simplistically, this change in employer cost would equal the cumulative

reduction in obligations between crediting 8.25% per annum and 7.0%

per annum on TDA Fixed Fund account balances for Covered Members.

However, financing this change in obligations is not simplistic.

Under current law, TDA Fixed Fund assets of NYCTRS and BERS are co-in-

vested with NYCTRS QPP assets.

The Investment Policy for NYCTRS QPP assets reflects a broad asset

allocation of 70% equity-like securities and 30% bond-like securities.

The actuarial assumptions currently in effect include an Actuarial

Interest Rate ("AIR") assumption of 8.0% per annum that is consistent

with an assumption that the NYCTRS QPP assets are expected to earn an

average of 8.0% per year. To the extent that TDA Fixed Fund assets earn

more than 8.25% per year (i.e., the crediting rate on TDA Fixed Fund

account balances), actuarial gains occur. To the extent that TDA Fixed

Fund assets earn less than 8.25% per year, actuarial losses occur.

To the extent TDA Fixed Fund account balances are shifted to Variable

Funds or vice versa, there are also impacts on the potential cost of the

TDA Programs.

Under the proposed legislation, access to and earnings payable on the

Variable Funds would not change.

Under current actuarial practice, the Actuary spreads through the

Actuarial Asset Valuation Method ("AAVM") over six years and then over

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the expected future working lifetimes of NYCTRS QPP and BERS QPP active

members the investment gains/losses attributable to the TDA Fixed Fund

earnings equaling more/less than the 8.25% per annum TDA Fixed Fund

Interest Crediting Rate.

In particular, the Actuary includes in the NYCTRS QPP and BERS QPP

actuarial valuations a modest load to the Actuarial Present Value of

Benefits ("APVB") equal to approximately 2.3% of their respective TDA

Fixed Fund assets. This amount is intended to represent a portion of the

anticipated difference between the expected earnings on TDA Fixed Fund

assets and the TDA Fixed Fund Interest Crediting Rate. These obligations

are financed over the expected future working lifetimes of NYCTRS QPP and BERS QPP active members.

FINANCIAL IMPACT - TDA FIXED FUND ASSETS - RISK ADJUSTED:

As noted earlier, the expected long-term actuarial loss on TDA Fixed Fund assets, under the current actuarial assumptions, is .25% of TDA Fixed Fund assets, per year.

However, on a risk-adjusted basis, the economic implications are more significant. Specifically, TDA Fixed Fund account balances are credited with interest at a rate of 8.25% per annum, not subject to any risk to the TDA participants.

To earn the AIR assumption of 8.0% per annum, (or the 8.25% per annum crediting rate), TDA Fixed Fund assets are subject to considerable investment risk.

Were NYCTRS to set aside TDA Fixed Fund assets whose characteristics had a comparable level of certainty of payment, it would have to invest in some form of risk-free asset class such as U.S. Treasury securities.

Although a TDA participant may move, following a modest notification period, his or her TDA account balance between the Fixed Fund and the Variable Funds, the Actuary has assumed an average TDA Fixed Fund holding period of 10 years. Comparing the expected yield on 10-year U.S.

Treasury securities would then be a reasonable, risk-adjusted benchmark.

Over time, intermediate-term U.S. Treasury securities may be expected to earn a real rate of return of approximately 2.5% per year. Combined with a long-term assumption for inflation of 2.5% per year, a total rate of return for intermediate-term Treasury securities would equal approximately 5.0% per year.

Comparing the current risk-free TDA Fixed Fund interest crediting rate of 8.25% per annum with a long-term expected, market place, risk-free

yield of 5.0% per year on intermediate-term U.S. Treasury securities indicates that TDA account balances are being credited with an expected

3.25% per year greater rate of return on a risk-adjusted basis than the

expected earnings on the supporting TDA Fixed Fund assets.

Thus, on an economically robust, risk-adjusted basis, the crediting of

TDA account balances with interest at either 7.0% or 8.25% per annum is

more expensive than reported on a non-risk-adjusted basis.

FINANCIAL IMPACT - TDA VARIABLE ANNUITY CONVERSIONS: In addition, the

Actuary holds as obligations of the NYCTRS QPP and BERS QPP, amounts to

reflect the actuarial losses anticipated upon the conversion of some TDA

account balances into Variable Annuities. This reflects the fact that

the annuity factors used for such conversion, by law, are not actuarial-

ly equivalent to what the Actuary assumes in the actuarial valuations.

Under the proposed legislation, TDA participants would be permitted to

transfer their TDA Fixed Fund account balances to one or more of the

Variable Funds as soon as feasible under the direction of the Plan

administrators of each NYCTRS and BERS.

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However, it is not expected that enactment of the proposed legislation

would result in substantial numbers of TDA participants transferring

their TDA Fixed Fund account balances to TDA Variable Funds.

FINANCIAL IMPACT - TDA FIXED FUND - SUMMARY: Annual investment returns

on the TDA Fixed Fund assets that exceed the guaranteed amounts to be

credited to the TDA Fixed Fund accounts produce actuarial gains.

Conversely, annual investment returns less than the guaranteed amounts

to be credited to the TDA Fixed Fund accounts produce actuarial losses.

Under the current AIR assumption of 8.0% per annum, an aggregate long-

term net actuarial loss of .25% on TDA Fixed Fund account balances is

expected. This loss ultimately increases employer costs.

The Actuary anticipates that enactment of the proposed legislation

with respect to the decrease to 7.0% per annum from 8.25% per annum of

the Interest Crediting Rate on TDA Fixed Fund account balances in NYCTRS

and BERS would become effective in the Fiscal Year containing the Effec-

tive Date.

If enacted before June 30, 2010, the Actuary would likely reduce Fiscal Year 2010 employer contributions to reflect that there would be fewer TDA Fixed Fund account balances expected to be credited at 8.25% per annum.

As of June 30, 2008, TDA Fixed Fund account balances equaled approximately \$8.970 billion for NYCTRS and \$456.8 million for BERS.

Assuming a portion of the TDA Fixed Fund account balances would be transferred to the TDA Variable Funds following enactment of this proposed legislation, the Actuary would likely apply the 2.3% load to only non-UFT TDA account balances.

If the proposed legislation were enacted on or before June 30, 2010, the impact of reducing expected TDA Fixed Fund actuarial losses would result in decreases in Fiscal Year 2010 employer contributions of approximately \$18.7 million for NYCTRS and \$.4 million for BERS.

It is anticipated that the annualized expected reduction in Fiscal Year 2010 employer contributions to NYCTRS and BERS would continue for future years.

PROJECTED CHANGES IN EMPLOYER CONTRIBUTIONS - CURRENT ACTUARIAL

ASSUMPTIONS AND METHODS: If the proposed legislation were enacted and effective for certain New Members on or after the Effective Date, these New Members would first join the NYCERS during Fiscal Year 2010 and first be included in the June 30, 2010 actuarial valuations of the NYCERS used to determine Fiscal Year 2012 employer contributions.

However, since most New Members of NYCTRS and BERS impacted by this proposed legislation would likely not be hired until September 2010 and would first be included in the June 30, 2011 actuarial valuations of the NYCERS, the first significant impact of the proposed legislation with respect to non-TDA provisions would likely be on the Fiscal Year 2013 employer contributions.

The proposed changes to the TDA provisions would first impact the Fiscal Year 2010 employer contributions.

The following Table 1 presents an estimate of the reduction in employ-

er contributions that would occur based on current actuarial assumptions and methods:

Table 1

Estimated Reductions in Employer Contributions
If Proposed Legislation is Enacted to be Effective
On or Before June 30, 2010*

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Under Current Actuarial Assumptions and Methods

(\$ Millions)

Fiscal Year	NYCTRS	BERS	Total
2010	18.7	0.4	19.1
2011	17.6	0.4	18.0
2012	16.6	0.3	16.9
2013	23.2	0.5	23.7
2014	29.5	0.7	30.2
2015	35.9	0.8	36.7
2016	42.5	1.0	43.5
2017	49.0	1.2	50.2
2018	55.6	1.4	57.0
2019	62.6	1.5	64.1

* Based on projection assumptions set forth in Actuarial Assumptions and Methods Section and as noted herein. Includes both impact of non-TDA

provisions with first significant impact in Fiscal Year 2013 and TDA

provisions with impact in Fiscal Year 2010 and later.

The estimated reductions in employer contributions shown in Table 1

are based upon the following projection assumptions:

* Level workforce (i.e., new employees are hired to replace those who leave active status).

* Projected salary increase consistent with those used in projections

presented to the New York City Office of Management and Budget

("NYCOMB") on February 20, 2009 ("February Projections").

* New entrant salaries consistent with those used in the February

Projections.

These "open group" projections include future new entrants introduced

into the census data models to project the future workforces.

As of each future actuarial valuation date, the current "closed group"

actuarial assumptions and valuation methodology are used.

Under this methodology only Plan Participants as of each actuarial

valuation date are utilized to determine Actuarial Present Values,

employer costs and employer contributions.

To the extent Plan designs do not change markedly over time, such

closed group actuarial methodology is well suited to funding a Retirement System.

FINANCIAL IMPACT - ACTUARIAL PRESENT VALUES - POTENTIAL METHODOLOGY:

The impact of enactment of the proposed legislation provided in this

Fiscal Note has been based on the continued use of the current actuarial assumptions and methods.

However, the current actuarial assumptions and methods do not represent the only possible approach for funding the NYCERS.

Historically, actuarial assumptions and methods have been reviewed on

average every five years in connection with an actuarial experience

study mandated by New York City Charter Section 96.

Following this review, the Actuary generally proposes changes in actu-

arial assumptions and methods that he believes appropriate and reason-

ably related to such experience period and future expectations.

The next such review is anticipated during Fiscal Year 2011 or 2012.

If enacted, the proposed legislation would increase the duration of

member contributions of New Members of the NYCTRS and BERS. This

increase may possibly impact the timing of their election to retire for

service and hence, their future working lifetimes. As such, the Actuary

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will be considering alternative actuarial methodologies that could,

directly or indirectly, reflect the impact of future new entrants as

early as the Fiscal Year of enactment.

The Actuary may also consider revising the amortization periods for

financing certain costs in order to reflect the expected change in the

average working lifetimes of New Members hired after enactment of this

proposed legislation.

Note: The Actuary has not committed to any particular methodology for

determining employer costs and employer contributions in connection with

the upcoming, experience review of actuarial assumptions and methods.

However, the Actuary intends to consider seriously the potential implications for financing the NYCERS that could arise should the

benefits and the expected future working lifetimes of certain New Members after the

Effective Date differ from those of current new entrants.

FINANCIAL IMPACT - ENTRY AGE NORMAL COSTS: Entry Age Normal Costs can

provide a useful basis to compare the value of alternative benefit

programs. For each member who enters a NYCERS, there is a theoretical

net annual employer cost to be paid for such member while such member

remains actively employed (i.e., the Entry Age Normal Cost ("EANC")).

In addition, such EANC may be expressed as a percentage of salary

earned over a working lifetime and referred to as the Entry Age Normal

Rate ("EANR").

Under the proposed legislation and based on the actuarial assumptions

noted herein, the EANC and EANR of New Members would be less than the

EANC and EANR for comparable new members entering at the same attained

age and gender under the current NYCERS provisions.

A summary of the change in EANC by NYCERS for entry age 25, 30 and 35 follows:

Table 2
Comparison of Representative Employer Entry Age Normal Rates*

To Implement Proposed Legislation Impacting Certain New Members of NYCTRS and BERS

		EANR Under Proposed Legislation				
Age 35 Retirement System		Entry Age 25		Entry Age 30		Entry
		Male	Female	Male	Female	Male
7.53%	NYCTRS	5.68%	5.99%	6.39%	6.79%	6.99%
5.21%	BERS	3.72%	4.19%	4.21%	4.80%	4.47%

EANR Under Current Law**

9.02%	NYCTRS	7.08%	7.40%	7.79%	8.21%	8.46%
6.61%	BERS	5.07%	5.58%	5.55%	6.18%	5.80%
Reduction in EANR Due to Proposed Legislation						
1.49%	NYCTRS	1.40%	1.41%	1.40%	1.42%	1.47%
1.40%	BERS	1.35%	1.39%	1.34%	1.38%	1.33%
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* Based on salaries paid over entire working lifetime.

** EANR were determined as of June 30, 2008 and do not vary significantly over time, absent benefit and/or actuarial assumption changes.

FINANCIAL IMPACT - EMPLOYER CONTRIBUTIONS FISCAL YEARS 2010, 2011 and 2012 - CURRENT METHODOLOGY: Based on the census data and the actuarial assumptions and methods currently in effect, and assuming enactment to be effective on or before June 30, 2010, the enactment of this proposed legislation would, with respect to the changes in TDA provisions, result in changes in employer contributions to NYCTRS and BERS for Fiscal Years 2010, 2011 and 2012.

FINANCIAL IMPACT - EMPLOYER CONTRIBUTIONS FISCAL YEAR 2013 AND BEYOND - CURRENT METHODOLOGY: If enacted to be effective on or before June 30, 2010, the first significant number of New Members would join NYCTRS and BERS during September 2010 and be included in the June 30, 2011 (Lag) actuarial valuations of those NYCRS. Based on the actuarial assumptions and methods currently in effect, those provisions under the proposed legislation that affect New Members would first significantly impact employer contributions to NYCTRS and BERS for Fiscal Year 2013.

OTHER COSTS: Not measured in this Fiscal Note is the impact of this proposed legislation on Other Post-Employment Benefit ("OPEB") costs.

Also not measured are the initial and ongoing additional administrative costs of NYCTRS and BERS and their participating employers to implement

the proposed legislation.

CENSUS DATA: The starting census data used for the calculations

presented herein are the census data used in the June 30, 2008 (Lag)

actuarial valuations of NYCTRS and BERS.

The census data used for the estimates of additional APVB and employer

contributions presented herein of the non-TDA portions of the proposed

legislation are based on average salaries of new entrants in the June

30, 2008 (Lag) actuarial valuations of NYCTRS and BERS.

The metrics for new members of NYCTRS were approximately 25% male, age

34 and 75% female, age 34 and a combined average salary of \$48,239.

The metrics for new members of BERS were approximately 25% male, age

41 and 75% female, age 44 and a combined average salary of \$33,774.

The census data used for estimates of the impact on employer contrib-

utions of the TDA portion of the proposed legislation presented herein

are those active participants included in the June 30, 2008 (Lag) actu-

arial valuations of the NYCTRS and BERS.

For NYCTRS, this consisted of 2,401 Tier I, 1,224 Tier II and 69,273

Tier IV TDA participants included in the June 30, 2008 (Lag) actuarial

valuation of NYCTRS.

For BERS, this consisted of 108 Tier I, 58 Tier II and 11,799 Tier IV

TDA participants included in the June 30, 2008 (Lag) actuarial valuation

of BERS.

ACTUARIAL ASSUMPTIONS AND METHODS: The additional APVB, EANR and

employer contributions under current methodology presented herein have

been calculated based on the actuarial assumptions and methods in effect

for the June 30, 2008 (Lag) actuarial valuations of NYCTRS and BERS.

Employer contributions under current methodology have been estimated

assuming the additional APVB would be financed through future normal

contributions.

Projections of salaries, reflecting the impact of estimated contractu-

al wage increases, include information provided by NYCOMB. These and

other projection assumptions (such as projected expenses) are set forth

in the February Projections.

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New entrants were projected to replace the NYCERS members expected to leave the active population to maintain a steady-state population.

The following Table 3 presents the total number of active employees

used in the projections, assuming a level work force, and the net number

of New Members as of each June 30 from 2009 to 2017.

Table 3

Active* and Net New Members of NYCTRS and BERS*
Used in the Projections for Table 1

New Members	June 30	NYCTRS	BERS	Net Actives
		Actives	Net New Members	
	2009	112,472	0	22,702
0	2010	112,472	0	22,702
0	2011	112,472	6,330	22,702
1,582	2012	112,472	12,213	22,702
3,096	2013	112,472	17,705	22,702
4,553	2014	112,472	22,846	22,702
5,940	2015	112,472	27,652	22,702
7,241	2016	112,472	32,181	22,702
8,457	2017	112,472	36,461	22,702
9,595				

* Active members included in the projections assume a level work force

based on the June 30, 2008 (Lag) actuarial valuation census data. For

simplification, all New Members in TRS and 15% of the New Members in

BERS are assumed to be UFT Members.

The changes in employer contributions and costs have been estimated

assuming that changes in the Actuarial Present Values of Future Employer

Costs would be financed through future normal contributions.

Information on TDA Fixed Fund and TDA Variable Fund account balances

used to estimate the impact on employer costs of the TDA portion of the

legislation presented herein also reflect financial information provided

by the accountants of NYCTRS and BERS.

STATEMENT OF ACTUARIAL OPINION: I, Robert C. North, Jr., am the Chief

Actuary for the New York City Retirement Systems. I am a Fellow of the

Society of Actuaries and a Member of the American Academy of Actuaries.

I meet the Qualification Standards of the American Academy of Actuaries

to render the actuarial opinion contained herein.

FISCAL NOTE IDENTIFICATION: This estimate is intended for use only

during the 2009 Legislative Session. It is Fiscal Note 2009-17, dated

November 17, 2009, prepared by the Chief Actuary of the New York City

Teachers' Retirement System and the New York City Board of Education

Retirement System.

FISCAL NOTE.--This bill would (1) create new benefits for new members

who first join the New York State and Local Employees' Retirement

System, the New York State Teachers' Retirement System, the New York

City Teachers' Retirement System, the New York City Employees' Retire-

ment System or the New York City Board of Education Retirement System on

or after January 1, 2010 (2) create a new plan in the New York State and

Local Police and Fire Retirement System.

Insofar as this bill would affect the New York State and Local Employ-

ees' Retirement System (ERS), the significant plan design changes for

members who join on or after January 1, 2010 include:

1. Employee contributions of 3% of pay for all years of service,

except

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- State correction officer contributions would be limited to 30 years

of service, &

- uniformed court officers/peace officers employed by the Unified

Court System would contribute 4% of pay for all years of service.

2. Ten year vesting,

3. Larger early retirement reductions would be in place for members

retiring prior to age 62, and the waiver of reduction with 30 years

would be eliminated except for uniformed court officers/peace officers employed by the Unified Court System,

4. Annual overtime pay in excess of \$15,000 would not be included in the definition of wages and final average salary. This overtime pay limitation would increase by 3% annually.

If this bill is enacted, we will calculate new plan rates for all ERS members who first enter on or after January 1, 2010. The long term expected annual employer contribution rate for new general members will be approximately 8.9% as compared to the current expected long term annual employer contribution rate for Tier 4 general members of approxi- mately 11.0% of payroll. For fiscal year ending March 31, 2010, since the average Tier 4 employer contribution rate is approximately 7%, the new plan rate would be approximately 5.7%.

For ERS members in 20 or 25 year retirement plans that allow retire- ment without regard to age, the long term reductions would vary by plan and be less than 2% of salary, with the fiscal year ending March 31, 2010 reductions averaging approximately 1%.

Insofar as this bill would affect the New York State and Local Police and Fire Retirement System (PFRS), the significant plan design changes for members who join on or after January 1, 2010 include:

1. An employee contribution of 3% of pay will be required for all years of service, except that a member who is enrolled in a plan that limits the amount of creditable service which may be accrued will not be required to contribute after accruing the maximum amount of creditable service under such plan,
2. Overtime pay in an amount in excess of 15% of a member's annual wages not classified as overtime pay shall be excluded from a member's final average salary,
3. Ten year vesting.

If this bill is enacted, we will calculate new plan rates for all PFRS members who first enter on or after January 1, 2010. The long term expected annual employer contribution rate would change as follows:

-1.8% for municipal 20 year plans with additional 60ths (benefits for members hired on or after 7/1/2009 are now computed under Article 14),

-0.6% for the state 20 year plan with additional 60ths (benefits for members hired on or after 7/1/2009 are now computed under Article 14),

-2.6% for 20 year plans (benefits for members hired on or after 7/1/2009 are now computed under Article 14),

-3.0% for 25 year plans with additional 60ths, 25 year plans, and regular plans previously non-contributory.

This estimate, dated November 16, 2009, and intended for use only during the 2009 Legislative Session, is Fiscal Note No. 2009-297,

prepared by the Actuary for the ERS and PFRS.

FISCAL NOTE.--This bill would amend various sections of the Education

Law and the Retirement and Social Security Law to implement a new

retirement benefit structure (Tier 5) for members who first join a public retirement system of the state (or New York City) on or after

January 1, 2010. The following provisions are with respect to members of

the New York State Teachers' Retirement System. Members would be eligi-

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ble for a service retirement benefit after rendering a minimum of ten

years of credited service and attainment of age 55. The service retire-

ment benefit formula for a member with less than twenty-five years of

service would be equal to one-sixtieth of final average salary times the

years of service. The service retirement benefit formula for a member

with twenty-five or more years of service would be equal to one-fiftieth

of final average salary times the years of service (not in excess of

thirty). Years of service in excess of thirty shall provide an addi-

tional retirement benefit equal to three two-hundredths of final average

salary. Members retiring prior to age 62 would have their retirement

benefit reduced by one-fifteenth per year for each of the first two

years retirement predates age 62 and by one-twentieth per year for each year retirement predates age 60. However, members who are at least age 57 with 30 or more years of credited service would be permitted to retire without reduction. Members would be required to contribute three and one-half percent of annual salary for ALL years of service.

The current required employer contribution rate for the New York State Teachers' Retirement System is 6.19% of pay, applicable to 7/1/09 - 6/30/10 member salaries and to be collected in the fall of 2010. This rate is applicable to the salaries of all members, regardless of tier.

In that this proposed benefit structure is only applicable to members joining on or after January 1, 2010, it will be at least several years before it has a noticeable impact on the employer contribution rate. The cost savings impact of this change will become more significant with time as the number of post-1/1/10 members grows as a percentage of the total membership.

Our "new entrant rate", a hypothetical employer contribution rate that would occur if we started a new Retirement System without any assets, is equal to 11.8% of pay under the current benefit structure. This can be thought of as the cost of the benefit structure for new entrants, based on current actuarial assumptions. Under the proposed benefit structure, this new entrant rate would be equal to 8.7% of pay.

The source of this estimate is Fiscal Note 2009-92 dated November 16, 2009 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2009 Legislative Session.

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