

# STATE OF NEW YORK

5653

2011-2012 Regular Sessions

## IN SENATE

June 9, 2011

Introduced by COMMITTEE ON RULES -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the administrative code of the city of New York, in relation to the effect of discharge or dismissal of a police officer or firefighter with twenty years of creditable retirement service

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

- 1 Section 1. The administrative code of the city of New York is amended  
 2 by adding a new section 13-256.1 to read as follows:  
 3 § 13-256.1 Discharge or dismissal. a. Notwithstanding any other  
 4 provision of law, when a member has attained at least twenty years of  
 5 creditable police service in the retirement system, the discharge or  
 6 dismissal from employment of such person shall not preclude such person  
 7 from receiving any rights or benefits to which he or she shall otherwise  
 8 be entitled as a member or retired member of the retirement system nor  
 9 upon retirement shall his or her benefits be in any way diminished as a  
 10 result of such discharge or dismissal. Such member shall be deemed to  
 11 be retired on the date of his or her discharge or dismissal from service  
 12 for purposes of determining his or her rights and benefits as a member  
 13 of the retirement system.  
 14 b. Notwithstanding anything to the contrary in subdivision a of this  
 15 section, a member, other than a member to which article fourteen of the  
 16 retirement and social security law is applicable, that has attained at  
 17 least twenty years of creditable service in the retirement system shall  
 18 forfeit the retirement benefits to which the member would otherwise be  
 19 entitled if the member is convicted under the laws of the state of New  
 20 York of a felony, or under the laws of another state or of the United  
 21 States of an offense or crime which, if committed in the state of New  
 22 York, would be a felony.  
 23 c. Nothing in this section shall be construed to in any way modify or  
 24 affect the rights or benefits of any member of the retirement system to

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

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1 which article fourteen of the retirement and social security law is  
2 applicable.

3 § 2. The administrative code of the city of New York is amended by  
4 adding a new section 13-361.1 to read as follows:

5 § 13-361.1 Discharge or dismissal. a. Notwithstanding any other  
6 provision of law, when a member has attained at least twenty years of  
7 creditable fire uniformed force service in the retirement system, the  
8 discharge or dismissal from employment of such person shall not preclude  
9 such person from receiving any rights or benefits to which he or she  
10 shall otherwise be entitled as a member or retired member of the retire-  
11 ment system nor upon retirement shall his or her benefits be in any way  
12 diminished as a result of such discharge or dismissal. Such member  
13 shall be deemed to be retired on the date of his or her discharge or  
14 dismissal from service for purposes of determining his or her rights and  
15 benefits as a member of the retirement system.

16 b. Notwithstanding anything to the contrary in subdivision a of this  
17 section, a member, other than a member to which article fourteen of the  
18 retirement and social security law is applicable, that has attained at  
19 least twenty years of creditable service in the retirement system shall  
20 forfeit the retirement benefits to which the member would otherwise be  
21 entitled if the member is convicted under the laws of the state of New  
22 York of a felony, or under the laws of another state or of the United  
23 States of an offense or crime which, if committed in the state of New  
24 York, would be a felony.

25 c. Nothing in this section shall be construed to in any way modify or  
26 affect the rights or benefits of any member of the retirement system to  
27 which article fourteen of the retirement and social security law is  
28 applicable.

29 § 3. This act shall take effect immediately.

**NEW YORK STATE SENATE  
INTRODUCER'S MEMORANDUM IN SUPPORT  
submitted in accordance with Senate Rule VI. Sec 1**

**BILL NUMBER:** S5653

**SPONSOR:** RULES

**TITLE OF BILL:**

An act to amend the administrative code of the city of New York, in relation to the effect of discharge or dismissal of a police officer or firefighter with twenty years of creditable retirement service

**SUMMARY OF PROVISIONS:**

This legislation guarantees a pension to any New York City police officer or firefighter who has attained twenty years of creditable service and would have otherwise been eligible for retirement, who was dismissed from employment.

**JUSTIFICATION:**

Presently, every member in the New York State Policemen's and Firemen's Retirement system, covering all police officers outside the City of New York, has his pension protected statutorily. If a member has twenty years of service or more and is dismissed, he receives his pension immediately without an age limitation. In fact, this applies to all members in the Policemen's and Firemen's Retirement system, as well as to members in the other retirement systems, but we are dealing here only with legislation applicable to police officers and firefighters enrolled in the New York City Police and Fire Pension Funds.

Our proposal is to ensure that a member with 20 or more years of service, who would otherwise be entitled to his pension had he applied for retirement, not be denied that pension, and that the City not be allowed to use the 30 day waiting period to thwart pension rights. This proposal does not give the member the extent of protection provided or members in the New York State Policemen's and Firemen's Retirement System since there will be no protection under this proposal for members dismissed who have less than 20 years of service. However, members who could have retired based upon the 20 year retirement plan will be appropriately protected.

It is totally violate of the principle and concept of pensions to deny to a member and his family his retirement benefits for which he has expended many years of service and, in the New York City Police and Fire Pension Funds, contributed up to 7% of his total earnings. The member is being sufficiently punished for his possible departmental violation by being dismissed from his position. There is no need to become so punitive as to then also punish his family by not allowing them to benefit from his pension upon which they depended.

**FISCAL IMPLICATIONS:**

None.

EFFECTIVE DATE:

Immediately.

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## STATE OF NEW YORK

5744--A

2011-2012 Regular Sessions

## IN ASSEMBLY

February 28, 2011

Introduced by M. of A. ABBATE -- read once and referred to the Committee on Governmental Employees -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the administrative code of the city of New York, in relation to the effect of discharge or dismissal of a police officer or firefighter with twenty years of creditable retirement service

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

1. Section 1. The administrative code of the city of New York is amended
- 2 by adding a new section 13-256.1 to read as follows:
- 3 § 13-256.1 Discharge or dismissal. a. Notwithstanding any other
- 4 provision of law, when a member has attained at least twenty years of
- 5 creditable police service in the retirement system, the discharge or
- 6 dismissal from employment of such person shall not preclude such person
- 7 from receiving any rights or benefits to which he or she shall otherwise
- 8 be entitled as a member or retired member of the retirement system nor
- 9 upon retirement shall his or her benefits be in any way diminished as a
- 10 result of such discharge or dismissal. Such member shall be deemed to
- 11 be retired on the date of his or her discharge or dismissal from service
- 12 for purposes of determining his or her rights and benefits as a member
- 13 of the retirement system.
- 14 b. Notwithstanding anything to the contrary in subdivision a of this
- 15 section, a member, other than a member to which article fourteen of the
- 16 retirement and social security law is applicable, that has attained at
- 17 least twenty years of creditable service in the retirement system shall
- 18 forfeit the retirement benefits to which the member would otherwise be
- 19 entitled if the member is convicted under the laws of the state of New
- 20 York of a felony, or under the laws of another state or of the United
- 21 States of an offense or crime which, if committed in the state of New
- 22 York, would be a felony.

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1 c. Nothing in this section shall be construed to in any way modify or  
2 affect the rights or benefits of any member of the retirement system to  
3 which article fourteen of the retirement and social security law is  
4 applicable.

5 § 2. The administrative code of the city of New York is amended by  
6 adding a new section 13-361.1 to read as follows:

7 § 13-361.1 Discharge or dismissal. a. Notwithstanding any other  
8 provision of law, when a member has attained at least twenty years of  
9 creditable fire uniformed force service in the retirement system, the  
10 discharge or dismissal from employment of such person shall not preclude  
11 such person from receiving any rights or benefits to which he or she  
12 shall otherwise be entitled as a member or retired member of the retire-  
13 ment system nor upon retirement shall his or her benefits be in any way  
14 diminished as a result of such discharge or dismissal. Such member  
15 shall be deemed to be retired on the date of his or her discharge or  
16 dismissal from service for purposes of determining his or her rights and  
17 benefits as a member of the retirement system.

18 b. Notwithstanding anything to the contrary in subdivision a of this  
19 section, a member, other than a member to which article fourteen of the  
20 retirement and social security law is applicable, that has attained at  
21 least twenty years of creditable service in the retirement system shall  
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24 York of a felony, or under the laws of another state or of the United  
25 States of an offense or crime which, if committed in the state of New  
26 York, would be a felony.

27 c. Nothing in this section shall be construed to in any way modify or  
28 affect the rights or benefits of any member of the retirement system to  
29 which article fourteen of the retirement and social security law is  
30 applicable.

31 § 3. This act shall take effect immediately.

**NEW YORK STATE ASSEMBLY**  
**MEMORANDUM IN SUPPORT OF LEGISLATION**  
**submitted in accordance with Assembly Rule III, Sec 1(f)**

BILL NUMBER: A5744A

SPONSOR: Abbate

TITLE OF BILL: An act to amend the administrative code of the city of New York, in relation to the effect of discharge or dismissal of a police officer or firefighter with twenty years of creditable retirement service

SUMMARY OF PROVISIONS: This legislation guarantees a pension to any New York City police officer or firefighter who has attained twenty years of creditable service and would have otherwise been eligible for retirement, who was dismissed from employment.

JUSTIFICATION: Presently, every member in the New York State Policemen's and Firemen's Retirement system, covering all police officers outside the City of New York, has his pension protected statutorily. If a member has twenty years of service or more and is dismissed, he receives his pension immediately without an age limitation. In fact, this applies to all members in the Policemen's and Firemen's Retirement system, as well as to members in the other retirement systems, but we are dealing here only with legislation applicable to police officers and firefighters enrolled in the New York City Police and Fire Pension Funds.

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FISCAL IMPLICATIONS: None.

EFFECTIVE DATE: Immediately.

