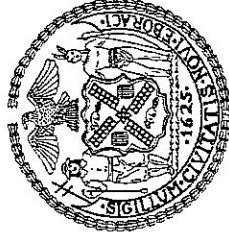


# ASSEMBLY COMMITTEE AGENDA



SHERIF SOLIMAN  
Director  
State Legislative Affairs

THE CITY OF NEW YORK  
OFFICE OF THE MAYOR

City Hall  
New York, New York 10007  
(212) 788-8820

119 Washington Avenue  
Albany, New York 12210  
(518) 447-5200

## MEMORANDUM IN OPPOSITION

**LEGISLATIVE REFERENCE** A.8174-A -- by M. of A. Paulin -- Ways and Means Committee  
S.5937 -- by Senator Larkin -- Passed

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

### SUMMARY OF PROVISIONS

This bill amends section 1000 of the retirement and social services law, as added by chapter 548 of the laws of 2000 and subdivision 9 as added by chapter 547 of the laws of 2002, by deleting the specified periods of time in which military service would had to have been rendered in order to receive up to three years of service credit. Such specified periods currently prevent a person who served in the military, outside such periods, from obtaining service credit when applying to a public retirement system of the state. This section also deletes other restricting dates.

Section two provides the appropriation necessary for the legislation.

Section three provides the effective date.

### REASONS FOR OPPOSITION

This legislation would amend New York State Retirement and Social Security Law (RSSL) Section 1000, as established by Chapter 548 of the Laws of 2000, to provide certain members of the New York City Employees' Retirement System, the New York City Teachers' Retirement System, the New York City Board of Education Retirement System, the New York City Police Pension Fund and the New York Fire Department Pension Fund the opportunity to purchase (buy back) up to three years of pension service credit for military service performed during peacetime.

This bill would entirely eliminate the existing requirements specified in the RSSL that all or part of the military service eligible to be purchased for pension service credit must have been rendered during defined periods of war (World War II, Korea, Vietnam), or in one of the specified military conflicts in Lebanon, Grenada, Panama or the Middle East. Any member of a public retirement system who served in the United States military with an honorable discharge and who has at least five years of credited service would be eligible to purchase up to three years of service credit for that prior military service. Tier 6 members would be required to make a payment of six percent of compensation earned in the 12 months prior to the filing of the credit

application times the number of years of service being claimed, while members of other Tiers would be required to make a payment of three percent of such compensation. The military service purchased under this proposed legislation would be qualifying for all purposes. For example, a Tier 2 New York City Police Officer with 17 years of service credit could purchase three years of military service and qualify for service retirement with 20 years of service.

The City of New York deeply appreciates the service of those who serve in the United States military, including those who serve during peacetime and stand ready to serve in defense of our nation. However, the City is constrained to oppose this legislation as it presents a new employer cost of \$15.7 million per year, as determined by the City Actuary in the fiscal note included in the legislation. Public employee pension costs already comprise a significant part of the non-discretionary portion of the City's budget and every dollar spent to fund benefit enhancements means one less dollar for the City's discretionary budget which is used to fund essential services.

Contrary to the original purpose of military buy-back statutes, namely to provide pension credit to retirement system members who risked their lives during periods of war, this legislation makes no distinction between those who served during wartime and those who served during peacetime. The result would be a substantial expansion of the pool of members eligible to purchase military credit which would lead to additional substantial employer costs as the bill does not seek to increase the contribution levels for newly eligible members to fund such expansion.

Rather than impose an unfunded mandate on the City, the sponsors should have explored ways to ensure that the bill was cost-neutral to employers. The sponsors could have followed, for example, the cost-neutral model established with Chapter 644 of the Laws of 1998 which was the predecessor to Chapter 548 of the Laws of 2000. Chapter 644 required that members pay the full cost of the military service rendered during a period of war (employer and employee portion). A review of the legislative history for Chapter 548 shows that its proponents highlighted the sacrifice made by members who served in a time of war or military conflict as justification for replacing the contribution requirement in Chapter 644 with a provision that would not require members to fund the employer cost. The City concurs with the general principle embedded in this justification – the nature of one's military service is an entirely appropriate distinguishing factor when contemplating extending generous pension benefits. The proponents of the instant bill, however, have taken a different approach which seeks to expand buy-back benefits to cover military service rendered during peacetime without requiring additional contributions from members. To avoid placing undue pressure on the City's budget, the proponents should have resorted to the contribution requirements of Chapter 644 to fund such a significant expansion of the military buy-back statute.

Another concern is the potential impact of this legislation on the retention of senior employees. A review of the legislative documents submitted for Chapter 548 indicates that certain parties were concerned over the retention of senior employees, particularly those in law enforcement which includes the majority of men and women who serve on active military duty. It was feared that increased opportunities to purchase additional service credit would lead to a rise in retirements. The instant bill seems to invite similar concerns as the eligibility criteria are significantly expanded.

The City of New York provides several benefits to its employees who serve, or have served, on active military duty. For example, the City offers the Extended Military Benefits Program (EMBP) which was created to ease, as much as possible, the burden faced by families due to active military duty. Additionally, New York City provides important resources through the Mayor's Office of Veterans Affairs to inform and connect veterans with appropriate city, state and federal benefits. The office is working closely with the NYC Department of Small Business Services to help veterans receive workforce training. In the City's "Workforce1 Centers" in each of the five boroughs, there are veteran specialists – many of them veterans themselves – who match job applicants with available jobs, provide individual counseling sessions, and connect veterans to the right training opportunities. In addition, the City has a new entrepreneurship program helping veterans start their own businesses.

In conclusion, while the City continues to recognize and support the service of all who serve in the armed forces, the additional cost and the imperative to consider other urgent needs of all the City's residents lead to the conclusion that the current law, which distinguishes between wartime and peacetime service, strikes an appropriate balance. Careful consideration must be given before imposing State legislative mandates that effectively require local subsidizing of new pension benefits without providing the means to pay for such benefits.

Accordingly, it is urged that this bill be disapproved.

Respectfully submitted,

SHERIF SOLIMAN  
Director

SS: 6/19/15