

New York State Assembly | Sheldon Silver, Speaker



committee on

Governmental Employees

Peter J. Abbate, Jr., Chairman

December 15, 2009

Honorable Sheldon Silver
Speaker, New York State Assembly
932 Legislative Office Building
Albany, New York 12248

Dear Speaker Silver,

I am pleased to submit the 2009 Annual Report of the Assembly Committee on Governmental Employees.

My priority as Chairman of the Assembly Governmental Employees Committee has been to support legislation to provide benefits that improve the working conditions for our State, County and city work forces and to ensure that these benefits are fiscally responsible to the taxpayers of New York.

This annual report will provide greater details on the accomplishments and report on the various other proposals the Committee considered this year.

I thank all the committee members and staff for their dedication and attention to the needs of our State's public employees. Additionally, I thank the public employee unions and their representatives and the many government officials whose input on legislation was, and is, invaluable.

I thank you for your guidance and support which were instrumental to the accomplishments of the Committee during the 2009 Legislative Session.

Sincerely,

A handwritten signature in black ink that reads "Peter J. Abbate, Jr." with a stylized flourish at the end.

Peter J. Abbate, Jr.
Member of Assembly

Annual Report
of the
Assembly Standing Committee on
Governmental Employees
Peter J. Abbate, Jr., Chairman

Members of the Committee

Majority

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Alec Brook-Krasny
William Colton
Michael J. Cusick
Michael G. DenDekker
John J. McEneny
Audrey I. Pheffer
Kenneth Zebrowski

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Joseph Saladino – Ranker
Nancy Calhoun
David R. Townsend

Committee Staff

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Jude Raphael, Senior Legislative Analyst
Julianne Haggerty, Legislative Analyst
Lauren Ryba, Associate Counsel
Christine Epplemann, Committee Clerk
Molly McDonald, Program and Counsel Secretary

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Summary

The Assembly Standing Committee on Governmental Employees is responsible for legislation pertaining to civil service requirements and regulations, and to public pensions and the public pension systems. Proposals relating to the qualifications of public employees, disciplinary proceedings, the right to organize collective bargaining units, and ratifying collective bargaining agreements are examples of civil service legislation pertaining to the governance of the public employee retirement systems in the State and New York City, and changes to pension benefits.

During the 2009 Session, 379 legislative proposals were referred to the Committee. The Committee reported 82 bills. Of those proposals, 31 became law and 2 were vetoed.

Tier V

In these tough fiscal times, many state and local employers sought relief for the cost of public employee benefits. At the recommendation of the Committee, state and local labor organizations negotiated with the Governor's office and the Mayor of New York City to reach a compromise with regard to a new and cost efficient tier of pension benefits for public employees, which could save the state and local governments more than \$35 billion over the next 30 years.

The Tier V legislation, which establishes a new Article 22 in Retirement and Social Security Law, applies to both uniformed and non-uniformed public employees and significantly reforms the pension system.

Chapter 504 of 2009 (A.40026 / Silver) provides a new tier of pension benefits for all new employees who are members of the New York State and Local Police and Fire Retirement System. This will not impact new New York City Police and Fire Retirement System members. The new tier will:

- require a 3% member contribution for the length of service;
- require 10 years of creditable service in order to vest with the retirement system; and
- limit the amount of overtime that can be used in the calculation for final average salary to 15% of regular annual wages.

The legislation establishes a Tier V plan for members of the New York State and Local Employees' Retirement System employees whose start date is on or after Jan. 1, 2010. The plan will:

- limit the amount of overtime that can be used in the calculation for final average salary. The overtime ceiling would be \$15,000 annually starting Jan. 1, 2010, and would increase by 3% annually;
- require 10 years of creditable service in order to vest with the retirement system;
- increase the penalty for retirement before age 62 to a maximum of 26% to 38%; and
- raise the minimum retirement age to age 62.

In addition, changes were made to new members of the New York State Teachers' Retirement System who start on or after January 1, 2010. Benefits will:

- permit members with 30 years of service to retire at age 57;
- require a 3.5% member contribution for length of service; and
- provide a 2% multiplier at 25 years.

In addition to these retirement changes, Tier 5 permits lawmakers to offer a 55/25 early retirement option for members in the collective bargaining unit of the New York State United Teachers (NYSUT), members in the New York State Teachers' Retirement System (NYSTRS) and the New York State and Local Employees Retirement System (NYSLERS) during a three-month window in 2010.

The bill also changes benefits for new employees of the New York City Teachers' Retirement System and the New York City Board of Education Retirement System who are represented by United Federation of Teachers. This plan will:

- require 10 years of creditable service in order to vest with the retirement system;
- require 4.85% annual member contributions to the retirement system for the first 27 years of credited service and 1.85% annual member contributions for service beyond 27 years; and
- fix a 7% interest rate on the tax-deferred account in the annuity savings fund of participants.

Permanent Health Insurance for Educational Retirees

Since the enactment of Chapter 729 in 1994, retirees of school districts have had their health insurance benefits protected. Legislation, offering this protection, has been enacted every year since then.

Chapter 504 of 2009 (Tier 5), included a provision that makes permanent for teachers the protection of their health insurance benefits after retirement.

Task Force on Public Retiree Health Benefits

With the number of public employee retirees and beneficiaries who are receiving benefits rising to over 1,000,000 individuals, and of that approximately 400,000 of them being from New York City, it is more pertinent now than ever to institute protections for the health insurance of the State's dedicated public servants.

During the 2009 session, the Assembly negotiated several initiatives that would protect the health insurance benefits afforded to working men and women across the State. The Governor also issued Executive Order 15, which established the New York State Task Force on Public Retiree Health Benefits. The task force will study health care benefits provided to employees of the State and local governments and will specifically address the preservation of quality retiree health care and ways to make health care more affordable for local governments. The Committee is awaiting the report of the task force which is expected to be released before the end of 2010.

Bills That Passed Both Houses and Signed into Law by the Governor

Extension of Existing Statutes

A number of provisions of the Civil Service Law (CSL) and the Retirement and Social Security Law (RSSL) contain expiration dates. These laws require the Legislature to periodically review those provisions in order to assure that the laws are needed and their intent remains relevant.

General Extender

In 1973, the Legislature determined that changes in retirement benefits by a public retirement system should, in the future, be made only by way of coalition negotiations. Accordingly, §470 of the Retirement and Social Security Law was enacted to provide that after July 1, 1976, all negotiations between public employers and their employees must be made in the context of coalition bargaining. Section 470 also provided for a temporary suspension of negotiations for improved retirement benefits. However, since that time, there has been no further legislation implementing a coalition bargaining plan. Accordingly, legislation has been enacted every second year which has extended the limited right to negotiate for benefits not requiring the approval of the Legislature. This general extender was last extended by Chapter 27 of 2007.

Chapter 79 of the Laws of 2009 / A.5808 (Abbate) extends the following:

- all temporary rights, privileges, and retirement benefits conferred by any general, special or local law for members of the retirement systems;
- public employer contributions to the retirement systems which would otherwise be paid by an employer;
- Tiers 3 and 4 of the retirement system; and
- the rights of public employers and employees to negotiate for retirement benefits (other than those requiring approval of the Legislature), without coalition bargaining.

Injunctive Relief

Injunctive Relief was enacted in 1994 to provide an expedited method to resolve improper practice cases in the public sector where there was deemed to be immediate and irreparable harm. Since it took effect in 1995, it has enabled labor and management to resolve numerous issues.

Chapter 29 of the Laws of 2009 / A.3427 (Abbate) extends the provisions relating to injunctive relief from June 30, 2009 to June 30, 2011.

Binding Arbitration for Police Officers and Firefighters

Compulsory arbitration has provided the people of New York with uninterrupted police and fire protection since 1973. All evaluations of this law have been positive and have advocated for the continued use of this process. There have been no significant increases or decreases in settlements due to the use of arbitration as opposed to settling prior to the issue of an

arbitration award. Legislation was necessary to extend binding arbitration for an additional two years to continue to provide for peaceful settlement of disputes.

Chapter 28 of the Laws of 2009 / A.3425 (Abbate) extends, from July 1, 2009 to July 1, 2011, the binding arbitration provisions for local police and fire personnel for the resolution of labor disputes between public employers and police and fire members during collective bargaining negotiations.

Binding Arbitration for the Metropolitan Transit Authority, the New York City Transit Authority, or the Triborough Bridge and Tunnel Authority

Binding arbitration provisions governing labor disputes between the Metropolitan Transit Authority, the New York City Transit Authority, or the Triborough Bridge and Tunnel Authority and public employee organizations were enacted by Chapter 929 of the Laws of 1986. Chapter 168 of 2007 last extended these provisions.

Chapter 93 of the Laws of 2009 / A.2782 (Abbate) extends, from July 1, 2009 to July 1, 2011, the provisions of the law that provide compulsory arbitration for the resolution of impasses during collective bargaining negotiations between the Metropolitan Transit Authority, the New York City Transit Authority, or the Triborough Bridge and Tunnel Authority and their employee organizations.

Special Accidental Death Benefits Increase for Police and Fire

Since 1978, the Legislature has passed and the Governor has signed into law a cost-of-living increase and a one-year escalation for all New York State widows and widowers of police officers and firefighters killed in the performance of duty. The intent of the original law was to increase their benefits to an amount that would reflect the impact of inflation. However, the law did not provide for any new cost-of-living increase after July 1, 1979.

Since that date, the cost of living has increased well over 3% each year, including double-digit inflation, and these widows and widowers are not receiving adequate benefits. While this legislation does not totally cover the present inflation spiral, it at least provides increased relief.

As in previous legislation, there is no cost to the localities as the State would reimburse them fully for this small increase.

Chapter 305 of 2009 / A.4905-A (Markey) provides a 3% cost-of-living increase for fiscal year 2009 to the survivors of police officers and fire fighters who were killed in the line of duty.

Ratification of Collective Bargaining Agreements

A series of measures, which spell out new contract provisions for members of the State's employee organizations, passed the Legislature and became law. The Legislature has to approve these negotiated agreements before they can be implemented. In 2009, the Legislature approved the following bills which implemented the contracts with the following negotiating units:

Chapter 208 of the Laws of 2009 / A.8898 (Abbate) – Implements the terms of a collective bargaining agreement between the City University of New York (CUNY), and its employee organization, the International Brotherhood of Teamsters Local 237 for the period from August 18, 2006 to September 17, 2009. The agreement provides a wage increase of 3.5%, retroactive to August 18, 2006; a general wage increase of 4%, retroactive to August 18, 2007; and a general wage increase of 4%, retroactive to August 18, 2008. In addition to the salary increases, the bill also modifies certain employee benefits.

Chapter 69 of the Laws of 2009 / A.8254 (Abbate) – Implements the terms of a collective bargaining agreement between the Executive Branch and the employee organization representing troopers, sergeants, station commanders, lieutenants, captions and majors of the Division of State Police. The agreement provides for 3% wage increases, retroactive to April 1, 2007, April 1, 2008, April 1, 2009, and a 4% wage increase effective April 1, 2010. The bill provides for an increase for holiday and overtime pay by the same percentages from April 1, 2007 to April 1, 2010. Additionally, the bill provides for the continuation of health and other benefits.

Chapter 70 of the Laws of 2009 / A.8255 (Abbate) – Implements the terms of a collective bargaining agreement between Executive and the employee organization representing investigators, senior investigators and investigative specialists who are members of the Bureau of Criminal Investigation (BCI) in the Division of State Police. The agreement provides for a salary increase of 3% retroactive to April 1, 2007, April 1, 2008, April 1, 2009, and a 4% increase effective April 1, 2010. The bill also provides an increase for holiday and overtime pay by the same percentages from April 1, 2007 to April 1, 2010. Additionally, the bill provides for the continuation of health and other benefits.

Chapter 214 of the Laws of 2009 / A.8955 (Abbate) – Implements the terms of a collective bargaining agreement between the State and the employee organization representing members of the New York State Correctional Officers and Police Benevolent Association (NYSCOPBA). The agreement provides for 3% salary increases retroactive to April 1, 2007 and April 1, 2008. Additionally, the bill provides for location compensation and annual inconvenience pay for seasonal managerial/confidential employees who were omitted in the previous pay bill.

Re-openers of Local 20-Year Retirement Plans

The following laws permit localities to re-open the optional 20-year retirement plans (§384-d and §384-e and §552 and §553 of the Retirement and Social Security Law) to police officers and firefighters who, through no fault of their own, were not included in those plans. The locality indicated below, submitted a home rule message to the Legislature and will be responsible for all costs associated with the re-opening of the retirement plan.

Chapter 393 / A.8019-A (O'Mara) provides police officers Brooks A. Shaw, Brian J. Williams, and Erica LaPierre with a 20 year retirement plan by allowing the city of Elmira (Chemung County) to elect to reopen the provisions of section 384-d.

Chapter 425 / A.3078-A (Magee) provides fire chief Robert S. Barnes with an additional pension benefit of 1/60th of final average salary for each year in excess of twenty by allowing the city of Oneonta to elect to reopen the provisions of section 384-e.

Chapter 434 / A.6153-A (Paulin) provides police officer Matthew A. Miraglia with a 20 year retirement plan by allowing the village of Scarsdale to elect to reopen the provisions of section 384-d.

Chapter 437 / A.6731 (Magee) provides police officer Louis P. Romano with a 20 year retirement plan by allowing the village of Ilion (Herkimer County) to elect to reopen the provisions of section 384-d.

Chapter 438 / A.6732 (Magee) provides police officer David Meeker, Jr. with a 20 year retirement plan by allowing the city of Oneida to elect to reopen the provisions of section 384-d.

Chapter 442 / A.7711-A (Hawley) provides deputy sheriffs (road patrol) Shannon E. Bret and James A. DeFilipps with a 20 year retirement plan, and the additional pension benefit of 1/60th of final average salary for each year in excess of twenty, by allowing the county of Orleans to elect to reopen the provisions sections 552 (20 year plan) and 553 (additional 1/60th of final average salary) of the Retirement and Social Security Law.

Chapter 445 / A.7858 (Thiele) provides three police officers in the village of East Hampton (Suffolk County) with a 20 year retirement plan by allowing the village to elect to reopen the provisions of section 384-d.

Chapter 455 / A.8286 (Crouch) provides chief of police, Sean D. Crouse, and police officer Paul Buttacovoli, Jr. with a 20 year retirement plan by allowing the village of Port Dickinson (Broome County) to elect to reopen the provisions of section 384-d.

Chapter 466 / A.8600 (Rabbitt) provides police officer Anthony T. Amatetti with a 20 year retirement plan by allowing the village of Monroe (Orange County) to elect to reopen the provisions of section 384-d.

Re-opener of a Local 25-Year Retirement Plan

Chapter 431 / A.4811 (Jordan) allows the village of Cambridge (Washington County) to elect to reopen the provisions of the 25 year retirement plan pursuant to section 384 of the Retirement and Social Security Law to police officers George G. Bell, Harold P. Spiezio III, and Stephen E. Griffin, Jr.

Appendix A

ALL BILLS VETOED BY THE GOVERNOR IN 2009

<u>Bill #/ Sponsor</u>	<u>Description</u>	<u>Veto #</u>
A.3426 Abbate	Would have granted police officers and firefighters, who joined the retirement system on or after July 1, 1976 and prior to July 1, 2011, tier 2 membership in the New York State and Local Police and Fire Retirement System.	Veto 5 of 2009
A.5328 Millman	Would have granted Gustin L. Reichback, a justice of the supreme court and an active tier 4 member of the New York State and Local Employees' Retirement System, additional service credit for the period from September 1, 2003 through February 27, 2004, during which period he rendered service as a judge with the United Nations administration mission in Kosovo.	Veto 50 of 2009

Appendix B

ALL BILLS THAT PASSED THE ASSEMBLY ONLY IN 2009

<u>Bill #/ Sponsor</u>	<u>Description</u>
A.1119 Destito	Would make it a discriminatory practice for public employers to compensate public employees of different sexes differently for work that is of comparable worth.
A.2433 Abbate	Would require a binding arbitration panel to use hazards of employment, physical, educational, mental qualifications, and job training skills when making an arbitration award for bridge and tunnel peace officers who are employed by the Triborough Bridge and Tunnel Authority.
A.4101 Abbate	Would provide binding arbitration for the resolution of collective bargaining impasses to court reporters, court officers, and other court employees in the Ninth Judicial District, Nassau and Suffolk Counties, and New York City.
A.4104 Abbate	Would provide 10 additional points on competitive civil service exams to children and siblings of uniformed sanitation members who were killed in the line of duty on September 11, 2001.
A.4105 Abbate	Would grant special accidental death benefits to the widow/widower and children of deceased District Attorney (DA) Investigators who die from illnesses or injuries that were sustained in the performance-of-duty.
A.4294 Abbate	Would make it an improper employer practice for a county legislature which has allocated funds to finance the operation of a community college to reject an agreement negotiated by an employee organization representing the community college employees when the agreement can be implemented with the use of such funds.
A.4395 Canestrari	Would include SUNY police officers into the provisions of the law which would allow them to transfer to other police departments throughout New York State.
A.5313 Abbate	Would allow a Tier 3 and Tier 4 member of New York State Teachers' Retirement System, who has permanently ceased teaching, to withdraw his or her accumulated contribution and thereby terminate his or her membership in that system.
A.5950 Espaillat	Would provide additional compensation for New York City police department employees who use foreign languages in the performance of duty.
A.6254 Abbate	Would increase the mandatory retirement age, from 62 to 65, for New York State Regional Park Police.

Bill #/ Sponsor	<u>Description</u>
A.6712 Rosenthal	Would compensate employees in state service equally for work of comparable value by eliminating wage inequality in job titles having been segregated by sex, race or national origin.
A.7170-A Abbate	Would provide a one year probationary period (currently five years) for employees of the New York City Health and Hospitals Corporation appointed to a title in the non-competitive class.
A.7172 Abbate	Would repeal the provision of law which limits the scope of binding arbitration for state police to exclude disciplinary matters.
A.7173 Abbate	Would require a hearing be held prior to removal or other disciplinary action for investigators or senior investigators in the Bureau of Criminal Investigation who have held these positions at least three consecutive years.
A.7282 Abbate	Would extend until January 1, 2012 (from January 1, 2009) the period of time which retirement age for employees of the Triborough Bridge and Tunnel Authority would be reduced by four months for each year worked.
A.7972 Abbate	Would bring certain provisions of the Retirement and Social Security Law into accordance with the requirements of the federal Older Workers' Benefit Protection Act (OWBPA).
A.7973 Abbate	Would reduce (from 30 days to 15 days) the minimum amount of time within which a service retirement may take effect for a prospective retiree of the New York State and Local Employees' Retirement System or the New York State and Local Police and Fire Retirement System.
A.8330 Abbate	Would provide employees in the non-competitive and labor classes with discipline hearing rights after one year of continuous service before any disciplinary action can be taken against them thereby giving them due process protections.
A.8507 Abbate	Would make Town Law consistent with Civil Service Law and Village Law by limiting the period of time (to 30 days) that an employer may suspend the pay of a police officer who is awaiting a hearing on disciplinary charges.
A.8509 Abbate	Would authorize the deferral of up to five vacation days for uniformed persons, uniformed personnel or security hospital treatment assistants.
A.8664 Abbate	Would provide statutory clarification that the final average salary used for the computation of pension benefits for members of the New York City Teachers' Retirement System would be calculated using the three highest consecutive years of compensation as opposed to a member's total compensation in the three consecutive years prior to retirement.

<u>Bill #/ Sponsor</u>	<u>Description</u>
A.9037 Abbate	Would put in place a 6 year program that allows employers of the Common Retirement Fund the option of amortizing a portion of their contributions rates at certain levels. In addition, the minimum contribution rate increases from 4.5% of payroll to 5.5% of payroll for all future years.

Appendix C
2009 SUMMARY SHEET

<u>Final Action</u>	<u>Assembly Bills</u>	<u>Senate Bills</u>	<u>Total Bills</u>
<u>Bills Reported With or Without Amendment</u>			
To Floor; not returning to Committee	10	0	10
To Floor; recommitted and died			
To Ways and Means	57	0	57
To Codes	13	0	13
To Rules	2	0	2
To Judiciary			
Total	82	0	82
<u>Bills Having Committee Reference Changed</u>			
To Corporations, Authorities & Commissions	1	0	1
Total	1	0	1
<u>Senate Bills Substituted or Recalled</u>			
Substituted		2	2
Recalled		0	0
Total		2	2
<u>Bills Defeated in Committee</u>	0	0	0
<u>Bills Never Reported, Held in Committee</u>	266	0	266
<u>Bills Never Reported, Died in Committee</u>	0	0	0
<u>Bills Having Enacting Clauses Stricken</u>	6	0	6
<u>Motion to Discharge Lost</u>	0	0	0
TOTAL BILLS IN COMMITTEE	355	2	357
Total Number of Committee Meetings Held		8	