

# 2008 ANNUAL REPORT

NEW YORK STATE ASSEMBLY

COMMITTEE ON  
GOVERNMENT EMPLOYEES



Sheldon Silver, Speaker

Peter J. Abbate, Jr., Chair

**Annual Report**  
**of the**  
**Assembly Standing Committee on**  
**Governmental Employees**

**Peter J. Abbate, Jr., Chairman**

**Members of the Committee**

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**2008**

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December 15, 2008

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 2008 Annual Report of the Assembly 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 2008 Legislative Session.

Sincerely,

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

Peter J. Abbate, Jr.  
Member of Assembly

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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 2007-08 Session, 861 legislative proposals were referred to the Committee. The Committee reported 146 bills. Of those proposals, 37 became law and 30 were vetoed.

## **World Trade Center Rescue and Recovery Legislation**

The September 11<sup>th</sup> Worker Protection Task Force, which was created by Chapter 104 of the Laws of 2005 was charged with, among other duties, identifying and examining the limitation of any existing laws, regulations, programs and services regarding coverage, extent of liability, process for determination, adequacy of coverage and treatment of specific types of disabilities for WTC workers and to make recommendations to address any identified problems.

Chapter 489 of 2008 / A.11730 (Silver) amends Chapter 93 of the Laws of 2005 and Chapter 445 of the Laws of 2006, which provided members of public retirement systems who contract any form of disease of disability related to exposure to any elements in connection with the World Trade Center tragedy of September 11, 2001 to be presumptive evidence that such disability, or death as a result of such disability was the result of an accident and was sustained in the performance of duty.

During the 2008 Legislative Session, the Legislature revisited this issue, and from the direction of the Governor's Taskforce, legislation was drafted, passed both Houses, and was signed into law by the Governor. Chapter 489 of 2008 does the following:

- Extends the eligibility entitlement to not only those who worked a total of 40 hours during the rescue and recovery operation, but also to the first responders who worked during the first 48 hours after the first tower was struck;
- Extends the deadline (to September 11, 2010) for filing notice regarding the eligibility for benefits;
- Removes the requirement for pre-employment physicals providing there is medical history to confirm that the condition an employee contracts is tied to 9/11;
- Extends coverage to the following: State and county correction officers and deputy sheriffs, non-uniformed personnel employed in various facilities not included in the original geographic barriers of the original legislation, 9/11 dispatchers, vested members who have not attained age 55 and who terminated their employment prior to filing a claim (under current law, they have to wait until age 55), and workers who became disabled more than two years after 9/11 before an extension was granted in the Workers' Compensation Law, which would have covered them.

## **Reforms to the 211 Waiver Process**

A recent investigation by the New York State Attorney General revealed significant abuses in the New York State pension system. Such abuses included independent contractors participating in our employee pension system, and recently retired school district employees returning to their same positions and receiving both pension and salary; this practice is known as “double-dipping.”

In response to these findings, Chapter 640 of 2008 / A.11743 (Sweeney) was enacted and institutes a wide variety of reforms to the public pension system. It forbids attorneys from acting both as employees and independent contractors of school districts and boards of cooperative education.

Currently, via a so-called “211 waiver,” state agencies and local governments may obtain permission to employ an individual while that person also receives a New York State or local government pension. This provision has played an important role in New York’s workforce management and this law continues the use of 211 waivers when necessary. These waivers may only be obtained under limited circumstances. They may be granted for periods of up to two years, and the prospective employer must show that qualified, non-retired persons are not readily available for recruitment. It is important to note that 211 waivers may still be granted under the new law; however, with greater restraint.

Chapter 640 also:

- 1) Expands the Attorney General’s authority to investigate and commence a civil suit and impose civil penalties against anyone who is found in violation of the law;
- 2) Increases the penalty for pension fraud from a misdemeanor to a felony and it creates a new criminal penalty for lawyers who improperly receive compensation and benefits;
- 3) Requires schools to list all compensation, including salary and benefits, for all administrators to be posted on the school’s website and at public libraries; and,
- 4) Closes “double-dipping” loopholes in the pension waiver process. Chapter 640 requires that a waiver will only be granted when there is an urgent need for a retiree’s services in a position as a result of an unplanned, unpredictable and unexpected vacancy, sufficient time is not available to recruit a qualified individual, and the hiring will be deemed as non-permanent rather than a filling of the position. If an employer has done extension recruitment efforts to fill a vacancy, and it has been determined that there are no available non-retired individuals qualified to perform the duties of a position, a retiree must be properly certified and an employer must prepare a detailed recruitment plan to fill the vacancy on a permanent basis. The law also prohibits the retiree from returning to work in the same or similar position for a period of one year following retirement, thus closing the revolving door loophole.

## **Tribute to Coretta Scott King**

Chapter 330 of 2008 / A.2845-A (Towns) establishes April 27<sup>th</sup> of each year as a day of commemoration know as “Coretta Scott King Day.”

This legislation pays tribute to the undeniable devotion, courageous acts, and the life changing achievements of Coretta Scott King, the wife of Dr. Martin Luther King, Jr., who died on January 30, 2006. Mrs. King was known as the first lady of the civil rights movement. Even after the death of her husband, she continued his philosophy and work of ending discrimination in a non-violent manner.

## **Retiree Health Insurance Benefits**

In recent years, many public employers have abandoned their long-standing policy of providing insurance coverage for retirees in an attempt to contain or reduce health insurance costs. There is no statutory requirement that local public employers provide health care coverage to retirees. This allows public employers to unilaterally diminish or even eliminate health insurance benefits to retirees. The Committee strongly believes that protecting retirees from the loss or diminution of health care benefits is essential, even in this time of fiscal constraints.

Chapter 729 of the Laws of 1994 protects school district retirees by prohibiting school districts from reducing health insurance contributions or changes in benefit plans, unless similar changes for active employees are made. That law was last extended by Chapter 22 of 2007 and was set to expire on May 15, 2008. Because a long-term equitable solution could not be reached, the Committee urged that the law be extended for another year.

Chapter 43 of 2008 / A.9942 (Weinstein) extends that law until May 15, 2009.

## **Health Insurance Protection of Other Retirees**

The Committee believes that all public retirees, not just school district retirees, should be protected from unilateral increases or decreases in health insurance premiums or decreases in health care coverage.

To ensure that the State continues to provide its public retirees with health care, the Chair introduced and the Committee reported A.9393-A, which would have established a task force to study cost-effective strategies for protecting adequate and affordable health insurance for retired public employees and their dependents. In conjunction with the task force’s deliberations, the bill would have prohibited, until June 30, 2009, any diminution in health benefits for retirees or their dependents in the New York State and Local Employees’ Retirement System, the Optional Retirement Program, or a teachers’ retirement system.

Unfortunately, A.9393-A was vetoed by the Governor because he believes that the task force created by this legislation would not sufficiently reflect a diversity of opinion, and cited several other technical flaws with the proposal.



## **Health Insurance for Widows of NYC Fire Department Emergency Medical Technicians (EMTs) in the Aftermath of 9/11**

EMTs perform some of the most arduous and dangerous jobs in New York City. The performance of their task is literally a matter of life and death for residents and visitors. Often EMTs find themselves in situations where their own lives are at risk. Sadly, some EMTs die in the performance of their duties.

In the event that EMTs give their lives in the line of duty, the health care needs of their families are just as important and should be considered as important as those of NYC police officers and firefighters.

The Committee reported A.10107 / (Abbate), which accomplishes this goal. In addition to extending this benefit to the survivors of EMTs, the bill also allows surviving spouses of retired EMTs to purchase health insurance coverage. A surviving spouse who elects this coverage will be required to pay 102 percent of the group rate for such coverage, which includes two percent to cover the city's administrative costs. The bill passed both Houses and was signed into law by the Governor. (See Chapter 339 of 2008)

## **Supporting Our Troops and Their Families**

The Extended Military Benefits Package (EMBP) was created to ease, as much as possible, any financial disruption for New York City public employees caused by long-term military duty after the events of September 11, 2001.

The EMBP is a voluntary program which allows City employees who are on active military duty to choose to remain on their agency's payroll in active pay status while they are deployed. By remaining on payroll, EMBP participants receive their full pay, accrue annual and sick leave, and receive full health insurance benefits. Upon returning to their City jobs, participants must repay the City either the military pay or City salary, whichever is less.

However, upon their return from deployment, employees are often required to pay back a significant amount of money and this created a hardship for many.

To address this problem, the Committee reported two bills that would modify the program and provide relief to those who had served their country in the fight against global terrorism.

Chapter 238 of 2008 / A.9106-A (Lancman), and its chapter amendment, Chapter 240 of 2008 / A.9873 (Lancman), makes changes in the law regarding the repayment of salary paid to New York City employees who were called to active duty.

Chapter 238 enacted the Public Servant Soldier Salary Act. This law provides for a new repayment plan. Generally, the law provides that:

1. Employees, while employed by the city, will not be required to pay in any pay period more than 7.5% of base pay and these employees will have a 10-year repayment schedule from date of return;

2. Retirees will not be required to pay, in a month, more than 7.5% of monthly pension payment and retirees will have a 10-year repayment plan;
3. Employees who have left City service for reasons other than retirement will not have to pay more than 7.5% of their last year of city salary; and,
4. The city will not require any repayment if a soldier is killed in the performance of ordered military duty.

Chapter 240 of 2008 makes a technical change by clarifying that in times of economic hardship there will be a modification to allow balloon payments to be included in hardship provisions. This law also provides that an employee, who, prior to the effective date of this legislation, elected to participate in a “full payment / repayment plan” will have satisfied the obligation to repay when he or she has repaid 85% of city or military salary, whichever is less.

### **Provisional Employees**

Chapter 5 of 2008 / A.9463 (Abbate), among other things, requires New York City Department of Citywide Administrative Services (DCAS) employers to develop and submit a plan to the State Civil Service Commission to replace or reduce the number of provisional employees in their hire.

This law addresses issues raised by a 2007 New York Court of Appeals decision, City of Long Beach v. Civil Service Employees Association, 2007 NY Slip Op 3755, NY LEXIS 893 May 1, 2007. In this case, the Court concluded that the terms of a collective bargaining agreement that afforded tenure rights to provisional employees of City of Long Beach after one year of service were contrary to New York statute and decisional law, and therefore the dispute was not arbitrable. The Court also observed that policy considerations warrant strict compliance with the time limitations imposed by the Civil Service Law with respect to filling vacancies, holding exams and removing provisional employees from positions in titles for which exams should be held.

### **Cancer Screening Extended to Additional Groups of Public Employees**

Early detection of cancer is critical to treatment, survivorship, and reduction of costs, but working men and women often lack the opportunity or incentive to undertake the necessary screening.

Since 2002, the Committee reported several bills that would provide public employees with such an incentive. The bills were signed into law and now provide State employees with up to four hours of excused leave annually for breast and prostate cancer screening. (See Chapters 362 of 2002 and 237 of 2004).

In 2006, Chapter 566 provided county employees with up to four hours of excused leave annually for breast cancer screening. And in 2007, Chapter 111 provided municipal workers and school district employees with up to four hours of excused leave annually to undergo breast cancer screening. Chapter 111 also provided all county, municipal, and school district employees with up to four hours leave annually for prostate cancer testing.

In 2008, the Committee reported A.10035-A (Brodsky), which was signed into law by the Governor. This bill completes the legislative process that began in 2002.

Chapter 381 of 2008 extends the breast and prostate cancer leave benefit to additional groups of public employees: Community College, Public Authority, Public Benefit Corporation, BOCES, and Vocational School, as well as members of the New York State Teachers' Retirement System (NYSTRS) and the New York State and Local Employees Retirement System (NYSLERS).

It is important to note that all leave is paid and is not to be charged against an employee's entitled leave.

### **Civil Service Make-up Exams for Military Personnel**

Under current law, members of the organized militia (New York National Guard and the Air National Guard) or those in the reserves who miss the deadline to apply for a civil service exam because of active military duty to have the opportunity to compete in an exam or to take make-up exam if they miss the test. However, members of the United States armed forces are not provided with the same opportunity.

Chapter 192 of 2008 / A.10381 (Cusick) addresses this inequity by allowing members of the United State armed forces, who missed the application deadline for a scheduled competitive exam for civil service employment because of active military duty, to compete in a special military make-up exam.

Chapter 192 also grants a waiver of the application requirement for members of the armed forces in active military service who missed the application deadline for a scheduled competitive civil service exam, thereby allowing them to take an upcoming exam.

### **Re-Classification of Titles for Veterans of Military Service**

Civil Service Law (§55-c) provides veterans with disabilities employment opportunities with the State of New York. Under this provision, up to 300 entry-level positions that are filled via open-competitive examination that may be re-classified in the non-competitive class and filled only by veteran with disabilities. However, the number of positions available under the program has not grown since it was first instituted in 1987. While veterans with disabilities are not required to take a written or oral exam, they must meet the educational and / or experience qualifications for these positions.

The Committee felt that it was important to expand the program so that veterans returning from Iraq and Afghanistan could pursue fruitful careers in public service.

Chapter 340 of 2008 / A.10486 (Abbate) allows the State Civil Service Commission to increase, from 300 to 500, the number of positions to be reclassified in the non-competitive class and be filled only by veterans with disabilities. The law further requires that the Civil Service Department certify that a veteran is physically or mentally disabled but qualified and capable of performing the job duties.

### **Increasing the Maximum Age for Police Officers**

Under present law, full-time police officers of towns, villages, cities, and counties age out at the age of 35. Localities are unable to initially hire these individuals as full-time officers if over 35 years of age.

Chapter 346 of 2008 / A.11418 (Abbate) increases the maximum age (from 35 to 39). The law permits a county, town, village, or city police force to permanently appoint a full-time police officer who is over the maximum age of 35 if: the police officer is on an eligible list; the eligible list has been exhausted; there are no other eligible candidates; or, a police officer meets all other requirements of merit and fitness. A police officer may not be over age 39 at the time of appointment.

### **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.

The Public Employees' Fair Employment Act (Taylor Law / (CSL §200 et seq.) is a labor relations statute covering all public employees in New York State – whether employed by the State, or by counties, cities, towns, villages, school districts, or public authorities. It was enacted on September 1, 1967.

The Taylor Law requires public employee unions to represent both members and non-members of the union on an equal basis. Since the enactment of the Taylor Law, non-members have been entitled to the benefits of working in a union shop. They receive wage increases, fringe benefits, and representation on grievances. These benefits are negotiated by unions with dues money that is contributed by members.

### **Agency Shop Law Made Permanent**

The Agency Shop Law, enacted in 1977, requires State employees and local public employees, who are not union members to pay an agency shop fee which is equal to union dues, less the amount used for political or ideological purposes. Non-union members have enjoyed the increased wages, salaries, employee protection, and fringe benefits negotiated by each respective union.

Since its enactment in 1977, the Agency Shop Law has been extended every two years. Because the Legislature had been enacting extensions for over 30 years, the Committee believed it was time to push to make the law permanent.

Chapter 338 of the Laws of 2008 / A.10030 (Abbate) makes the Agency Shop Law permanent.

## **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 76 of 2008 / A.9666 (Markey) provides a 3% cost-of-living increase for fiscal year 2008 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.

District Council 37 (DC 37) pay bill: Chapter 49 of 2008 / A.10270 (Abbate) implements the terms of a collective bargaining agreement covering the Rent Regulation Services Unit, represented by DC 37, American Federation of State, County and Municipal employees. The agreement covers over 325 employees that administer the rent control and rent stabilization system for the State Division of Housing and Community Renewal. The prior agreement governing these employees expired on April 1, 2007. This agreement governs the period between April 2, 2007 and April 1, 2011. Among other provisions, it provides salary increases of three percent in 2007, 2008, and 2009, and four percent in 2010.

City University of New York (CUNY) pay bill: Chapter 219 of 2008 / A.11630 (Abbate) authorizes CUNY to implement the terms of a collective bargaining agreement with the following organizations: DC 37 of the American Federation of State, County and Municipal Employees; Service Employees International Union Local 300; New York State Nurses Association; and, International Alliance of Theatrical and Stage Employees Local 306.

Public Employees Federation (PEF) pay bill: Chapter 114 of 2008 / A.11439 (Abbate) implements the terms of a collective bargaining agreement negotiated between the Executive Branch and PEF, AFL-CIO, on behalf of the members of the Professional, Scientific and Technical Services Unit (PS&T). Over 58,000 employees are covered by the agreement, which includes a variety of professional, scientific and technical titles including information technology professionals, nurses, accountants, lawyers, engineers, and physicians. The agreement provides increases for compensation for the period April 1, 2007 to April 1, 2011. It provides salary increases of three percent in 2007, 2008, 2009, and four percent in 2010.

United University Professionals (UUP) pay bill: Chapter 113 of 2008 / A.11414 (Abbate) implements the terms of a collective bargaining agreement covering members of the Professional Services Unit, represented by UUP. The Professional Service is comprised of all faculty and non-teaching professional staff employed the State University of New York, totaling 34,000 employees. The prior agreement governing these employees expired on July 1, 2007. This agreement governs the period between July 2, 2007 and July 1, 2011. Among other provisions, it provides for salary increases of three percent in 2007, 2008 and 2009, and of four percent in 2010.

Civil Service Employees Association (CSEA) pay bill: Chapter 10 of 2008 / A.9816 (Abbate) implements the terms of a collective bargaining agreement between the Executive Branch and CSEA.

Part A of the bill implements the terms of a collective bargaining agreement covering members of the Administrative Services Unit, the Institutional Services Unit, the Operational Services Unit and the Division of Military and Naval Affairs represented by CSEA. Over 70,000 employees are covered by the agreement, including keyboard specialists, clerks, cleaners, developmental and mental health therapy aids, nurses and highway maintenance workers. The prior agreement governing these employees expired on April 1, 2007. The agreement governs the period between April 2, 2007 and April 1, 2011. Among other provisions, it provides for salary increases of three percent in 2007, 2008 and 2009, and of four percent in 2010.

Part B of the bill provides the State's 12,000 unrepresented employees who are prohibited from collective negotiations by the Taylor Law, including managerial or confidential (M/C) employees, with benefits and increases in compensation at levels that are comparable to the benefits and increases in compensation received by employees represented by employee organizations.

### **Re-openers of Local 20-Year Retirement Plans**

The following laws permit localities to re-open the 20-year retirement plans (§384, RSSL) to police officers and firefighters who, through no fault of their own, were not included in that plan. 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 218 / A.11491-A (Zebrowski) authorizes the town of Haverstraw to reopen the 20-year retirement plan to seven police officers employed by the town.

Chapter 381 / A.11342 (Tedisco) authorizes the city of Schenectady (Schenectady County) to reopen the 20-year retirement plan to one police officer employed by the city.

Chapter 550 / A.11270 (Lopez P.) authorizes the town of Saugerties (Ulster County) to reopen the 20-year retirement plan to two police officers employed by the town.

Chapter 614 / A.11196-A (Saladino) authorizes the village of Lloyd Harbor (Suffolk County) to reopen the 20-year retirement plan to one police officer employed by the village.

### **Re-opener of a Local 25-Year Retirement Plan**

Chapter 543 of 2008 / A.9970 (McDonald) permits Washington County to reopen the provisions of the optional 25-year retirement plan (§551 RSSL) to four law enforcement deputy sheriffs in its employ.

### **Individual Legislation**

Chapter 337 of 2008 / A.9703 (Gunther) authorizes the town of Chester (Orange County) to reinstate Marc Miller as a full-time police officer.

Chapter 442 of 2008 / A.9447 (Gordon, T.) authorizes the village of Nassau to hire Eric M. Jukes as a full-time police officer.

### **2008 Chapter Amendments**

Under current law, the children of police officers and firefighters killed in the line of duty receive 10 additional points on a civil service exam in the municipality in which their parent “served.”

Chapter 545 of 2007 sought to correct an equity problem in the law. Police officers and firefighters who died in the line of duty and who worked in a municipality, but were not employed by it, (i.e. those who worked for a public authority) were not considered to have “served” there, and their children were not allowed the benefits that the law intended to provide. To address this problem, Chapter 545 allows children of fallen police officers and firefighters to gain credits in the “geographical area” where their parents had “died,” instead of the municipality where the officer or firefighter “served.”

The language of Chapter 545 left out a definition of “geographic area” and by allowing a child to earn civil service credit only where his or her parent died, such credit might be earned in a place to which the child had no connection.

**Chapter 75 of 2008 / A.9392 (Abbate)** is a chapter amendment to Chapter 545 of 2007. This law removes the problematic provisions by allowing children to receive the additional 10 points in a competitive exam for original appointment in the “same municipality” in which his or her parent has served. It further clarifies that a police officer or firefighter will be deemed to have “served” in a municipality if he or she was employed by, or worked primarily in that municipality.

Chapter 562 of 2007 raised the retirement age for employees of the State Police from age 57 to 60. However there were certain employees of the Division of State Police who must retire at the mandatory age in order to receive their full pension benefits. Under Chapter 562, those employees, some who were close to retirement, would unexpectedly have had to work three additional years to receive their full pension benefits.

**Chapter 97 of 2008 / A.9444-A (Abbate)** makes a technical correction to Chapter 562 of 2007 by adding language to say that members who were employed by the Division of State Police prior to August 15, 2007 would be allowed to receive benefits at age 57 if they do not have 20 years of service. These members were already eligible for this benefit prior to the enactment of Chapter 562.

**Chapter 190 of 2008 / A.9391-A (Abbate)** permits binding arbitration for matters related to compensation to detective-investigators and racket investigators of District Attorneys' offices in New York City. This is a chapter amendment to Chapter 190 of 2007 which allows binding arbitration to detective-investigators and rackets investigators employed in any county District Attorney's office.

### **Chapter 105 of 2008 / A.9963 (Abbate)**

In 2005, the New York State Foundation for Science, Technology, and Innovation, previously a State Agency, was converted to a foundation. Chapter 59 of the Laws of 2005, which authorized the conversion, included language ensuring that all current and future transferred employee maintain their civil service and collective bargaining rights and their current collective bargaining unit. Although the law specifies civil service status for transferred employees and new hires, it does not explicitly provide civil service protections for newly-hired employees originating from other than State agencies. The Department of Civil Service has determined that persons hired after the conversion are not guaranteed civil service rights. This position is contrary to the intent of the law governing the conversion, and has created an inequity in the treatment of employees who perform the same functions.

Chapter 105 clarifies the law by providing that all employees of the NYS Foundation for Science, Technology, and Innovation will be considered public employees by assigning them to the same collective bargaining unit as the current employees of the Foundation.

**Chapter 562 of 2008 / A.11718 (Abbate)** makes technical corrections to Chapter 105 of 2008. The law deletes unnecessary language added by Chapter 105 that included all employees of the Foundation in the definition of "state service." Additionally, Chapter 562 clarifies that employees hired by the Foundation after its conversion are entitled to civil service rights, but adds an exception for a limited category of positions defined as research and investigative high technology scientists. The Foundation is authorized to hire these positions outside the civil service system.

**Chapter 240 of 2008 / A.9873 (Lancman) – Chapter Amendment to Chapter 238 / A.9106-A (Lancman)** – technical change. See section: "Supporting Our Troops and Their Families."

### **Other Signed Legislation in 2008**

**Chapter 19 of 2008 / A.9820 (Abbate)**: Teachers and certain other members of the New York City Teachers' Retirement System and Board of Education Retirement System currently may retire without penalty at age 55 only if they have accrued 30 years of service. Chapter 19 gives present employees of these systems the choice of opting into a plan which would allow them to retire without penalty at age 55 with 25 years of service. Future employees would all



be required to participate in a similar plan, except that retirement age at 55 would require 27 years of experience.

**Chapter 190 of 2008 / A.10305 (Abbate)** provides that county correction officers, who have performed investigative duties for 18 months, will be permanently designated to the position of detective or investigator.

**Chapter 234 of 2008 / A.8342-A (Sweeney)** provides binding arbitration to Suffolk County Park Police Officers for matter relating to compensatory issues only; issues related to disciplinary procedures are not governed under these provisions.

**Chapter 271 of 2008 / A.11112 (Abbate)** permits members of the New York State Liquidation Bureau to receive service credit for up to 200 days (up from 165 days) of accumulated sick leave at the time of their retirement from service.

**Chapter 339 of 2008 / A.10107 (Abbate)** provides health insurance coverage to the surviving spouse, domestic partner, or children of a NYC Fire Department member who is killed in the line of duty.

**Chapter 525 of 2008 / A.1110-A (Abbate)** clarifies that an employee who is elected to serve an employee organization would be granted a leave of absence from his or her regular position. The law further clarifies that the employee organization must reimburse the employer for salary and fringe benefits paid to the employee during the leave.

**Chapter 585 of 2008 / A.10252-A (Hooper)** increases the mandatory retirement age (from 62 to 65) for police officers who are enrolled in the optional §384-d and §384-e 20-year retirement plans. Outside of New York City, most police officers participate in the pension plan set forth in §384-d of the Retirement and Social Security Law. Under this plan, an officer must retire at age 62 or transfer to a different retirement plan that would require more years of work to receive a comparable benefit. This bill raises that age to 65, provided that an officer is capable of performing the duties of the position.

Appendix A  
2008

**ALL BILLS VETOED BY THE GOVERNOR**

veto 2 of 2008	Would provide retroactive payments for certain En Con Forest Rangers and would provide that these retroactive payments would not be subject to any salary limitations on final average salary.	A.4942 Abbate See A.5843 Abbate
veto 3 of 2008	Would provide retroactive payments for certain Security Supervisors in the New York State department of correctional services, and would provide that these retroactive payments would not be subject to any salary limitations in the final average salary calculation, except for lump sum payments for accumulated vacation.	A.4943 Abbate See A.5844 Abbate
veto 4 of 2008	Would permit an employer and an employee organization to enter into agreements to provide disciplinary procedures to provisional employees who have served in a position for 2 or more years.	A.9068-A Abbate
veto 5 of 2008	Would require any police department serving a population of 150,000 or less, and employing more than fifteen part-time police officers to maintain a full-time chief of police.	A.9700 Seminerio
veto 7 of 2008	Would provide binding arbitration to New York State correction officers for the resolution of disputes over non-compensatory issues such as discipline, job security, deployment, and scheduling issues.	A.805 Destito
veto 8 of 2008	Would repeal the provision of the law (§209 4 (e) CSL) which limits the scope of binding arbitration for state police to exclude disciplinary matters.	A.10134 Abbate
veto 19 of 2008	Would provide binding arbitration for security hospital treatment assistants in the office of mental health, office of mental retardation and developmental disabilities and department of health for compensation issues only.	A.1804-A Lupardo
veto 22 of 2008	Would permit the State Civil Service Commission to administer one statewide test for the position of director of facilities of a school district for Dutchess, Nassau, Rockland, Suffolk, Ulster, and Westchester counties and, remove the residency requirement from the test and permit all eligible statewide candidates to take the examination for the position of director of facilities	A.8473-A Cahill
veto 25 of 2008	Would provide binding arbitration to Security Hospital Treatment Assistants in the Office of Mental Health for compensatory issues.	A.9719 Destito

veto 26 of 2008	Would provide that a public employee who is facing disciplinary charges may not be discharged without a hearing before an independent hearing officer.	A.10345 Lentol
veto 29 of 2008	Would provide that for all collective bargaining negotiations in which the City of New York is a participant with the Department of Education of the City of New York, the New York City Health and Hospital Corporation, the New York City Housing Authority, or the City University of New York, relating to all matters, including but not limited to pensions, overtime, and time and leave rules which affect employees granted peace officer or special officer status would be negotiated with the certified employee organizations that represent these employees.	A.8232 Towns
veto 32 of 2008	Would provide ten additional points on competitive civil service exams to children & siblings of uniformed sanitation members killed in the line of duty on Sept. 11, 2001.	A.10306 Abbate
veto 35 of 2008	Would provide that all and any service, including time spent performing duties other than criminal law enforcement, by a Nassau County deputy sheriff will be included in the 20 year retirement plan offered pursuant to Article 14-B (§552 RSSL).	A.7697-A Weisenberg
veto 44 of 2008	Would make employee discipline a necessary component of contractual negotiations.	A9977 Abbate
veto 45 of 2008	Would provide that a public employee who is disabled because of an occupational injury or disease would be entitled to eighteen months leave of absence.	A.10553 Abbate
veto 62 of 2008	Would require that employees of the TBTA who are employed as bridge and tunnel officers, and who are designated as peace officers, to use a comparison of training requirements in regard to other trades or professions, including specifically, (1) hazards of employment; (2) physical qualifications; (3) educational qualifications; (4) mental qualifications; and, (5) job training and skills.	A.9898 Abbate
veto 69 of 2008	Would intend to allow the villages of Greene and Oxford to appoint two part-time officers, Ronald Martin and Norman L. Shaffer, Jr. to full-time competitive police officers positions despite the fact that they are both over the age limit of 35 as specified in section 58 of the Civil Service Law.	A.11474 Rules (Crouch)
veto 71 of 2008	Would ensure that the reassignment of civil service employees will be based upon seniority.	A.9892 Abbate
veto 72 of 2008	Would clarify presumptions pertaining to heart-related disabilities or deaths suffered by members of certain retirement	A.10016 Jaffee

	systems.	
veto 76 of 2008	Would provide state police officers with full pay during an entire period of a line of duty disability.	A.10135-A Abbate
veto 77 of 2008	Would better ensure labor harmony by including certain court clerks and uniformed court officers of the United Court System (USC) within the jurisdiction of a public arbitration panel in the event of an impasse between such employees and the public employee organization representing them.	A.10031 Abbate
veto 83 of 2008	Would specify that accidental disability benefits would be paid to beneficiaries if the heart related impairment was caused by the natural and proximate result of an accident, unless the contrary could be proven by competent evidence.	A.11455 Rules (Jaffee)
veto 113 of 2008	Would establish a task force on retiree health insurance protection to prepare a report on cost-effective strategies for protecting adequate and affordable health insurance for retired public employees and their dependents.	A.9393-A Abbate
veto 115 of 2008	Would provide binding arbitration for compensatory issues to the Niagara Frontier Transportation Authority (NFTA) police officers in the event of an impasse in collective bargaining negotiations.	A.10341 Gabryszak
veto 116 of 2008	Would provide binding arbitration to aircraft rescue firefighters employed by the Niagara Frontier Transportation Authority.	A.10433 Gabryszak
veto 117 of 2008	Would provide binding arbitration to court clerks and uniformed court officers of the United Court System in the event of an impasse between such employees and the public employee organization representing them.	A.9960 Abbate
veto 130 of 2008	Would permit New York State Teachers' Retirement System (NYSTRS) members employed by the State Education Department as instructors in the State School for the Blind and the State School for the Deaf, and who are in the collective bargaining unit designated the Professional, Scientific, and Technical Services Unit (PS&T), to receive service credit for up to 200 days of unused accumulated sick leave at the time of their retirement from service.	A.10644 Abbate
veto 147 of 2008	Would provide that a police officer would not be mandatorily required to retire from service if he or she is age 65 or less.	A.10508 Brook- Krasny
veto 162 of 2008	Would provide that certain positions at the State University of New York be designated as "unclassified" and thereby exempt from the Civil Service Law's limitations on hiring, promotion, compensation and other matters.	A.11126-A Abbate

veto 163 of 2008	Would allow the city of Sherrill to appoint John Sirles to a full-time competitive position as a police officer.	A.9854 Magee
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Appendix B  
2008

**ALL BILLS THAT PASSED THE ASSEMBLY ONLY**

A.957 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.2386-C Dinowitz	Would provide that all state employees would have been entitled to take up to eight hours of excused leave annually to be screened for colon cancer.
A.2398-A Morelle	Would allow certain military members, who had already been placed on a civil service eligible list, and subsequent to such placement were ordered to active military duty, to add veteran's credits to their civil service exam score after they are discharged from active duty.
A.2763-A Seminario	Would re-open (for a 90-day period) the optional 20 year/age 50 retirement program for Triborough Bridge and Tunnel Authority officers, sergeants, and non-management lieutenants in NYCERS.
A.2928-A Weinstein	Would make permanent certain provisions of chapter 729 of 1994 relating to health insurance benefits and contributions of retired employees of school districts.
A.4716 Espaillat	Would provide additional salary to New York City police officers who use a foreign language in the performance of duties.
A.6318-C Paulin	Would provide up to three years of service credit to members of public retirement systems of the state for military service rendered during times of peace; removes requirement that such military service occur during specified periods of hostilities; such members must have at least five years of credited service, not including military service.
A.6755 Abbate	Would include non-competitive and labor class employees on the local level, and labor class on the state level, into the statutory provisions of the Civil Service Law that offers job protection to permanently appointed employees when there is a need to abolish or reduce civil service jobs.
A.7026A McEneny	Would increase the retirement benefit, at age 62, for disabled NYSTRS members whose disability retirement benefit is less than the service retirement benefit the member would have received at age 62.
A.7407 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.8136-A Abbate	Would pay newly retired teachers an annual rate of 5% if retirement benefits are not paid on time.
A.8138	Would restrict the transfers of state employees if there is an eligible or

Abbate	preferred list or re-employment roster, unless the transfer is within the same title.
A.8481-B Koon	Would deem Neil Ganon, a retired member of the New York State and Local Employees' Retirement System, to have joined the system on November 16, 1970, to make him eligible to receive up to 30 days of unused accumulated vacation time into the calculation of final average salary.
A.9042-A Abbate	Would include members of NYCTRS into the existing provisions of the Retirement and Social Security Law that provides that the final average salary, used to determine pension benefits, will be calculated by using three highest consecutive years of compensation.
A.9560 Magee	Would have allowed the City of Oneida to elect to re-open the optional 20-year retirement plan to one police officer employed by the City.
A.9895 Abbate	Would prohibit a municipality from changing the health insurance plan or contributions for retired police officers and firefighters.
A.9959 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.9961 Abbate	Would provide that investigators and senior investigators in the Bureau of Criminal Investigation (BCI), and station commanders, zone commanders, zone sergeants, first sergeants, captains and majors with at least 3 years of continuous service may not be removed or demoted from an appointment or assignment without a hearing.
A.10142 Weisenberg	Would expand the scope of the current whistleblower statute thereby providing greater protection to public employees who act as whistleblowers.
A.10365 Abbate	Would provide members of the police department of the Port Authority of New York and New Jersey with a disability benefit equal to 100% of salary should these officers be injured in the performance of duty.
A.11109 Abbate	Would create a mechanism for the calculation and payment of the Increased Take Home Payment (ITHP) as enacted by subdivision 4 of section 522 of the Education Law.
A.11111 Abbate	Would provide an improved disability pension for Division of Military and Naval Affairs firefighters who sustain heart and lung diseases or certain cancers in the line of duty.
A.11417-A Rules (Abbate)	Would increase the mandatory retirement age of NYS regional park police from 62 to 65 years of age.
A.11627 Rules (Abbate)	Would permit employees of the state university construction fund to use up to 200 sick days of accumulated sick time for retirement service credit.

**2008 SUMMARY SHEET**

<b><u>FINAL ACTION</u></b>	<b><u>ASSEMBLY BILLS</u></b>	<b><u>SENATE BILLS</u></b>	<b><u>TOTAL BILLS</u></b>
<b><u>Bills Reported With or Without Amendment</u></b>			
To Floor; not returning to Committee	16		16
To Floor; recommitted and died			
To Ways and Means	104		104
To Codes	12		12
To Rules	14		14
To Judiciary			
<b>Total</b>	146		146
<b><u>Bills having Committee Reference Changed</u></b>			
To Ways and Means			
To Local Governments			
<b>Total</b>			
<b><u>Senate Bills Substituted or Recalled</u></b>			
Substituted		25	25
Recalled		1	1
<b>Total</b>		26	26
<b><u>Bills Defeated in Committee</u></b>			
<b><u>Bills Never Reported, Held in Committee</u></b>		34	34
<b><u>Bills Never Reported, Died in Committee</u></b>	383	30	413
<b><u>Bills Having Enacting Clauses Stricken</u></b>	8		13
<b><u>Motion to Discharge Lost</u></b>			
<b>TOTAL BILLS IN COMMITTEE</b>	571	56	627
<b>Total Number of Committee Meetings Held</b>	14		