

~~CS~~VETO # 249

CHAPTER _____

LAWS OF 20 06

SENATE BILL _____

ASSEMBLY BILL 3340-A

STATE OF NEW YORK

3340--A

2005-2006 Regular Sessions

IN ASSEMBLY

February 1, 2005

Introduced by M. of A. DESTITO -- read once and referred to the Committee on Governmental Employees -- recommitted to the Committee on Governmental Employees in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the retirement and social security law, in relation to retirement and benefits for certain employees

S 7386- Robach

DATE RECEIVED BY GOVERNOR:

JUL 14 2006

ACTION MUST BE TAKEN BY:

JUL 26 2006

DATE GOVERNOR'S ACTION TAKEN:

JUL 26 2006

000001

SENATE VOTE ___ Y ___ N

HOME RULE MESSAGE ___ Y ___ N

DATE _____

ASSEMBLY VOTE ___ Y ___ N

DATE _____



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

VETO # 249

JUL 26 2006

TO THE ASSEMBLY:

I am returning herewith, without my approval, the following bill:

Assembly Bill Number 3340-A, entitled:

"AN ACT to amend the retirement and social security law, in relation to retirement and benefits for certain employees"

NOT APPROVED

This bill would amend the Retirement and Social Security Law to allow Tier III correction officers and Tier III security hospital treatment assistants ("SHTAs") the option to elect, when the benefit would be greater, to retire under the provisions of Tier IV. Currently, these employees are enrolled in the 25-year retirement plan that does not credit prior non-security service for a public employer. In order to retire, these employees must either: (1) work 25 years in an appropriate security title; or (2) return to a non-security job and re-enter the Tier IV retirement plan to gain the benefit of their non-security service. Under this bill, a correction officer or SHTA could elect Tier IV membership and retire at age 55 by satisfying the 30-year service requirement using both security and non-security service. The bill would take effect immediately.

While the sponsors raise a legitimate equity concern, the fiscal note attached to the bill indicates that the State would be required to make a one-time payment of \$70 million to the retirement system to account for prior service costs. The actual costs of the bill could be even larger. An identical bill introduced in 2003 (Assembly Bill No. 1054-A) included a fiscal note indicating a \$200 million one-time charge to the State of New York, together with an additional cost of \$9.9 million.

In view of the bill's substantial fiscal impact and the concern that the true cost of bill may be even higher, I am constrained to disapprove the bill.

The bill is disapproved.

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776 7/14/06

NEWYORK
STATE
SENATE



NICK SPANO
SENATOR, 35TH DISTRICT

July 21, 2006

SENIOR ASSISTANT MAJORITY LEADER
LIAISON TO THE EXECUTIVE BRANCH
CHAIRMAN
SENATE INVESTIGATIONS &
GOVERNMENT OPERATIONS COMMITTEE

ROOM 509, LOB
ALBANY, NEW YORK 12247
(518) 455-2231
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SPANO@SENATE.STATE.NY.US

Honorable Richard Platkin
Counsel to the Governor
Executive Chamber
State Capitol
Albany, New York 12224

RE: S.7386 / A.3340-A

Dear Mr. Platkin:

This letter is in reference to the above mentioned bill, sponsored by Senator Joseph Robach that passed the Senate and Assembly and is now before the Governor.

This measure would authorize Tier III State correctional officers and Tier III and IV SHTAs to elect to receive benefits under Article 15 of the Retirement and Social Security Law (Tier IV provisions) if such election would result in a greater retirement benefit than the benefits afforded by the 25-year half-pay retirement plan applicable to these individuals.

As you know, under current law, State correctional officers and SHTAs are authorized to retire from State service after completing 25 years of service in the correctional officer or SHTA title. Upon retirement, these dedicated public employees receive a pension equal to 50% of their final average salary. Providing service-based retirement programs for employees in such demanding and dangerous occupations has been the public policy of this State for years. However, unlike other State and local employees that are participants in similar 25-year retirement plans who are entitled to receive the benefits of Tier IV if such benefits afford a greater benefit, State correctional officers and SHTAs are relegated solely to the benefits of their 25-year half-pay plan codified in § 89 of the Retirement and Social Security Law.

This inequity is clearly apparent and particularly troubling in situations where a State correctional officer or SHTA has a significant amount of prior service time with the State or a locality in a non-corrections or non-SHTA position, since this time is not "creditable" under their current retirement plan. As such, individuals in this position have two choices with respect to retirement, neither of which is equitable. First, they can work for 25 years in the correctional officer or SHTA title and receive the benefits

associated with such plan, notwithstanding their significant prior service time. In the alternative, they can leave their correctional officer or SHTA employment altogether, seek different employment with the State or a locality, and retire under the generic ERS provisions of the Retirement and Social Security Law (i.e., Tier IV provisions).

Enactment of this bill would not enhance the retirement benefits of State correctional officers and SHTAs when compared to other employees in similar 25-year retirement plans. Rather, it would simply bring them into conformity with all other similarly situated employees by allowing them to retire under the provisions of Article 15 if such provisions are more beneficial.

The bill is strongly supported by the New York State Correctional Officers and Police Benevolent Association (NYSCOPBA). With no known opposition and for the above mentioned reasons, I strongly urge the Governor to sign it into law.

Sincerely,



NICK SPANO
Senator

NAS:jt

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

BILL NUMBER: A3340A

SPONSOR: Destito

TITLE OF BILL: An act to amend the retirement and social security law, in relation to retirement and benefits for certain employees

PURPOSE OR GENERAL IDEA OF BILL: This legislation will allow Tier III state correction officers and Tiers III and IV Security Hospital Treatment Assistants (SHTAs) the option to elect, when the benefit would be greater, to retire under the provisions of Tier IV.

SUMMARY OF SPECIFIC PROVISIONS: The bill would allow State Correction Officers and SHTAs to choose between the 25 year retirement plan or ordinary Tier 4 benefits.

JUSTIFICATION: The Legislature, in enacting the 25 year plan for state correction officers and SHTAs, recognized the difficult and stressful nature of the Correction Officer and SHTA occupations.

There are circumstances, however, where employees in the Correction Officer/SHTA Plan are disadvantaged by the inability to use prior ERS service for retirement purposes. For example, service prior to becoming a correction officer or SHTA is unusable toward retirement in the Correction Officer/SHTA Plan because it is not "creditable." As such, these individuals are faced with two options: (1) work 25 years in an appropriate Correction Officer or SHTA title to obtain the benefits of this Plan; or (2) if the ERS benefit is the better benefit, return to a general ERS job before retirement. This bill recognizes the inequity inherent in this situation and allows the member to elect the general ERS system.

Moreover, recent changes to ERS have improved the benefits available. For instance, a regular Tier IV member is allowed to retire prior to age 62, upon the attainment of 30 years of service to retire at age 55 without a reduction of benefits. A Correction Officer or SHTA with prior service would not be able to receive this benefit even with combined service of 30 years (i.e. 15 years in ERS and 15 years as a Correction Officer or SHTA). This legislation would correct that inequity.

PRIOR LEGISLATIVE HISTORY:

2005: A.3340 - Referred to Assembly Governmental Employees Committee.
2004: A. 1654-A - Referred to Assembly Governmental Employees Committee.
2003: A.1654 - Reported Referred to the Assembly Ways & Means Committee.
2002: A.8435-A - Passed Assembly, Died in Senate Rules Committee.
2001: A.8435 - Passed Assembly; Died in Senate Rules Committee.

FISCAL IMPLICATIONS: An immediate past service cost of approximately \$70 million which would be borne as a one-time payment. There will not be an increase in the annual state contributions. (Fiscal Note 2006-94)

EFFECTIVE DATE: Immediate.

SENATE:
No.

Introduced by:
M. of A. Destito

ASSEMBLY:
No. 3340-A

Law: Retirement and Social Security Law

Sections: 600, 700, 701 (new), Article 17

Division of the Budget recommendation on the above bill:

Approve: _____ **Veto:** X **No Objection:** _____ **No Recommendation:** _____

1-2. Subject, Purpose, and Summary of Provisions:

This bill would amend the Retirement and Social Security Law to provide an additional pension benefit to all Tier 3 employees who participate in the Article 14 retirement program, which allows its members to retire with a half-pay pension upon the completion of twenty-five years of service, regardless of age. This bill would mainly benefit State correction officers and other individuals serving in State security job titles -- most of the affected employees serve in uniformed titles in the Department of Correctional Services (DOCS). Specifically, it would allow such employees to choose to participate in the Article 15 retirement plan, which allows qualifying employees to receive a more generous pension benefit, equal to sixty percent of final average salary, upon the completion of 30 years of service and reaching age 55 (the "55/30" benefit).

3. Legislative History:

This bill has been introduced every year since 2001; however, this is the first time it has passed both houses.

4. Arguments in Support:

Proponents of this bill argue that it should be enacted in order to give affected employees the same benefits that are available to Tier 1 and 2 State correction officers and civilian employees.

5. Arguments in Opposition:

The existing retirement plan for the employees that this bill would affect is very expensive. For the current fiscal year, the employer contribution rate for Tier 3 Correction Officers is more than 33% higher than the contribution rate for regular Tier 3 and Tier 4 employees (a 13.1% vs. 9.8% contribution rate). This results in an additional \$35 million that the State must already contribute every year to pay for the pension benefits that Tier 3 State correction officers currently receive. Conferring additional benefits upon Tier 3 State correction officers would only exacerbate this difference.

With a cost of \$70 million, this is an extremely expensive bill that would only add to the State's pension obligations, which are already nearing an annual cost of \$1 billion. Furthermore, when this bill was originally introduced in 2005, the estimated cost was much greater, with a one-

time prior service cost of \$231 million and a permanent annual cost to the State of \$7.7 million. This discrepancy may call into question the true cost of this bill. According to the Actuary for the New York State and Local Employees' Retirement System, DOCS uses an administrative mechanism to provide this bill's benefit in certain circumstances by transferring employees into a civilian title for a very short period. The Actuary's recognition of this reality may partially explain why the cost estimates are so different. However, the Actuary notes that there are many situations where DOCS does not exercise this administrative authority, and thus currently estimates the \$70 million cost noted above.

There is no compelling justification to confer this enhanced benefit upon Tier 3 State correction officers. Proponents are correct in noting that Tier 3 State correction officers are "disadvantaged" because they do not have the ability to retire without penalty upon reaching age 55 with at least 30 years of service; however, arguably this is the trade-off for receiving an extraordinarily generous benefit that is not given to all other employees - the ability to retire with a half-pay pension upon completion of 25 years of service, regardless of age.

Proponents have also argued that this bill should be enacted to provide "tier equity" for Tier 3 State correction officers, as Tier 1 and 2 State correction officers receive the benefit that this bill would provide. This is not a compelling argument, as the establishment of Tier 3 for State correction officers is a longstanding pension reform that is intended to place reasonable limits on pension benefits as a means to control employer costs. Past pension reforms, including the establishment of Tier 3 for State correction officers, were implemented with the full acknowledgement of pension benefit differences based on tiers. There is neither the need, nor the supporting evidence to warrant the reversal of this reform. Proponents of this bill are attempting to enhance an already generous pension package for affected employees by giving them the "best of both worlds," namely the benefits of other retirement plans without the limitations normally associated with them.

Furthermore, this bill is analogous to a bill that was vetoed by the Governor in 2004, S.2228 (Veto #242). This bill would have allowed certain employees of the Division of State Police to retire with an unreduced benefit upon reaching age 55 with the completion of at least 30 years of service. The Governor cited the additional \$8.3 million cost to the State and local governments in his veto message. An identical bill has passed this year, S.3043-A, which is now waiting to go to the Governor. Enactment of this instant bill (A.3340-A) would set a precedent for the previously vetoed State Police bill to be enacted.

Also, this bill will not address any recruiting or retention problems that DOCS is currently facing, which differs from another bill before the Governor (S.8299, pertaining to superintendents). Instead, by encouraging DOCS employees to retire from State service earlier than they otherwise would have, this bill will exacerbate existing recruiting and retention problems at DOCS.

Currently, there are more than 300 DOCS security personnel who would be immediately eligible for this benefit. If those individuals were to retire upon enactment of this bill, DOCS facilities statewide could experience a loss of their most experienced employees. There would be both an immediate and ongoing loss of valuable, senior employees, and increased overtime costs would be required to maintain adequate security staffing.

Finally, the sponsor's memo attached to the bill is misleading. Specifically, it states that service prior to becoming a Correction Officer or Security Hospital Treatment Assistant (SHTA) is unusable in the Correction Officer/SHTA Plan. One feature of the Correction Officer/SHTA Plan (Article 14 of Retirement and Social Security Law) is that employees have the ability to retire under the provisions of the regular Tier 3 ERS benefit. If they elect to do this, they are able to use their service prior to becoming a correction officer or a SHTA. Furthermore, the sponsor's memo claims that individuals are faced with two options: 1) work for 25 years in a uniformed title or 2) return to a civilian job title. This is again misleading. As stated above, all Correction Officers and SHTAs have the ability to elect to retire under the regular Tier 3 ERS plan at any time. If they choose to do this, certain individuals can retire with a retirement benefit greater than 50% beginning at age 59. This option is not explained in the sponsor's memo.

6. Other State Agencies Interested:

Department of Correctional Services.

7. Other Interested Groups:

The Citizens' Budget Commission opposes this bill.

8. Budget Implications:

As noted above, the true cost of this bill is somewhat in doubt. The fiscal note on the instant bill estimates the State will face a one-time prior service payment of \$70 million. However, when first introduced, the fiscal note on this bill estimated the State would face a one-time prior service payment of \$231 million and permanent annual costs of \$7.7 million.

9. Recommendation: Veto.

If enacted, this bill would provide additional benefits to all Tier 3 members of the Article 14 retirement plan, allowing qualifying employees to retire with a pension equal to sixty percent of final average salary upon completion of 30 years of service and reaching age 55.

Conferring this additional benefit is unwarranted at this time, as the sponsors have not provided any compelling information or justification for granting this enhanced pension benefit. Although the employees that would be affected do not currently receive the benefit that this bill would provide, this alleged "disadvantage" is the trade-off for receiving an very generous pension benefit that is not given to all other employees - the ability to retire with a half-pay pension upon completion of 25 years of service, regardless of age.

The superiority of the existing retirement plan for Tier 3 State correction officers is evidenced by the fact that the relevant employer contribution rate is more than 33% higher than the contribution rate for regular Tier 3 and Tier 4 employees (a 13.1% vs. 9.8% contribution rate). This results in an additional \$35 million that the State must already contribute every year to pay for the pension benefits that Tier 3 State correction officers already receive. This bill would enhance an already generous pension package for affected employees by giving them

the “best of both worlds,” namely the benefits of other retirement plans without the limitations normally associated with them.

Finally, this bill would result in significant additional costs to the State of at least \$70 million. At a time when the State’s pension costs are already nearing an annual cost of \$1 billion, it would be inappropriate to add to this already large burden. For these reasons, the Division of the Budget recommends this bill be vetoed.



GLENN S. GOORD
COMMISSIONER

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES

THE HARRIMAN STATE CAMPUS
1220 WASHINGTON AVENUE
ALBANY, N.Y. 12226-2050

July 13, 2006

Honorable Richard Platkin
Counsel to the Governor
Executive Chamber
State Capitol
Albany, NY 12224

RE: A3340A

Dear Mr. Platkin:

With regard to the above-referenced bill, A3340A, the Department of Correctional Services strongly supports this legislation which would amend the retirement and social security law by allowing Tier 3 correctional officers and Tier 3 and Tier 4 hospital treatment officers the right to elect an alternate retirement plan.

Should you have any questions, please do not hesitate to contact me.

God Bless America,

Glenn S. Goord
Commissioner

cc: John R. Patterson, Jr., Executive Deputy Commissioner
Anthony J. Annucci, Deputy Commissioner and Counsel

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July 28, 2006

The Honorable George E. Pataki
State Capitol
Albany, NY 12224

Dear Governor Pataki:

I am writing to you in relation to your **VETO message # 0249**, dated July 26, 2006 that would have allowed Tier 3 correction officers and Tier 3 and 4 security hospital treatment assistants to become eligible to receive benefits under article 15 (Tier 4) of the retirement and social security law in addition to the half pay plan at 25 years of creditable service.

I am greatly disappointed in your decision and more specifically your reasoning for vetoing this bill – "... the State would be required to make a one-time payment of \$70 million to the retirement system to account for prior service costs. The fiscal costs could actually be larger. An identical bill was introduced in 2003 (Assembly Bill No. 1054-A) included a fiscal note indicating a \$200 million one-time charge to the State of New York, together with an additional cost of \$9.9 million. In view of the bill's substantial fiscal impact and the concern that ***the true cost of the bill may be higher***, I am constrained to disapprove the bill."

Representatives from New York State Correction Officers and Police Benevolent Association (NYSCOPBA) delivered informational material to your office compiled by the New York State Retirement Systems actuary explaining why there was such a substantial difference between the 2003 and 2006 legislation. You may also want to consider that the 2003 legislation was tainted due to the retirement system using Tier 1 and 2 figures. Now that Tier 3 members have become eligible to retire the retirement system is using actual data from Tier 3 retirees, hence the reduction of \$130 million. Also note that when the actuary takes these numbers into consideration they do so to the extreme – meaning they figure it for each eligible employee. If anything the \$70 million dollar figure is inflated. Since not *all* employees will take advantage of this benefit.

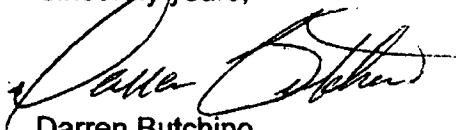
Beginning in 1981 Department of Correctional Services (DOCS) hired thousands of security employees. These same employees are now coming into their 25th year and soon thousands more will follow. DOCS has had to hold Correction Officer Trainee civil service exams every six months. In 1981, there were approximately 60,000 applicants today maybe 5,000 –6,000! But as usual the State bureaucracy remains reactive rather than proactive.

July 27, 2006 marked thirty years (30) of creditable service for the very first Tier 3 Correction Officers, Sergeants, Lieutenants and SHTAs. Since 1983, all other Tier 3 State, County, Municipal employees were given the option to retire under Tier 3 or Tier 4. Yet a civilian may retire at age 55 with 30 years of service and receive a greater percentage (60% – 75%). However a Correction Officer must work until age 62 to see any such increase, which is capped at 60%! For me personally I would have to work 42 years to receive 60% at age 62 – is that fair and equitable?

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As I explained in my first letter dated July 13, 2006, I have been working for eighteen (18) years for this change. This was the first time it had passed both the Assembly and Senate. The State had a surplus and we were asking for parity. You could have corrected this injustice on the 30th anniversary. You didn't... especially at a time when your political party (republican) could use the support. **I await your response.**

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Darren Butchino".

Darren Butchino
24 ¾ years as a NYS Correction Officer
Clinton Correctional Facility

LAW ENFORCEMENT OFFICERS UNION



LEGISLATIVE SUPPORT MEMO

Retirement Benefits for Tier IV State Correction Officers and Security Hospital Treatment Assistants A3340/S7386

The Law Enforcement Officers Union, Council 82, AFSCME, represents state correction lieutenants and security hospital treatment assistant supervisors. This legislation will allow Tier III state correction officers and security hospital treatment assistants the option to elect, when the benefit would be greater, to retire under the provisions of Tier IV.

This bill would allow state correction officers and security hospital treatment assistants to choose between the 25 year retirement plan or ordinary Tier 4 benefits. There are circumstances where employees in the Correction Officer/SHTA Plan are disadvantaged by the inability to use prior ERS service for retirement purposes. This legislation corrects that inequity.

We urge you to support this legislation.

Respectfully submitted,

A handwritten signature in cursive script that reads "James F. Lyman".

James F. Lyman
President, Council 82

AFSCME COUNCIL 82, AFL-CIO
63 COLVIN AVENUE ALBANY, NEW YORK 12206 (518) 489-8424
www.council82.org



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Honorable Governor George Patacki
The Executive Chamber
Albany, New York, 12224

Dear Governor Patacki,

I am writing to urge you to sign into law the Article 15 retirement legislation, for NYS Correction Officers and Security Hospital Treatment Assistants represented by NYS COPBA. (A. 3340 Destito / S. 7386 Robach).

This legislation would allow Tier 3 State Correction Officers and Tier 3 and 4 Security Hospital Treatment Assistants to become eligible to receive retirement benefits under provisions of Article 15. As you may be aware, New York State Correction Officers and Security Hospital Treatment Assistants are the only state employees, in Tier 3, that do not have the option to retire under Article 15, all NYS employees enjoy the ability to stay beyond their minimum retirement eligibility and earn additional percentages towards their retirement, except NYS Correction Officers and Security Hospital Treatment Assistants.

During the early 1980's there were thousands of NYS Correction Officers hired to keep up with the dramatic increase of the prison population. Those thousands of experienced Officers are now leaving in record numbers, with no end in sight. We feel this legislation would help retain the valuable and experienced Officers, while affording them the same retirement benefit that every other state employee is currently entitled to.

We hope you agree with the fairness that this legislation would offer and that

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New York State can not afford to lose these dedicated and experienced employees.

Please demonstrate your support for NYSCOPBA and A.3340 / S.7386 by signing this legislation into law.

Thank You in advance,

Michael A. Buzer
13 Cedar St.
Foustrville, NY 14062

**SAMPLE OF
CORRESPONDENCE
ONLY**

Honorable Governor George Pataki
The Executive Chamber
Albany, New York 12224

Dear Governor Pataki,

I am writing to urge you to sign into law the Article 15 retirement legislation for NYS Correction Officers and Security Hospital Treatment Assistants represented by NYSCOPBA. (**A.3340 Destito / S.7386 Robach**).

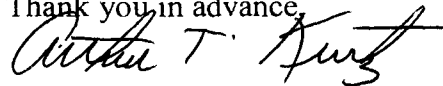
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During the early 1980's there were thousands of NYS Correction Officers hired to keep up with the dramatic increase of the prison population. Those thousands of experienced Officers are now leaving in record numbers, with no end in sight. We feel this legislation would help retain the valuable and experienced Officers, while affording them the same retirement benefit that every other state employee is currently entitled to.

We hope you agree with the fairness that this legislation would offer and that New York State can not afford to lose these dedicated and experienced employees.

Please demonstrate your support for NYSCOPBA and **A.3340 / S. 7386** by signing this legislation into law.

Thank you in advance,



Name

Arthur T. Kurtz

Address

*6715 Lakeside Rd
Derby ny 14047*

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pt 6 7/14/06 (138)

Honorable Governor George Pataki
The Executive Chamber
Albany, New York 12224

Dear Governor Pataki,

I am writing to urge you to sign into law the Article 15 retirement legislation for NYS Correction Officers and Security Hospital Treatment Assistants represented by NYSCOPBA. (**A.3340 Destito / S.7386 Robach**).

This legislation would allow Tier 3 State Correction Officers and Tier 3 and 4 Security Hospital Treatment Assistants to become eligible to receive retirement benefits under provisions of Article 15. As you may be aware, New York State Correction Officers and Security Hospital Treatment Assistants are the only state employees, in Tier 3, that do not have the option to retire under Article 15. All NYS employees enjoy the ability to stay beyond their minimum retirement eligibility and earn additional percentages towards their retirement, except NYS Correction Officers and Security Hospital Treatment Assistants.

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We hope you agree with the fairness that this legislation would offer and that New York State can not afford to lose these dedicated and experienced employees.

Please demonstrate your support for NYSCOPBA and **A.3340 / S. 7386** by signing this legislation into law.

Thank you in advance,

Name Michael Herbach
Address 11111 St.
SALAMANCA NY 14779

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Dear Governor Pataki,

I am writing to urge you to sign into law the Article 15 retirement le N.Y.S. Correction Officers and Security Hospital Treatment Assistants the New York State Correction Officers P.B.A. NYSCOPBA. (A.3340 Destit

This legislation would allow Tier 3 State Correction Officers and Tier Security Hospital Treatment Assistants to become eligible to receive r benefits under provisions of Article 15. As you may be aware, New York Correction Officers and Security Hospital Treatment Assistants are the state employees, in Tier 3, that do not have the option to retire unde 15. All NYS employees enjoy the ability to stay beyond their minimum r eligibility and earn additional percentages towards their retirement, Correction Officers and Security Hospital Treatment Assistants.

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We hope you agree with the fairness that this legislation would offer New York State can not afford to lose these dedicated and experienced

Please demonstrate your support for NYSCOPBA and A.3340 / S.7386 by si long overdue legislation into law.

Thank you in advance,

David Cobine
Correction Officer

Dear Governor Pataki,

I am writing to urge you to sign into law the Article 15 retirement legislation for **N.Y.S. Correction Officers and Security Hospital Treatment Assistants** represented by the New York State Correction Officers P.B.A. *NYSCOPBA*. (**A.3340 Destito / S.7386**).

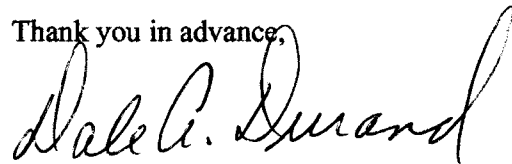
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During the early 1980's there were thousands of NYS Correction Officers hired to keep up with the dramatic increase of the prison population. Those thousands of experienced Officers are now leaving in record numbers, with no end in sight. We feel this legislation would help retain the valuable and experienced Officers, while affording them the same retirement benefit that every other state employee is currently entitled to.

We hope you agree with the fairness that this legislation would offer and that New York State can not afford to lose these dedicated and experienced employees.

Please demonstrate your support for NYSCOPBA and **A.3340 / S.7386** by signing this long overdue legislation into law.

Thank you in advance,

A handwritten signature in black ink that reads "Dale G. Durand". The signature is written in a cursive style with a large, looped initial "D".

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Honorable Governor George Pataki
The Executive Chamber
Albany, New York 12224

Dear Governor Pataki,

I am writing to urge you to sign into law the Article 15 retirement legislation for NYS Correction Officers and Security Hospital Treatment Assistants represented by NYSCOPBA. (A.3340 Destito / S.7386 Robach).

This legislation would allow Tier 3 State Correction Officers and Tier 3 and 4 Security Hospital Treatment Assistants to become eligible to receive retirement benefits under provisions of Article 15. As you may be aware, New York State Correction Officers and Security Hospital Treatment Assistants are the only state employees, in Tier 3, that do not have the option to retire under Article 15. All NYS employees enjoy the ability to stay beyond their minimum retirement eligibility and earn additional percentages towards their retirement, except NYS Correction Officers and Security Hospital Treatment Assistants.

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We hope you agree with the fairness that this legislation would offer and that New York State can not afford to lose these dedicated and experienced employees.

Please demonstrate your support for NYSCOPBA and A.3340 / S. 7386 by signing this legislation into law.

Thank you in advance,

Name Michael J. Corcio
Address CHAUMONT NY

000023

STATE OF NEW YORK

3340--A

2005-2006 Regular Sessions

IN ASSEMBLY

February 1, 2005

Introduced by M. of A. DESTITO -- read once and referred to the Committee on Governmental Employees -- recommitted to the Committee on Governmental Employees in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the retirement and social security law, in relation to retirement and benefits for certain employees

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

1 Section 1. Paragraph 2 of subdivision a of section 600 of the retire-
2 ment and social security law, as amended by chapter 370 of the laws of
3 1996, is amended to read as follows:

4 2. Members in the uniformed personnel in institutions under the juris-
5 diction of the department of correctional services of New York state
6 unless an election is made pursuant to section seven hundred one of this
7 chapter or the New York city department of correction;

8 § 2. The article heading of article 17 of the retirement and social
9 security law, as added by chapter 578 of the laws of 1989, is amended to
10 read as follows:

11 ELECTION OF ARTICLE FOURTEEN OR FIFTEEN

12 § 3. Subdivision c of section 700 of the retirement and social securi-
13 ty law, as added by chapter 578 of the laws of 1989, is amended to read
14 as follows:

15 c. [~~Such~~] Except as provided in section seven hundred one of this
16 article, such election shall be in writing, shall be duly executed and
17 filed with the comptroller and shall be irrevocable as long as such
18 member is in a title defined in subdivision i of section eighty-nine of
19 this chapter. The election shall be filed on or before December thirty-
20 first, nineteen hundred eighty-nine or within one year after such person
21 becomes employed in such title, whichever date is later.

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

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1 § 4. The retirement and social security law is amended by adding a new
2 section 701 to read as follows:

3 § 701. Election of the provisions of article fifteen by certain
4 members. a. This section shall apply to a member of the New York state
5 and local employees' retirement system who joined or rejoined such
6 system on or after July twenty-seventh, nineteen hundred seventy-six and
7 who is in a title defined in subdivision i of section eighty-nine of
8 this chapter.

9 b. A member may, by filing an election as specified in subdivision c
10 of this section, elect to have his or her retirement benefits calculated
11 and retire pursuant to article fifteen of this chapter.

12 c. Such election shall be in writing, shall be duly executed and filed
13 with the comptroller and shall be irrevocable. Such election shall be
14 made prior to service retirement for any member eligible pursuant to the
15 provisions of subdivision a of this section.

16 § 5. This act shall take effect immediately provided that paragraph 2
17 of subdivision a of section 600 of the retirement and social security
18 law as amended by section one of this act shall expire on the same date
19 as such section expires pursuant to section 615 of such law.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill would allow Tier 3 State Correction Officers and Tier 3 and
4 Security Hospital Treatment Assistants to become eligible to receive
benefits under the provisions of Article 15 of the Retirement and Social
Security Law in addition to the half-pay plan at 25 years benefit.

If this bill is enacted, there will be an immediate past service cost
of approximately \$70 million which would be borne by the State of New
York as a one-time payment. This estimate is based on the assumption
that payment will be made on March 1, 2007.

There will not be an increase in the annual contributions of the State
of New York for the fiscal year ending March 31, 2007.

These estimated costs are based on twenty-one thousand and seven
hundred and twenty-one (21,721) Tier 3 Correction Officers and Security
Hospital Treatment Assistants with a total annual salary of approximate-
ly \$1.1 billion for the fiscal year ending March 31, 2005.

This estimate, dated December 15, 2005 and intended for use only
during the 2006 Legislative Session, is Fiscal Note No. 2006-94,
prepared by the Actuary for the New York State and Local Employees'
Retirement System.

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