S T A T E O F N E W Y O R K

4186--A

2013-2014 Regular Sessions

I N S E N A T E

March 13, 2013

Introduced by Sen. DILAN -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- 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 refunding contributions made to the twenty-five year early retirement program and the age fifty-seven retirement program by New York city transit authority members

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision d of section 604-c of the retirement and social security law, as added by chapter 96 of the laws of 1995, is amended by adding a new paragraph 15 to read as follows:

15. AN ELIGIBLE FORMER PARTICIPANT, AS DEFINED IN THIS PARAGRAPH, SHALL BE ENTITLED TO A REFUND OF THE EMPLOYEE PORTION OF HIS OR HER ADDITIONAL MEMBER CONTRIBUTIONS MADE PURSUANT TO THIS SUBDIVISION WHICH SHALL INCLUDE ANY AND ALL INTEREST THEREON AT THE RATE OF FIVE PERCENT PER ANNUM, COMPOUNDED ANNUALLY AND SUCH REFUND SHALL BE PAYABLE, UPON SUCH PARTICIPANT'S APPLICATION PURSUANT TO PROCEDURES PROMULGATED IN REGULATIONS OF THE BOARD OF TRUSTEES OF THE RETIREMENT SYSTEM. AN ELIGIBLE FORMER PARTICIPANT SHALL BE A PARTICIPANT WHO IS OR WAS EMPLOYED IN THE TITLE SUPERVISOR (STATIONS) IN ASSIGNMENT LEVEL II IN THE NEW YORK CITY TRANSIT AUTHORITY'S STATIONS DEPARTMENT, AND WHO, ON OCTOBER FIRST, TWO THOUSAND SIX, WAS EMPLOYED BY THE NEW YORK CITY TRANSIT AUTHORITY IN SUCH TITLE AND WHO WAS A PARTICIPANT IN THE TWENTY-FIVE YEAR EARLY RETIREMENT PROGRAM PRIOR TO THE STARTING DATE OF THE ELIMINATION OF ADDITIONAL MEMBER CONTRIBUTIONS, AS SUCH DATE IS DEFINED IN AN ELECTION MADE PURSUANT TO PARAGRAPH TEN OF SUBDIVISION E OF SECTION SIX HUNDRED FOUR-B OF THIS ARTICLE.

S 2. Subdivision f of section 604-d of the retirement and social security law is amended by adding a new paragraph 15 to read as follows:

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

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15. AN ELIGIBLE FORMER PARTICIPANT, AS DEFINED IN THIS PARAGRAPH, SHALL BE ENTITLED TO A REFUND OF THE EMPLOYEE PORTION OF HIS OR HER ADDITIONAL MEMBER CONTRIBUTIONS MADE PURSUANT TO THIS SUBDIVISION WHICH SHALL INCLUDE ANY AND ALL INTEREST THEREON AT THE RATE OF FIVE PERCENT PER ANNUM, COMPOUNDED ANNUALLY AND SUCH REFUND SHALL BE PAYABLE, UPON SUCH PARTICIPANT'S APPLICATION PURSUANT TO PROCEDURES PROMULGATED IN REGULATIONS OF THE BOARD OF TRUSTEES OF THE RETIREMENT SYSTEM. AN ELIGIBLE FORMER PARTICIPANT SHALL BE A PARTICIPANT WHO IS OR WAS EMPLOYED IN THE TITLE SUPERVISOR (STATIONS) IN ASSIGNMENT LEVEL II IN THE NEW YORK CITY TRANSIT AUTHORITY'S STATIONS DEPARTMENT, AND WHO, ON OCTOBER FIRST, TWO THOUSAND SIX, WAS EMPLOYED BY THE NEW YORK CITY TRANSIT AUTHORITY IN SUCH TITLE AND WHO WAS A PARTICIPANT IN THE AGE FIFTY-SEVEN RETIREMENT PROGRAM PRIOR TO THE STARTING DATE OF THE ELIMINATION OF ADDITIONAL MEMBER CONTRIBUTIONS, AS SUCH DATE IS DEFINED IN AN ELECTION MADE PURSUANT TO PARAGRAPH TEN OF SUBDIVISION E OF SECTION SIX HUNDRED FOUR-B OF THIS ARTICLE.

S 3. This act shall take effect immediately.

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

PROVISIONS OF PROPOSED LEGISLATION: This proposed legislation would amend New York State Retirement and Social Security Law ("RSSL") Sections 604-c and 604-d to provide to certain New York City Transit Authority ("NYCTA") members of the New York City Employees' Retirement System ("NYCERS") a refund of Additional Member Contributions ("AMC") that were paid while participants of one of the Chapter 96 of the Laws of 1995 ("Chapter 96/95") Retirement Programs.

The Effective Date of the proposed legislation would be the date of enactment.

This Fiscal Note assumes that the proposed legislation is intended to refund interest on AMC in accordance with NYCERS procedures for crediting interest on member contributions.

IMPACT ON PLAN PROVISIONS - ADDITIONAL MEMBER CONTRIBUTIONS: Under Chapter 96/95, AMC were required under each of the Early Retirement Programs:

* The Twenty-Five-Year Early Retirement Program ("55/25 Program") and
* The Age Fifty-Seven Retirement Program ("57/5 Program").

Those NYCERS members who participated in either of such Programs paid AMC of:

* 4.35% of salary for service on and after January 1, 1995 until January 1, 1998,
* 2.85% of salary for service on and after January 1, 1998 until December 2, 2001, and
* 1.85% of salary for service on and after December 2, 2001.

In addition, if such member's job title was considered Physically-Taxing ("PT"), an additional Physically-Taxing AMC ("PTAMC") of 1.98% of salary was required for all service on and after January 1, 1995.

As a result of Chapter 10 of the Laws of 2000, many of the NYCTA Tier IV members of NYCERS who participated in the Chapter 96/95 Retirement Programs were transferred into the Transit Twenty-Five-Year and Age Fifty-Five Retirement Program ("Transit 55/25 Program") effective December 15, 2000. For these members, the AMC and PTAMC that had been payable under the Chapter 96/95 Retirement Programs were no longer required after January 3, 2001 (i.e., the effective implementation date, the first payroll period following the transfer date).

This proposed legislation would refund, on and after the Effective Date, to certain Transit 55/25 Program participants with initial Program participation dates on or before December 15, 2000 who were employed by

the Transit Authority as Station Supervisors Level 2 as of October 1, 2006, including those who are currently retired, the employee portion of the AMC and PTAMC, if any, paid for participation in the Chapter 96/95 Retirement Programs, including accrued interest at 5.0% per annum. For those who are currently retired, interest would accrue until retirement date.

Note: Under the Chapter 96/95 Retirement Programs, 50% of the AMC and PTAMC paid into such Programs is considered an employer contribution while the other 50% is considered to be the employee portion. The employee portion of the AMC and PTAMC is refunded to members who decease prior to retirement or who retire at age 62 or later. If the proposed legislation were enacted, those impacted Transit 55/25 Program participants would receive the balance of the accumulated employee portion of AMC and PTAMC.

To receive such refund, those eligible participants would be required to complete a form and follow procedures to be established by the NYCERS Board of Trustees.

FINANCIAL IMPACT - OVERVIEW: If enacted into the law, the ultimate employer cost of this proposed legislation would be determined by the reduction in expected benefits paid (due to there no longer being a requirement to refund AMC on a future withdrawal), offset by the reduction in Fund assets due to the current refund of AMC.

FINANCIAL IMPACT - UNFUNDED ACTUARIAL ACCRUED LIABILITY: With respect to NYCERS and based on the census data and actuarial assumptions and methods described herein, the enactment of this proposed legislation would result in a decrease in the Actuarial Accrued Liability ("AAL") of approximately $40,000 as of June 30, 2011.

In addition, there would be a reduction in Actuarial Asset Value as of June 30, 2011 to reflect the expected refund of the employee portion of accumulated Chapter 96/95 Retirement Program AMC and PTAMC, if any, for those impacted Transit 55/25 Program participants of approximately $320,000.

Together, the enactment of the proposed legislation would result in a net increase in the Unfunded Actuarial Accrued Liability ("UAAL") to NYCERS of approximately $280,000 as of June 30, 2011.

FINANCIAL IMPACT - ADDITIONAL ANNUAL EMPLOYER COSTS AND CONTRIBUTIONS: With respect to NYCERS, the enactment of this proposed legislation would increase annual employer costs by approximately $70,000 per year for 5 years.

Increases in employer contributions would be comparable to the estimated increases in employer costs.

If enacted on or before June 30, 2013, increased employer contributions to NYCERS would begin Fiscal Year 2013.

If enacted after June 30, 2013 and on or before June 30, 2014, increased employer contributions to NYCERS would begin Fiscal Year 2014.

OTHER COSTS: Not measured in this Fiscal Note are any additional administrative costs or the impact of this proposed legislation on the Manhattan and Bronx Surface Transit Operating Authority ("MaBSTOA").

CENSUS DATA: The census data used for estimates of AAL, UAAL and employer contributions presented herein are the 187 Tier IV active members of NYCERS who participate in the Transit 55/25 Program and who were employed by the Transit Authority as Station Supervisors Level 2 as of June 30, 2006.

Of these 187 Tier IV members of NYCERS who participate in the Transit 55/25 Program and who were employed by the Transit Authority as Station Supervisors Level 2 as of June 30, 2006, 57 members have AMC (and, in

certain cases, PTAMC) account balances from contributions made under the Chapter 96/95 Retirement Programs. Two of the 57 retired prior to October 1, 2006 making them ineligible for a refund. The remaining 130 of these members do not have such AMC or PTAMC account balances.

Of the 55 members eligible for a refund, 33 were active members as of June 30, 2011 and 19 retired before age 62. In addition, two members deceased before retirement and one member retired after age 62 and these three members were already refunded the employee portion of their AMC and PTAMC.

ACTUARIAL ASSUMPTIONS AND METHODS: Estimates of changes in AAL, UAAL and employer costs have been calculated using the actuarial assumptions and methods adopted by the NYCERS Board of Trustees during Fiscal Year 2012 and enacted as Chapter 3 of the Laws of 2013 ("2012 A&M") for determining employer contributions for fiscal years beginning on and after July 1, 2011 (i.e., Fiscal Years 2012 and after).

In accordance with Section 13.638.2 (k-2) of the Administrative Code of the City of New York ("ACNY") as enacted by Chapter 3/13, as one component of the 2012 A&M, new UAAL attributable to benefit changes are to be amortized as determined by the Actuary but generally over the remaining working lifetimes of those impacted by these benefit changes.

For this proposed legislation, the average remaining working lifetime is estimated to equal approximately three years from June 30, 2013 for the entire group impacted and approximately five years for just those estimated to still be active members as of June 30, 2013.

Similar legislations for Transit Operating non-supervisory employees were enacted as Chapter 734 of the Laws of 2006 ("Chapter 734/06") and as Chapter 379 of the Laws of 2007 ("Chapter 379/07") and the additional UAAL was amortized for each legislation under the actuarial assumptions and methods then in effect, implicitly over the average remaining working lifetimes of all NYCERS active members.

The Actuary believes that the ideal financing period for this proposed legislation would be the average remaining working lifetime of the entire group impacted.

However, given the history of the financing of similar legislations (e.g., Chapter 734/06 and Chapter 379/07), the Actuary is inclined to amortize the proposed legislation over five years that approximates the current average remaining working lifetime of the active members impacted. Essentially, this is a compromise between the remaining average working lifetime of the entire group impacted and the average remaining lifetime of all NYCERS members.

For this particular legislation, the Actuary would likely treat the five years of amortization as the payment period beginning one year after the establishment of the UAAL. This approach is consistent with the One-Year Lag Methodology ("OYLM") where the UAAL is considered to be amortized over six years with five years of payments beginning in the second year.

Also note that, historically, other legislation impacting primarily retired or soon-to-be-retired members was often amortized over five years (Retirement Incentive Programs) or 10 years (Supplemental Programs).

STATEMENT OF ACTUARIAL OPINION: I, Robert C. North Jr., am the Chief Actuary for the New York City Retirement Systems. I am a Fellow of the Society of Actuaries and a Member of the American Academy of Actuaries. I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

FISCAL NOTE IDENTIFICATION: This estimate is intended for use only during the 2013 Legislative Session. It is Fiscal Note 2013-04, dated March 6, 2013, prepared by the Chief Actuary for the New York City Employees' Retirement System.