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

5359--A

2015-2016 Regular Sessions

I N  S E N A T E

May 13, 2015

Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- recommitted to the Committee on Civil Service and Pensions in accordance with Senate Rule 6, sec. 8 -- 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 in the title transit manager

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

Section 1. Paragraph 15 of subdivision d of section 604-c of the retirement and social security law, as added by chapter 522 of the laws of 2013, is amended 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 OR THE TITLE TRANSIT MANAGER, 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.

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

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S 2. Paragraph 15 of subdivision f of section 604-d of the retirement and social security law, as added by chapter 522 of the laws of 2013, is amended 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 OR THE TITLE TRANSIT MANAGER, 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 Transit Managers 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.

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 employee portion of their AMC and PTAMC account balance. 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 Fund assets due to the current refund of AMC, offset by the reduction in expected benefits paid (due to there no longer being a requirement to refund AMC on a future withdrawal).

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 reduction in the Actuarial Asset Value as of June 30, 2015 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 $1,440,000.

In addition, there would be a decrease in the Actuarial Accrued Liability (AAL) of approximately $185,000 as of June 30, 2015.

Together, the enactment of the proposed legislation would result in a net increase in the Unfunded Actuarial Accrued Liability (UAAL) to NYCERS of approximately $1,255,000 as of June 30, 2015.

FINANCIAL IMPACT - ADDITIONAL ANNUAL EMPLOYER CONTRIBUTIONS: With respect to NYCERS, the enactment of this proposed legislation would increase annual employer contributions by approximately $320,000 per year for 5 years.

If enacted on or before June 30, 2016, increased employer contributions to NYCERS would begin Fiscal Year 2018.

If enacted after June 30, 2016 and on or before June 30, 2017, increased employer contributions to NYCERS would begin Fiscal Year 2019.

OTHER COSTS: Not measured in this Fiscal Note are any additional administrative costs.

CENSUS DATA: The census data used for estimates of AAL, UAAL and employer contributions presented herein are the 841 Tier IV active members of NYCERS who participate in the Transit 55/25 Program and who were employed by the Transit Authority as Transit Managers as of June 30, 2006.

Of these 841 Tier IV members of NYCERS who participate in the Transit 55/25 Program and who were employed by the Transit Authority as Transit Managers as of June 30, 2006, 230 members had AMC (and, in certain cases, PTAMC) account balances from contributions made under the Chapter 96/95 Retirement Programs as of June 30, 2015. The remaining 611 of these members did not have such AMC or PTAMC account balances.

Of those 230 members eligible for a refund as of June 30, 2015, 71 were active members and 129 retired before age 62. In addition, 12 members deceased before retirement and 18 members retired after age 62 so these 30 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 in effect for the June 30, 2015 (Lag) actuarial valuation used to determine Preliminary Fiscal Year 2017 employer contributions for NYCERS.

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, 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 for the entire group impacted is approximately two years as of June 30, 2015 and approximately five years for the subset of active members.

For this particular legislation, the Actuary would likely choose to amortize the proposed legislation over five years with 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.

STATEMENT OF ACTUARIAL OPINION: I, Sherry S. Chan, am the Chief Actuary for the New York City Retirement Systems. I am an Associate of the Society of Actuaries, a Fellow of the Conference of Consulting 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 2016 Legislative Session. It is Fiscal Note 2016-08, dated March 10, 2016, prepared by the Chief Actuary for the New York City Employees' Retirement System.