

STATE OF NEW YORK

7184

2021-2022 Regular Sessions

IN ASSEMBLY

April 28, 2021

Introduced by M. of A. BURKE -- (at request of the New York State Teachers' Retirement System) -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the education law, in relation to allowing retirees of the New York state teachers' retirement system who suspend their retirement the option of a benefit recalculation after two years of service

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

1 Section 1. Subdivision 11 of section 503 of the education law, as
2 added by chapter 507 of the laws of 1972 and as renumbered by chapter
3 512 of the laws of 1976, is amended to read as follows:

4 11. a. If a retired member, receiving a retirement allowance for other
5 than disability, returns to active public service, except as otherwise
6 provided in [~~sections~~] section two hundred eleven or two [~~hyndred~~
7 hundred twelve of the retirement and social security law, and is eligi-
8 ble for membership in the retirement system, he [~~thereupon~~] or she shall
9 become a member and his or her retirement allowance shall be suspended
10 in the same manner as provided in subdivision five of this section [~~five~~
11 ~~hundred three of this article. In such event, he shall contribute to the~~
12 ~~retirement system as if he were a new member~~]. Upon [~~his~~] subsequent
13 retirement [~~after at least two years of service~~] he or she shall:

14 1. Be credited with all member service earned [~~by him~~] since he or she
15 last became a member of the retirement system, and

16 2. Receive a retirement allowance which shall consist of[+]

17 ~~(a) An annuity as provided in subdivision five of section five hundred~~
18 ~~three of this article plus an annuity which is the actuarial equivalent~~
19 ~~of any contributions made by him since he last became a member, and~~

20 ~~(b) The~~ the pension which he or she was receiving immediately prior
21 to his or her last restoration to membership as provided in subdivision
22 five of this section [~~five hundred three of this article~~], plus a

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

LBD11041-01-1

1 pension based upon the ~~[member]~~ service credit earned ~~[by him]~~ since he
2 or she last became a member. Such latter pension shall be computed as if
3 he or she were a new member when he or she rejoined the system pursuant
4 to the provisions of this subdivision.

5 b. Where such member shall have earned at least ~~[five]~~ two years of
6 ~~[member]~~ service credit after restoration to active service, the total
7 service credit to which he or she was entitled at the time of ~~[his]~~ the
8 earlier retirement may, at his or her option, again be credited to him
9 or her and upon ~~[his]~~ subsequent retirement he or she shall be credited
10 in addition for purposes of computation of the pension portion of the
11 retirement allowance with all ~~[member]~~ service credit earned by him or
12 her subsequent to ~~[his]~~ the last restoration to membership. Such total
13 service credit to which he or she was entitled at the time of ~~[his]~~ the
14 earlier retirement shall be so credited only in the event that such
15 member returns to the retirement system with regular interest the actu-
16 arial equivalent of the amount of the pension ~~[he]~~ received, or in the
17 event that such amount is not so repaid the actuarial equivalent thereof
18 shall be deducted from his or her subsequent retirement allowance.

19 c. Notwithstanding the foregoing provisions of this subdivision, a
20 retired member who is receiving a retirement allowance for other than
21 physical disability, and who returns to active public service, may elect
22 not to be restored to membership in the retirement system until he or
23 she has rendered one year of service following his return to public
24 service. In such event his or her retirement allowance shall be
25 suspended during such year of service in the same manner as provided in
26 subdivision five of this section ~~[five hundred three of this article]~~.
27 Upon restoration to membership following completion of such year of
28 service, his or her service in such year shall be deemed to be service
29 while a member for purposes of subdivision b of section five hundred
30 twelve of this article. He or she may purchase ~~[member]~~ service credit
31 for such year, which shall be deemed earned ~~[member]~~ service credit. If
32 a retired member receiving a retirement benefit allowance for other than
33 physical disability, returns to active public service, and is then inel-
34 igible for membership in the retirement system, his or her retirement
35 allowance shall be suspended in the same manner as provided in this
36 section.

37 d. Notwithstanding any other provision of this article, a retired
38 member who rejoins the system under the provisions of ~~[paragraphs a or c~~
39 ~~of]~~ this subdivision shall only be entitled to a death benefit according
40 to the provisions of paragraph two of subdivision b of section five
41 hundred twelve of this article and of no other subdivision thereof and
42 for the purposes of said paragraph two of subdivision b of section five
43 hundred twelve the credited service as a teacher shall be service as a
44 teacher credited since last joining the system.

45 § 2. This act shall take effect on the sixtieth day after it shall
46 have become a law.

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

This bill would amend subdivision 11 of Section 503 of the Education Law to allow a retired member of the New State Teachers' Retirement System, who returns to active service and suspends their pension benefit, to elect to combine their service credit earned prior to their retirement with the service credit earned after their restoration to active service, provided they have earned at least two years of service credit since restoration to active service. The law currently requires five years of service credit since restoration to active service in order to combine all service credit. In either case the member must

return the amount of pension previously received, or have their benefit reduced for life based upon the actuarial equivalent of the prior pension received. This bill would take effect on the sixtieth day after it shall become a law.

The annual cost to the employers of members of the New York State Teachers' Retirement System is estimated to be negligible if this bill is enacted.

Member data is from the System's most recent actuarial valuation files, consisting of data provided by the employers to the Retirement System. Data distributions and statistics can be found in the System's Comprehensive Annual Financial Report (CAFR). System assets are as reported in the System's financial statements and can also be found in the CAFR. Actuarial assumptions and methods are provided in the System's Actuarial Valuation Report.

The source of this estimate is Fiscal Note 2021-6 dated October 20, 2020 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2021 Legislative Session. I, Richard A. Young, am the Actuary for the New York State Teachers' Retirement System. I am a member of the American Academy of Actuaries and I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.