

STATE OF NEW YORK

6537

2021-2022 Regular Sessions

IN SENATE

May 5, 2021

Introduced by Sen. REICHLIN-MELNICK -- (at request of the New York State Teachers' Retirement System) -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to amend the education law, the retirement and social security law, the administrative code of the city of New York, and chapter 666 of the laws of 1990, amending the administrative code of the city of New York and the education law relating to the availability of additional pension benefits, in relation to the transfer of reserves between public retirement systems of the state for certain members

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

1 Section 1. Subdivision 5 of section 522 of the education law, as
2 amended by chapter 41 of the laws of 2009, is amended to read as
3 follows:

4 5. Notwithstanding any other provision of law to the contrary, except
5 for the purposes of providing the benefits, if any, of subdivision four
6 of this section, with respect to transfers pursuant to this section
7 which occur on or after the effective date of the chapter of the laws of
8 two thousand twenty-one that amended this subdivision, no transfer of
9 pension reserve pursuant to subdivision one or two of this section shall
10 be required when the member is transferring from a public [employee]
11 retirement system of [this] the state [~~to any other public employee~~
12 ~~retirement system of this state~~] with less than ten years of credited
13 service with the transferring retirement system at the time the transfer
14 is initiated. With respect to transfers pursuant to subdivision one or
15 two of this section which occur on or after the effective date of the
16 chapter of the laws of two thousand twenty-one that amended this subdi-
17 vision, the transfer of a pension reserve shall be required when the
18 member is transferring ten or more years of credited service from a
19 public retirement system of this state to any other public retirement

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

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1 system of this state. For the purpose of giving the transferring member
2 such status and crediting such service in the retirement system to which
3 the member is transferring as such member was allowed in the retirement
4 system from which the member has transferred, the transfer shall be
5 deemed complete upon receipt by the transferee retirement system of (a)
6 a statement from the transferor retirement system of the transferring
7 member's date of membership in the transferor retirement system, tier
8 status, service credited to the transferred membership, and such other
9 information as the transferee retirement system may require to effectuate
10 the transfer, ~~[and]~~ (b) such member's accumulated contributions from
11 the transferor retirement system, if same had not been previously withdrawn,
12 or notice from the transferor retirement system that such member
13 had no accumulated contributions, or notice from the transferor retirement
14 system that such member's accumulated contributions had been withdrawn
15 and the amount thereof and, as applicable, receipt from such
16 member of such member's accumulated contributions and interest, and (c)
17 the pension reserve in the case of a member who transfers in ten or more
18 years of credited service.

19 § 2. Subdivision k of section 43 of the retirement and social security
20 law, as amended by chapter 41 of the laws of 2009, is amended to read as
21 follows:

22 k. Notwithstanding any other provision of this section, any member of
23 the New York state and local employees' retirement system or the New
24 York city teachers' retirement system who retired from service from
25 either the New York city employees' retirement system or the New York
26 city board of education retirement system as a member of the career
27 pension plan maintained by such system and who, but for the fact that he
28 or she retired, would be eligible for transfer and who has not, in fact,
29 received a pension payment from such system shall be permitted to transfer
30 his or her retirement system membership pursuant to the provisions
31 of this section. In such event, the application for retirement shall be
32 deemed to have been rescinded and the retirement system from which the
33 service shall be transferred shall transfer the appropriate reserves as
34 provided by this section, provided, however, that with respect to transfers
35 pursuant to this subdivision which occur on or after ~~[the twenty-~~
36 ~~sixth day of October, two thousand four]~~ the effective date of the chapter
37 of the laws of two thousand twenty-one that amended this
38 subdivision, except for the purposes of providing the benefits, if any,
39 of subdivision four of section five hundred twenty-two of the education
40 law, no determination of a reserve pursuant to subdivision c of this
41 section or transfer thereof pursuant to the first sentence of subdivision
42 d of this section shall be required in the case of any transfer
43 pursuant to this subdivision with less than ten years of credited
44 service with the transferring retirement system at the time the transfer
45 is initiated. With respect to transfers pursuant to this section which
46 occur on or after the effective date of the chapter of the laws of two
47 thousand twenty-one that amended this subdivision, the transfer of a
48 pension reserve shall be required when the member is transferring ten or
49 more years of credited service from a public retirement system of the
50 state to any other public retirement system of the state. Notwithstanding
51 the provision of this subdivision or any other provision of law, an
52 individual who transfers pursuant to this subdivision shall not be
53 required to render any minimum period of service following transfer in
54 order to be eligible to receive the full benefit provided hereunder.
55 Notwithstanding the foregoing, a retiree covered by either the career
56 pension plan or the fifty-five-year-increased-service-fraction plan who

1 has received a pension payment or payments from such system shall be
2 eligible for the provisions of this subdivision upon payment, to the
3 retirement system from which the pension payment or payments were made,
4 of an amount equal to such pension payment or payments. After such
5 payments and the pension reserve, in the case of a member who transfers
6 in ten or more years of credited service, are received, such person
7 shall be permitted to transfer his or her retirement system membership
8 pursuant to the provisions of this section.

9 § 3. Subdivision 1 of section 43 of the retirement and social security
10 law, as amended by chapter 41 of the laws of 2009, is amended to read as
11 follows:

12 1. Notwithstanding any other provision of law to the contrary, with
13 respect to transfers pursuant to this section which occur on or after
14 ~~[the twenty-sixth day of October, two thousand four]~~ the effective date
15 of the chapter of the laws of two thousand twenty-one that amended this
16 subdivision, except for the purposes of providing the benefits, if any,
17 of subdivision four of section five hundred twenty-two of the education
18 law, no determination of a reserve pursuant to subdivision c of this
19 section or transfer thereof pursuant to the first sentence of subdivi-
20 sion d of this section shall be required in the case of any transfer
21 pursuant to this section with less than ten years of credited service
22 with the transferring retirement system at the time the transfer is
23 initiated. With respect to transfers pursuant to this section which
24 occur on or after the effective date of the chapter of the laws of two
25 thousand twenty-one that amended this subdivision, the transfer of a
26 pension reserve shall be required when the member is transferring ten of
27 more years of credited service from a public retirement system of the
28 state to any other public retirement system of the state. For the
29 purpose of giving the transferring member such status and crediting such
30 service in the second retirement system as such member was allowed in
31 the first retirement system in those cases to which this subdivision
32 shall apply, the transfer shall be deemed complete upon receipt by the
33 second retirement system of:

34 1. a statement from the first retirement system of the transferring
35 member's date of membership in the first retirement system, tier status,
36 service credited to such membership being transferred, and such other
37 information as the second retirement system may require to effectuate
38 the transfer; ~~[and]~~

39 2. such member's accumulated contributions from the first retirement
40 system, if same had not been previously withdrawn, or notice from the
41 first retirement system that such member had no accumulated contrib-
42 utions, or notice from the first retirement system that such member's
43 accumulated contributions had been withdrawn and the amount thereof and,
44 as applicable, receipt from such member of such member's accumulated
45 contributions and interest; and

46 3. the pension reserve in the case of a member who transfers in ten or
47 more years of credited service.

48 § 4. Subdivision h of section 343 of the retirement and social securi-
49 ty law, as amended by chapter 533 of the laws of 2015, is amended to
50 read as follows:

51 h. Notwithstanding any other provision of law to the contrary, with
52 respect to transfers pursuant to this section which occur on or after
53 the effective date of the chapter of the laws of two thousand twenty-one
54 that amended this subdivision, no determination of a reserve pursuant to
55 subdivision c of this section or transfer thereof pursuant to the first
56 sentence of subdivision d of this section shall be required in the case

1 of any transfer pursuant to this section (other than a transfer from the
2 New York state and local police and fire retirement system to either (1)
3 the New York city police department subchapter two pension fund, (2) the
4 New York city fire department subchapter two pension fund or (3) the MTA
5 police retirement program or a transfer from either (i) the New York
6 city police department subchapter two pension fund or (ii) the New York
7 city fire department subchapter two pension fund to either (A) the New
8 York state and local police and fire retirement system or (B) the MTA
9 police retirement program or a transfer from the MTA police retirement
10 program to the New York state and local police and fire retirement
11 system) in the case of a member with less than ten years of credited
12 service with the transferring retirement system at the time the transfer
13 is initiated. With respect to transfers pursuant to such subdivisions
14 which occur on or after the effective date of the chapter of the laws of
15 two thousand twenty-one that amended this subdivision, the transfer of a
16 pension reserve shall be required when the member is transferring ten or
17 more years of credited service from a public retirement system of the
18 state to any other public retirement system of the state. For the
19 purpose of giving the transferring member such status and crediting such
20 service in the second retirement system as such member was allowed in
21 the first retirement system in those cases to which this subdivision
22 shall apply, the transfer shall be deemed complete upon receipt by the
23 second retirement system of:

24 1. a statement from the first retirement system of the transferring
25 member's date of membership in the first retirement system, tier status,
26 service credited to such membership being transferred, and such other
27 information as the second retirement system may require to effectuate
28 the transfer; ~~[and]~~

29 2. such member's accumulated contributions from the first retirement
30 system, if same had not been previously withdrawn, or notice from the
31 first retirement system that such member had no accumulated contribu-
32 tions, or notice from the first retirement system that such member's
33 accumulated contributions had been withdrawn and the amount thereof and,
34 as applicable, receipt from such member of such member's accumulated
35 contributions and interest; and

36 3. the pension reserve in the case of a member who transfers in ten or
37 more years of credited service.

38 § 5. Paragraph 4 of subdivision a of section 13-143 of the administra-
39 tive code of the city of New York, as added by chapter 647 of the laws
40 of 2004, is amended to read as follows:

41 (4) Notwithstanding the provisions of paragraph two of this subdivi-
42 sion, with respect to transfers pursuant to this section which occur on
43 or after the effective date of the chapter of the laws of two thousand
44 twenty-one that amended this paragraph, the actuary of the New York city
45 employees' retirement system shall not be required to determine the
46 reserve on the benefits allowable to the transferring member as the
47 result of employer contributions, including the reserve-for-increased-
48 take-home-pay, and the transfer of such reserve, including the reserve-
49 for-increased-take-home-pay, from the New York city employees' retire-
50 ment system to said police pension fund ~~[shall not be required]~~ when a
51 member is transferring with less than ten years of credited service with
52 the transferring retirement system at the time the transfer is initi-
53 ated. With respect to transfers pursuant to this subdivision which occur
54 on or after the effective date of the chapter of the laws of two thou-
55 sand twenty-one that amended this paragraph, the transfer of a pension
56 reserve shall be required when the member is transferring ten or more

1 years of credited service from a public retirement system of the state
2 to any other public retirement system of the state. The New York city
3 employees' retirement system, within one year from the date of the
4 request for the transfer of credit, shall comply with all requirements
5 for completing the transfer imposed on it by the provisions of this
6 section, including the pension reserve in the case of a member who
7 transfers ten or more years of credited service. Nothing set forth in
8 this paragraph shall be deemed to modify the requirement set forth in
9 paragraph two of this subdivision that the New York city employees'
10 retirement system transfer to said police pension fund the accumulated
11 deductions of such member.

12 § 6. Paragraph 4 of subdivision a of section 13-144 of the administra-
13 tive code of the city of New York, as added by chapter 647 of the laws
14 of 2004, is amended to read as follows:

15 (4) Notwithstanding the provisions of paragraph two of this subdivi-
16 sion, with respect to transfers pursuant to this section which occur on
17 or after the effective date of the chapter of the laws of two thousand
18 twenty-one that amended this paragraph, the actuary of the New York city
19 employees' retirement system shall not be required to determine the
20 reserve on the benefits allowable to the transferring member as the
21 result of employer contributions, including ~~[the reserve for increased-~~
22 ~~take-home pay, and]~~ the transfer of such reserve~~[, including]~~ and the
23 reserve-for-increased-take-home-pay~~[,]~~ from the New York city employees'
24 retirement system to said fire department pension fund ~~[shall not be~~
25 ~~required]~~, with less than ten years of credited service from the trans-
26 ferring retirement system at the time of the transfer is initiated.
27 With respect to transfers pursuant to this section which occur on or
28 after the effective date of the chapter of the laws of two thousand
29 twenty-one that amended this paragraph, the transfer of a pension
30 reserve pursuant to paragraph two of this subdivision shall be required
31 when the member is transferring ten or more years of credited service
32 from a public retirement system of the state to any other public retire-
33 ment system of the state. The New York city employees' retirement
34 system, within one year from the date of the request for the transfer of
35 credit, shall comply with all requirements for completing the transfer
36 imposed on it by the provisions of this section, including the pension
37 reverse in the case of a member who transfers ten or more years of
38 member service credit. Nothing set forth in this paragraph shall be
39 deemed to modify the requirement set forth in paragraph two of this
40 subdivision that the New York city employees' retirement system transfer
41 to said fire department pension fund the accumulated deductions of such
42 member.

43 § 7. Subdivision d of section 3 of chapter 666 of the laws of 1990,
44 amending the administrative code of the city of New York and the educa-
45 tion law relating to the availability of additional pension benefits for
46 an extended second public employment to certain retirees, as added by
47 chapter 647 of the laws of 2004, is amended to read as follows:

48 d. Notwithstanding the provisions of subdivision b of this section or
49 any other provision of law to the contrary, with respect to transfers
50 pursuant to this section which occur on or after the effective date of
51 the chapter of the laws of two thousand twenty-one that amended this
52 subdivision, no determination or transfer of the reserve on the benefits
53 allowable to the transferring member as the result of employer contrib-
54 utions, including the reserve-for-increased-take-home-pay, shall be
55 required for a member with less than ten years of credited service from
56 the transferring system at the time the transfer is initiated. With

respect to transfers pursuant to this section which occur on or after the effective date of the chapter of the laws of two thousand twenty-one that amended this subdivision, the transfer of a pension reserve shall be required when the member is transferring ten or more years of credited service from a public retirement system of this state to any other public retirement system of the state.

§ 8. This act shall take effect immediately and shall apply to any covered membership transfer initiated on or after the effective date of this act; provided, however, that no provision of this act shall affect the transfer of reserves required with respect to transfers between any two of the New York state and local police and fire department system, the New York city police department subchapter two pension fund and the New York city fire department subchapter two pension fund and with respect to transfers from the New York state and local police and fire retirement system to the metropolitan transportation authority police pension fund.

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

This bill would amend Section 522 of the Education Law and various sections of the Retirement and Social Security Law and the Administrative Code of the City of New York to reinstate the transfer of pension reserves in cases in which a member of the New York State Teachers' Retirement System (NYSTRS) or any Retirement System of the State or City of New York transfers a membership with ten or more years of credited service at the time the transfer is initiated. This act shall take effect immediately and shall apply to any membership transfer initiated on or after the effective date of this act.

It is estimated that there will be no additional annual cost to the employers of members of the NYSTRS if this bill is enacted. In fact, this bill will greatly increase equity between the retirement systems of the state by ensuring that a member who transfers with a significant liability will bring with him or her the pension reserve accumulated by the prior retirement system in order to offset the liability assumed by the new retirement system. 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 2021-4 dated October 19, 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.