

10065

I N A S S E M B L Y

March 3, 2010

Introduced by M. of A. ABBATE -- (at request of the Governor) -- read once and referred to the Committee on Governmental Employees

AN ACT to provide temporary retirement incentive for certain public employees

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

1 Section 1. This act enacts into law components of legislation that
2 would establish an age 55/25 temporary incentive for certain public
3 employees.

4 S 2. Legislative findings. The legislature finds and declares that the
5 retirement benefit for certain public employees who are above age 55 and
6 with 25 years of service provided for in this act is intended only to be
7 temporary in nature for employees who are eligible to receive and quali-
8 fy for the applicable benefit during the applicable time periods speci-
9 fied in this act. Further, nothing in this act shall be construed to
10 create an expectation of a future or continuing retirement benefit for
11 any public employee who is not eligible to receive and qualify for the
12 retirement benefits herein during the applicable time periods.

13 S 3. Definitions. As used in this act, unless the context clearly
14 requires otherwise:

15 (a) "Retirement system" means the New York state and local employees'
16 retirement system and the New York state teachers' retirement system.

17 (b) "Teachers' retirement system" means the New York state teachers'
18 retirement system.

19 (c) "Participating employer" means an educational employer, the state-
20 operated institutions of the state university of New York, and a commu-
21 nity college operating under a program of the state university of New
22 York, which participates in a retirement system as defined in this
23 section, who employs members who hold positions represented by the
24 recognized collective bargaining units affiliated with the New York
25 state united teachers employee organization.

26 (d) "Educational employer" means a participating employer which is a
27 school district, a board of cooperative educational services, a voca-
28 tional education and extension board, an institution for the instruction

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

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1 of the deaf and of the blind as enumerated in section 4201 of the educa-
2 tion law, or a school district as enumerated in section 1 of chapter 566
3 of the laws of 1967, as amended; who employ members who hold positions
4 represented by the recognized collective bargaining units affiliated
5 with the New York state united teachers employee organization who
6 participate in the New York state teachers' retirement system and the
7 New York state and local employees' retirement system.

8 (e) "Eligible employee" means a person who is a member of a retirement
9 system, who is an employee of a participating employer and who holds a
10 position represented by the recognized collective bargaining units
11 affiliated with the New York state united teachers employee organization
12 as certified by his or her employer, who makes an election under section
13 five of this act.

14 (f) "Active service" means service while being paid on the payroll,
15 provided that (i) a leave of absence with pay shall be deemed active
16 service; (ii) other approved leave without pay not to exceed twelve
17 weeks from February 1, 2010 and the commencement of the designated open
18 period; and (iii) the period of time subsequent to the June 2010 school
19 term and on or before August 31, 2010 for a teacher (or other employee
20 as defined in this act, employed on a school-year basis) who is other-
21 wise in active service on the effective date of this act shall be deemed
22 active service.

23 (g) "Open period" means the period beginning with the commencement
24 date as defined in subdivision (h) of this section; provided, however,
25 for the state-operated institutions of the state university of New York
26 and community colleges, the open period shall be as specified by the
27 appropriate board of trustees, and shall be ninety days in length;
28 provided however that there shall be only one such open period and any
29 such period shall not extend beyond August 31, 2010 for educational
30 employers and shall not extend beyond December 31, 2010 for the state-
31 operated institutions of the state university of New York and community
32 colleges. For the purposes of retirement pursuant to this act, a service
33 retirement application must be filed with the appropriate retirement
34 system not less than fourteen days prior to the effective date of the
35 retirement.

36 (h) "Commencement date" means the first day the retirement benefit
37 mandated by this act shall be made available, which shall mean a date or
38 dates on or after the effective date of this act to be determined by a
39 participating employer; provided, however, that for an educational
40 employer, the commencement date shall be June 1, 2010.

41 S 4. Notwithstanding any other provision of law, any eligible employee
42 serving in an eligible title who (a) has been continuously in the active
43 service of a participating employer from February 1, 2010 to the date
44 immediately prior to the commencement date of the applicable open peri-
45 od, (b) files an application for service retirement that is effective
46 during the open period, and (c) is otherwise eligible for a service
47 retirement as of the effective date of the application for retirement
48 shall be entitled to the retirement benefit provided in section five of
49 this act.

50 S 5. Notwithstanding any other provision of law, an eligible employee
51 who is: (a) a member of a retirement system, and (b) entitled to a
52 retirement benefit pursuant to section four of this act may retire
53 during the open period without the reduction of his or her retirement
54 benefit that would otherwise be imposed by article 11 or 15 of the
55 retirement and social security law if he or she has attained the age of
56 55 and has completed at least 25 or more years of creditable service. An

1 eligible employee who is covered by the provisions of articles 11 and 15
2 of the retirement and social security law shall retire under the
3 provisions of articles 11 and 15 of the retirement and social security
4 law.

5 S 6. Notwithstanding any other provision of law, this act shall have
6 no impact on retirement incentives, options or inducements offered as
7 part of a contractual agreement between an eligible employee and eligi-
8 ble employer which were negotiated prior to the effective date of this
9 act.

10 S 7. Severability clause. If any clause, sentence, paragraph, subdi-
11 vision, section or part of this act shall be adjudged by any court of
12 competent jurisdiction to be invalid, such judgment shall not affect,
13 impair, or invalidate the remainder thereof, but shall be confined in
14 its operation to the clause, sentence, paragraph, subdivision, section
15 or part thereof directly involved in the controversy in which such judg-
16 ment shall have been rendered. It is hereby declared to be the intent of
17 the legislature that this act would have been enacted even if such
18 invalid provisions had not been included herein.

19 S 8. This act shall take effect immediately.

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

This bill would eliminate the early retirement reductions for Tier 2,
3 and 4 members of the New York State and Local Employees' Retirement
System (ERS) and the New York State Teachers' Retirement System who are
employed by educational institutions, whose positions are represented by
NYSUT and who retire within their employer's 90 day open election peri-
od, which may not extend beyond December 31, 2010.

The exact number of members who would be affected by this cannot be
readily determined.

If this bill is enacted, insofar as it affects the New York State and
Local Employees' Retirement System (ERS), the additional cost for each
member who receives these benefits will vary depending on the member's
age, years of service, plans and final average salary. We estimate that
the per-member cost could average approximately 110% of a member's final
average salary. We anticipate that the number of participants will be
less than 1000. For every 100 participants, we estimate that there would
be an increase in the annual contributions of approximately \$260,000 to
the State of New York and \$360,000 to the participating employers in the
ERS.

This estimate, dated January 8, 2010, and intended for use only during
the 2010 Legislative Session, is Fiscal Note No. 2010-66, prepared by
the Actuary for the New York State and Local Employees' Retirement
System.

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

This bill would provide a temporary retirement incentive during fiscal
year 2010-2011. This incentive would permit eligible Tier 2, 3 and 4
members to retire without early retirement reductions upon attainment of
at least age 55 with 25 years of service. Currently 30 years of service
are required in order to retire without reduction. In order to receive
this benefit, a member must retire during the designated 90-day open
period, beginning on June 1, 2010 for educational employers. In order
to be eligible, a member must be an employee of a participating employer
and hold a position represented by one of the recognized collective
bargaining units affiliated with the New York State United Teachers
(NYSUT) as certified by his or her employer. The cost of this incentive
will be socialized across all employers.

The annual cost to the employers of members of the New York State Teachers' Retirement System for this benefit is estimated to be \$13.2 million or .09% of payroll if this bill is enacted.

The source of this estimate is Fiscal Note 2010-11 dated February 24, 2010 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2010 Legislative Session.