

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

10065--A

I N A S S E M B L Y

March 3, 2010

Introduced by M. of A. ABBATE, WEISENBERG, GUNTHER, MCENENY, JAFFEE --
Multi-Sponsored by -- M. of A. HEVESI, MURRAY, TOWNSEND -- (at request
of the Governor) -- read once and referred to the Committee on Govern-
mental Employees -- reported and referred to the Committee on Ways and
Means -- committee discharged, bill amended, ordered reprinted as
amended and recommitted to said committee

AN ACT to provide temporary retirement incentive for certain public
employees

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, 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

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

LBD12189-07-0

1 recognized collective bargaining units affiliated with the New York
2 state united teachers employee organization.

3 (d) "Educational employer" means a participating employer which is a
4 school district, a board of cooperative educational services, a voca-
5 tional education and extension board, an institution for the instruction
6 of the deaf and of the blind as enumerated in section 4201 of the educa-
7 tion law, or a school district as enumerated in section 1 of chapter 566
8 of the laws of 1967, as amended; who employ members who hold positions
9 represented by the recognized collective bargaining units affiliated
10 with the New York state united teachers employee organization who
11 participate in the New York state teachers' retirement system and the
12 New York state and local employees' retirement system.

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

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

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

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

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

55 S 5. Notwithstanding any other provision of law, an eligible employee
56 who is: (a) a member of a retirement system, and (b) entitled to a

1 retirement benefit pursuant to section four of this act may retire
2 during the open period without the reduction of his or her retirement
3 benefit that would otherwise be imposed by article 11 or 15 of the
4 retirement and social security law if he or she has attained the age of
5 55 and has completed at least 25 or more years of creditable service. An
6 eligible employee who is covered by the provisions of articles 11 and 15
7 of the retirement and social security law shall retire under the
8 provisions of articles 11 and 15 of the retirement and social security
9 law.

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

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

24 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 period,
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.