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

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I N  A S S E M B L Y

May 25, 2010

Introduced by M. of A. CUSICK -- read once and referred to the Committee on Governmental Employees

AN ACT to grant Bruce Kerr a retroactive system membership date and tier I status in the New York city employees' retirement system

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

Section 1. Notwithstanding any other provision of law, Bruce Kerr, a member of the New York city employees' retirement system with tier II status, who was first employed by New York city, office of the mayor as an assistant to the administrative assistant to the mayor from September 1969 to April 1970 and from February 1971 to September 1972 as community liaison trainee for the city of New York, department of hospitals and who for reasons not ascribable to his own negligence failed to become a member of the New York city employees' retirement system until June 30, 1976, shall be deemed to have joined the New York city employees' retirement system on September 5, 1969 with tier I status, if on or before December 31, 2010, he shall file a written application therefor with the New York city employees' retirement system.

S 2. No contributions made to the New York city employees' retirement system by Bruce Kerr shall be returned to him. Such employee contributions shall be used to offset any past service cost incurred due to the implementation of this act.

S 3. This act shall take effect immediately.

FISCAL NOTE.--PROVISIONS OF PROPOSED LEGISLATION - OVERVIEW: The proposed legislation would permit one individual who was initially hired during September 1969 by the City of New York (the "City"), worked intermittently in the 1970's and initially began membership in the New York City Employees' Retirement System ("NYCERS") on June 30, 1976, to be deemed to have become a member of NYCERS as of September 5, 1969.

The Effective Date of the proposed legislation would be the date of enactment.

IMPACT ON BENEFITS: In general, employees who joined NYCERS during Calendar Year 1976 prior to July 27, 1976 are eligible to receive the benefits available under the Tier II provisions of NYCERS. Such members

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

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are also permitted to buy back service with the City that occurred prior to joining NYCERS.

The one NYCERS member who is potentially impacted by the proposed legislation has already paid to NYCERS amounts sufficient to purchase all pre-membership service in Tier II and to include all such City service as Tier II credited service.

Under this proposed legislation, if enacted, the one NYCERS member who would benefit, if such member made an appropriate, timely application to NYCERS on or before December 31, 2010, would be deemed to have been a member of NYCERS retroactive to September 5, 1969 and entitled to the benefits available to Tier I members of NYCERS.

Tier I Career Pension Plan ("CPP") members are eligible for unreduced benefits from the attainment of age 55 and completion of 25 years of credited service and are also eligible for Tier I Increased Service Fraction ("ISF") unreduced benefits after the attainment of age 55 with no service requirement.

Under Tier II provisions, Modified CPP benefits and Modified ISF benefits commence unreduced from attainment of age 62 or on a reduced basis prior to age 62.

The benefits available to Tier I members of NYCERS are generally greater than those available to Tier II members of NYCERS.

Rates of member contributions are also greater for Tier I members than for Tier II members.

For the one member who, under the proposed legislation, would be deemed a Tier I member, there would be a deficiency in the accumulated value of unpaid Tier I member contributions. If not repaid, this deficiency would impact the value of Tier I CPP benefits.

Overall, since Tier II benefits commencing at and after age 62 are unreduced and Tier II required member contributions are less than Tier I required member contributions, and where salary does not significantly increase in the Final Average Salary period, the amount of benefits determined under Tier II provisions could be greater than those determined under Tier I provisions.

In addition, it is the understanding of the Actuary that the one member impacted by the proposed legislation had an opportunity to elect the Optional Age Fifty-Five and Improved Benefit Retirement Program enacted under Chapter 96 of the Laws of 1995. Such Program would have provided unreduced retirement benefits from attainment of age 55 and completion of 25 years of credited service. This one member, however, did not elect to participate in that Program.

FINANCIAL IMPACT - ACTUARIAL PRESENT VALUES: Based on the actuarial assumptions and methods described herein, the enactment of this proposed legislation would increase the Actuarial Present Value of Benefits ("APVB") of NYCERS by approximately $40,000 as of June 30, 2008.

In addition, based on the actuarial assumptions and methods described herein, the Actuarial Present Value of Future Salaries ("APVSAL") of NYCERS would decrease by approximately $110,000 as of June 30, 2008.

FINANCIAL IMPACT - ANNUAL EMPLOYER COSTS: Based on the Actuary's actuarial assumptions and methods in effect on June 30, 2008, the enactment of this proposed legislation would increase first year annual employer costs to NYCERS by approximately $8,000.

Note, as the age of the one member impacted by the proposed legislation gets closer to age 62, the relative value of the Tier I benefit decreases.

FINANCIAL IMPACT - EMPLOYER CONTRIBUTIONS: If enacted during the 2010 Legislative Session on or before June 30, 2010, and if the member

believed to be impacted by this proposed legislation elects revised Tier status, that revised Tier status would likely first be reflected in the June 30, 2010 census data. In accordance with the One-Year Lag methodology used to determine employer contributions, increased employer contributions would be determined for Fiscal Year 2012.

If enacted during the 2010 Legislative Session after June 30, 2010 and on or before June 30, 2011, increased employer contributions would be determined for Fiscal Year 2013.

For Fiscal Years 2012 and after, the additional annual employer costs for this proposed legislation would be expected to approximate the additional annual employer contributions.

CENSUS DATA: Estimates of Tier I and Tier II benefits for the one member known to be impacted by this proposed legislation have been based on member information as of June 30, 2008 supplied by NYCERS.

ACTUARIAL ASSUMPTIONS AND METHODS: The APVB, APVSAL, employer costs and employer contributions shown herein have been determined using estimated benefits and the applicable actuarial assumptions and methods in effect for the June 30, 2008 (Lag) actuarial valuation of NYCERS.

Additional employer contributions have been assumed to begin during the second Fiscal Year following the June 30 as of which a change in Tier status would first be expected. The June 30 date has been assumed to occur as of the next June 30 following enactment of the proposed legislation.

STATEMENT OF ACTUARIAL OPINION: I, Robert C. North, Jr., am the Chief Actuary for the New York City Retirement Systems. I am a Fellow of the Society of 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 2010 Legislative Session. It is Fiscal Note 2010-12, dated April 9, 2010, prepared by the Chief Actuary for the New York City Employees' Retirement System.