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

2783--A

2009-2010 Regular Sessions

I N A S S E M B L Y

January 21, 2009

Introduced by M. of A. ABBATE, PHEFFER, CYMBROWITZ, BOYLAND, SCHROEDER, EDDINGTON -- Multi-Sponsored by -- M. of A. AUBRY, CANESTRARI, CLARK, COOK, GOTTFRIED, LIFTON, MAGEE, McENENY, ORTIZ, SWEENEY, WEISENBERG -- read once and referred to the Committee on Governmental Employees -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the retirement and social security law, in relation to the definitions of final average salary

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

Section 1. Subdivisions a and b of section 512 of the retirement and social security law, subdivision a as amended and subdivision b as added by chapter 379 of the laws of 1986, are amended to read as follows:

a. A member's final average salary shall be the average wages earned by such a member during any three consecutive years which provide the highest average wage; provided, however, if the wages earned during any year included in the period used to determine final average salary exceeds that of the average of the previous two years by more than [ten] TWENTY percent, the amount in excess of [ten] TWENTY percent shall be excluded from the computation of final average salary. Where the period used to determine final average salary is the period which immediately precedes the date of retirement, any month or months (not in excess of twelve) which would otherwise be included in computing final average salary but during which the member was on authorized leave of absence at partial pay or without pay shall be excluded from the computation of final average salary and the month or an equal number of months immediately preceding such period shall be substituted in lieu thereof.

b. Notwithstanding the provisions of subdivision a of this section, with respect to members of the New York state AND LOCAL employees' retirement system and THE New York state [policemen's] and [firemen's] LOCAL POLICE AND FIRE retirement system, a member's final average salary

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

LBD05605-02-9

shall be equal to one-third of the highest total wages earned during any continuous period of employment for which the member was credited with three years of service credit; provided, however, if the wages earned during any year of credited service included the period used to determine final average salary exceeds the average of the wages of the previous two years of credited service by more than [ten] TWENTY percent, the amount in excess of [ten] TWENTY percent shall be excluded from the computation of final average salary.

S 2. Subdivisions a and b of section 608 of the retirement and social security law, subdivision a as amended and subdivision b as added by chapter 379 of the laws of 1986, are amended to read as follows:

a. A member's final average salary shall be the average wages earned by such a member during any three consecutive years which provide the highest average wage; provided, however, if the wages earned during any year included in the period used to determine final average salary exceeds that of the average of the previous two years by more than [ten] TWENTY percent, the amount in excess of [ten] TWENTY percent shall be excluded from the computation of final average salary. Where the period used to determine final average salary is the period which immediately precedes the date of retirement, any month or months (not in excess of twelve) which would otherwise be included in computing final average salary but during which the member was on authorized leave of absence at partial pay or without pay shall be excluded from the computation of final average salary and the month or an equal number of months immediately preceding such period shall be substituted in lieu thereof.

b. Notwithstanding the provisions of subdivision a of this section, with respect to members of the New York state AND LOCAL employees' retirement system, a member's final average salary shall be equal to one-third of the highest total wages earned by such member during any continuous period of employment for which the member was credited with three years of service credit; provided, however, if the wages earned during any year of credited service included in the period used to determine final average salary exceeds the average of the wages of the previous two years of credited service by more than [ten] TWENTY percent, the amount in excess of [ten] TWENTY percent shall be excluded from the computation of final average salary.

S 3. This act shall take effect immediately and shall be deemed to have been in full force and effect on or after June 30, 2009, provided that the amendments to subdivisions a and b of sections 512 and 608 of the retirement and social security law made by sections one and two of this act shall be subject to the provisions of section 615 of such law and shall expire or the benefits thereof shall cease, in accordance with such section as from time to time amended.

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

This bill would amend sections 512 and 608 of the Retirement and Social Security Law to alter the definition of final average salary for Tier 3 and 4 members. In the computation of final average salary, wages earned during any year would not be allowed to exceed that of the average of the previous two years by more than twenty percent. This is the limit on wages that exists in Tier 2. Currently the limit for Tiers 3 and 4 is ten percent.

The annual cost to the employers of members of the New York State Teachers' Retirement System for this benefit is estimated to be $940,000 or 0.006% of payroll if this bill is enacted.

The source of this estimate is Fiscal Note 2009-30 dated March 9, 2009 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2009 Legislative Session.