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

5314--A

2009-2010 Regular Sessions

I N A S S E M B L Y

February 12, 2009

Introduced by M. of A. McENENY, ABBATE -- (at request of the New York State Teachers' Retirement System) -- read once and referred to the Committee on Governmental Employees -- recommitted to the Committee on Governmental Employees in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law and the retirement and social security law, in relation to disability retirement benefits provided by the New York state teachers' retirement system

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

Section 1. Section 511 of the education law is amended by adding a new subdivision 10 to read as follows:

10. A MEMBER WHO HAS BEEN RETIRED FOR DISABILITY PURSUANT TO THIS SECTION SHALL, UPON ATTAINMENT OF AGE SIXTY-TWO, BE ENTITLED TO AN UPWARD ADJUSTMENT IN THE AMOUNT OF THE MEMBER'S DISABILITY RETIREMENT ALLOWANCE DETERMINED PRIOR TO OPTIONAL MODIFICATION TO THE AMOUNT OF THE DEFERRED SERVICE RETIREMENT ALLOWANCE DETERMINED PRIOR TO OPTIONAL MODIFICATION WHICH WOULD HAVE BEEN PAYABLE TO SUCH MEMBER BASED UPON SUCH MEMBER'S ACTUAL CREDITED SERVICE AND FINAL AVERAGE SALARY AS OF THE EFFECTIVE DATE OF THE MEMBER'S DISABILITY RETIREMENT, HAD THE MEMBER COMMENCED RECEIVING SUCH DEFERRED SERVICE RETIREMENT ALLOWANCE AT AGE SIXTY-TWO, WHERE THE AMOUNT OF THE MEMBER'S DISABILITY RETIREMENT ALLOWANCE PRIOR TO OPTIONAL MODIFICATION IS LESS THAN THE AMOUNT OF SUCH DEFERRED SERVICE RETIREMENT ALLOWANCE PRIOR TO OPTIONAL MODIFICATION. NOTHING IN THIS SUBDIVISION SHALL AUTHORIZE ANY CHANGE IN THE FORM OF RETIREMENT ALLOWANCE UNDER WHICH THE MEMBER WAS RETIRED. WHERE AN OPTIONAL FORM OF RETIREMENT ALLOWANCE HAD BEEN ELECTED BY THE MEMBER AT RETIREMENT, THE MEMBER'S OPTIONAL RETIREMENT ALLOWANCE AND ANY SURVIVOR PORTION OF THE ALLOWANCE SHALL BE CALCULATED USING THE OPTION FACTOR USED TO COMPUTE SUCH BENEFITS AT THE TIME THE MEMBER RETIRED. IF THE MEMBER HAD ELECTED AN OPTIONAL FORM OF RETIREMENT ALLOWANCE REQUIRING THE PAYMENT OF A LIFETIME SURVIVOR BENEFIT ONLY AND DIED PRIOR TO ATTAINING AGE SIXTY-TWO, AND SUCH LIFETIME SURVIVOR BENEFIT WOULD HAVE

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

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BEEN ADJUSTED UPWARD UPON THE MEMBER'S ATTAINING AGE SIXTY-TWO, SUCH LIFETIME SURVIVOR BENEFIT SHALL BE ADJUSTED UPWARD, COMMENCING WHEN THE MEMBER WOULD HAVE ATTAINED AGE SIXTY-TWO.

S 2. Section 605 of the retirement and social security law is amended by adding a new subdivision k to read as follows:

K. A MEMBER OF THE NEW YORK STATE TEACHERS' RETIREMENT SYSTEM WHO HAS BEEN RETIRED FOR DISABILITY PURSUANT TO THIS SECTION SHALL, UPON ATTAINMENT OF AGE SIXTY-TWO, BE ENTITLED TO AN UPWARD ADJUSTMENT IN THE AMOUNT OF THE MEMBER'S DISABILITY RETIREMENT ALLOWANCE DETERMINED PRIOR TO OPTIONAL MODIFICATION TO THE AMOUNT OF THE DEFERRED VESTED BENEFIT DETERMINED PRIOR TO OPTIONAL MODIFICATION WHICH WOULD HAVE BEEN PAYABLE TO SUCH MEMBER BASED UPON SUCH MEMBER'S ACTUAL CREDITED SERVICE AND FINAL AVERAGE SALARY AS OF THE EFFECTIVE DATE OF THE MEMBER'S DISABILITY RETIREMENT, HAD THE MEMBER COMMENCED RECEIVING SUCH DEFERRED VESTED BENEFIT AT AGE SIXTY-TWO, WHERE THE AMOUNT OF THE MEMBER'S DISABILITY RETIREMENT ALLOWANCE PRIOR TO OPTIONAL MODIFICATION IS LESS THAN THE AMOUNT OF SUCH DEFERRED VESTED BENEFIT PRIOR TO OPTIONAL MODIFICATION. NOTHING IN THIS SUBDIVISION SHALL AUTHORIZE ANY CHANGE IN THE FORM OF RETIREMENT ALLOWANCE UNDER WHICH THE MEMBER WAS RETIRED. WHERE AN OPTIONAL FORM OF RETIREMENT ALLOWANCE HAD BEEN ELECTED BY THE MEMBER AT RETIREMENT, THE MEMBER'S OPTIONAL RETIREMENT ALLOWANCE AND ANY SURVIVOR PORTION OF THE ALLOWANCE SHALL BE CALCULATED USING THE OPTION FACTOR USED TO COMPUTE SUCH BENEFITS AT THE TIME THE MEMBER RETIRED. IF THE MEMBER HAD ELECTED AN OPTIONAL FORM OF RETIREMENT ALLOWANCE REQUIRING THE PAYMENT OF A LIFETIME SURVIVOR BENEFIT ONLY AND DIED PRIOR TO ATTAINING AGE SIXTY-TWO, AND SUCH LIFETIME SURVIVOR BENEFIT WOULD HAVE BEEN ADJUSTED UPWARD UPON THE MEMBER'S ATTAINING AGE SIXTY-TWO, SUCH LIFETIME SURVIVOR BENEFIT SHALL BE ADJUSTED UPWARD, COMMENCING WHEN THE MEMBER WOULD HAVE ATTAINED AGE SIXTY-TWO.

S 3. This act shall take effect June 30, 2010 and shall apply to the affected disability benefits payable on or after such date, except that if this act shall have become a law after June 30, 2010, this act shall take effect immediately and shall be deemed to have been in full force and effect on and after June 30, 2010 and shall apply to the affected disability benefits payable on or after such date.

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

This bill would authorize an increase in retirement benefit at age 62 for disabled members of the New York State Teachers' Retirement System whose disability retirement benefit is less than the service retirement benefit the member would have received at age 62. This increase would be equal to the difference, if any, between the current disability retirement benefit and the service retirement benefit the member would have received starting at age 62 based on the member's actual credited service and final average salary as of the member's effective date of disability retirement. If the member elected an optional form of benefit requiring the payment of a lifetime survivor annuity and dies prior to attainment of age 62, such lifetime survivor benefit shall be adjusted upward if appropriate, commencing when the member would have attained age 62.

The annual cost to the employers of members of the New York State Teachers' Retirement System for this benefit is estimated to be $4.3 million or .03% of payroll if this bill is enacted.

The source of this estimate is Fiscal Note 2010-1 dated October 13, 2009 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2010 Legislative Session.