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

March 26, 2009

Introduced by M. of A. GUNTHER, CANESTRARI, COLTON, CHRISTENSEN, KOON, PHEFFER, BENEDETTO, POWELL, ALESSI, JAFFEE, SPANO, WEINSTEIN, SCHIMEL, HYER-SPENCER, RUSSELL, BARRON, DenDEKKER, D. WEPRIN -- Multi-Sponsored by -- M. of A. ALFANO, AMEDORE, ARROYO, AUBRY, BACALLES, BALL, BARCLAY, BARRA, BENJAMIN, BOYLAND, BOYLE, BRENNAN, BRODSKY, BROOK-KRASNY, BURLING, BUTLER, CAHILL, CALHOUN, CARROZZA, CASTRO, CLARK, CONTE, COOK, CORWIN, CROUCH, CUSICK, CYMBROWITZ, DelMONTE, DESTITO, DINOWITZ, DUPREY, ENGLEBRIGHT, ERRIGO, ESPAILLAT, FIELDS, FINCH, GABRYSZAK, GALEF, GIANARIS, GIBSON, GIGLIO, GLICK, GORDON, GOTTFRIED, HAWLEY, HAYES, HEASTIE, HOOPER, HOYT, JACOBS, JOHN, KAVANAGH, KOLB, LATIMER, LAVINE, LIFTON, P. LOPEZ, V. LOPEZ, LUPARDO, MAGEE, MAISEL, MARKEY, MAYERSOHN, McDONOUGH, McENENY, McKEVITT, MENG, J. MILLER, MILLMAN, MOLINARO, NOLAN, OAKS, O'DONNELL, O'MARA, ORTIZ, PAULIN, PEOPLES-STOKES, PERRY, PRETLOW, RABBITT, RAIA, RAMOS, REILICH, REILLY, J. RIVERA, N. RIVERA, P. RIVERA, ROBINSON, ROSENTHAL, SAYWARD, SCARBOROUGH, SCHROEDER, SCOZZAFAVA, SWEENEY, TEDISCO, THIELE, TITONE, TITUS, TOBACCO, TOWNS, TOWNSEND, WEISENBERG, WRIGHT, ZEBROWSKI -- 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 retirement and social security law, in relation to certain members who re-enter public service

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

Section 1. Subdivisions 2 and 4 of section 645 of the retirement and social security law, subdivision 2 as amended by chapter 322 of the laws of 2002 and subdivision 4 as added by chapter 640 of the laws of 1998 and as renumbered by chapter 646 of the laws of 1999, are amended to read as follows:

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

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2. Notwithstanding any other provision of law, any person [other than a retiree of a public retirement system,] who previously was a member of a public retirement system and whose membership in such public retirement system ceased by reason of (i) insufficient service credit, (ii) withdrawal of accumulated contributions, or (iii) withdrawal of membership, upon rejoining such public retirement system or another public retirement system, shall be deemed to have been a member of his or her current retirement system during the entire period of time commencing with and subsequent to the original date of such previous ceased membership, provided that such person (a) makes application therefor to the administrative head of his or her current public retirement system, and (b) repays the amount refunded, if any, at the time such previous membership ceased, together with interest at the rate of five percent per annum compounded annually from the date of such refund through the date of repayment. Upon such reinstatement of date of membership, such member shall be entitled to all the rights, benefits and privileges to which he or she would have been entitled had his or her current membership begun on such original date of membership except that, solely for the purposes of granting retirement credit to members of a public retirement system other than the New York city teachers' retirement system for service credited during such previous ceased membership where such was in a public retirement system other than the member's current retirement system, such previously credited service shall be deemed to be prior service, not subsequent service. Furthermore, any such member whose original date of membership was prior to July first, nineteen hundred seventy-three shall be entitled to all the rights, benefits and privileges to which he or she would have been entitled had he or she been in active service on June thirtieth, nineteen hundred seventy-three. Any contribution made to the public retirement system pursuant to article fourteen or fifteen of this chapter by a member who rejoined his or her current system on or after July twenty-seventh, nineteen hundred seventy-six shall not be refunded.

4. The provisions of this article shall be applicable to a person who [is, on the date this article becomes effective] WAS A MEMBER ON OR BEFORE JANUARY FIRST, NINETEEN HUNDRED EIGHTY-NINE, or who subsequent to such date becomes, a member of a public retirement system.

S 2. This act shall take effect immediately and shall only apply to all persons who are alive as of the effective date of this act and shall apply to payments made on or after the effective date of this act; and provided further, that any retirees qualifying under this act shall have their retirement allowance recalculated from July 1, 2010 or the date of reinstatement, whichever is later.

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

This bill would allow certain living retirees of New York public retirement systems who retired prior to December 16, 1999 and who previously were members of a New York public retirement system to be deemed to have become members of the systems from which they retired as of the original date of such previous ceased membership. Tier 3 and 4 retirees of the New York State and Local Employees' Retirement System or the New York State Teachers' Retirement System who become Tier 1 or 2 retirees and who have already purchased their previous service would receive a refund of these contributions. No benefits will be deemed to have accrued prior to the effective date of this act.

If this bill is enacted, insofar as this bill affects the New York State and Local Employees' Retirement System (NYS&LERS), approximately 1,590 retirees of the NYS&LERS will be affected. The estimated addi-

tional annual increase in contributions would be approximately $2.1 million. This cost will be shared by the State of New York and all participating employers in the NYS&LERS.

Insofar as this bill would affect employers in the New York State and Local Police and Fire Retirement System (NYS&LPFRS), the estimated additional costs would be negligible.

In addition there will be costs for retirees who had a previous ceased membership with a public employee retirement system other than the NYS&LERS or the NYS&LPFRS. These costs would depend upon the number of retirees affected and upon each retiree's age, salary, credited service, plan coverage and tier. The number of retirees with such previous ceased membership with another public retirement system cannot be readily determined. These additional costs would be shared by the State of New York and all participating employers in their respective systems.

This estimate, dated March 3, 2010 and intended for use only during the 2010 Legislative Session, is Fiscal Note No. 2010-109, prepared by the Actuary for the NYS&LERS and the NYS&LPFRS.

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

This bill would amend subdivisions 2 and 4 of section 645 of the Retirement and Social Security Law to extend the tier reinstatement provisions to any retiree of a public retirement system. The retiree must be alive as of the effective date of the bill in order to be eligible. This bill only applies to payments made on or after the effective date of this act.

The annual cost to the employers of members of the New York State Teachers' Retirement System for this benefit is estimated to be $7.4 million or .05% of payroll if this bill is enacted.

The source of this estimate is Fiscal Note 2010-39 dated April 26, 2010 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2010 Legislative Session.