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

7370--A

I N  S E N A T E

April 1, 2010

Introduced by Sen. LANZA -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- 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 refunding contributions made to the twenty-five year early retirement program and the age fifty-seven retirement program by New York city transit authority members

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

Section 1. Subdivision d of section 604-c of the retirement and social security law, as added by chapter 96 of the laws of 1995, is amended by adding a new paragraph 15 to read as follows:

15. AN ELIGIBLE FORMER PARTICIPANT, AS DEFINED IN THIS PARAGRAPH, SHALL BE ENTITLED TO A REFUND OF THE EMPLOYEE PORTION OF HIS OR HER ADDITIONAL MEMBER CONTRIBUTIONS MADE PURSUANT TO THIS SUBDIVISION WHICH SHALL INCLUDE ANY AND ALL INTEREST THEREON AT THE RATE OF FIVE PERCENT PER ANNUM, COMPOUNDED ANNUALLY AND SUCH REFUND SHALL BE PAYABLE, UPON SUCH PARTICIPANT'S APPLICATION PURSUANT TO PROCEDURES PROMULGATED IN REGULATIONS OF THE BOARD OF TRUSTEES OF THE RETIREMENT SYSTEM. AN ELIGIBLE FORMER PARTICIPANT SHALL BE A CURRENT NEW YORK CITY TRANSIT AUTHORITY MEMBER, AS DEFINED IN SUBDIVISION A OF SECTION SIX HUNDRED FOUR-B OF THIS ARTICLE, WHO WAS A PARTICIPANT IN THE TWENTY-FIVE YEAR EARLY RETIREMENT PROGRAM PRIOR TO THE STARTING DATE OF THE ELIMINATION OF ADDITIONAL MEMBER CONTRIBUTIONS, AS SUCH DATE IS DEFINED IN AN ELECTION MADE PURSUANT TO PARAGRAPH TEN OF SUBDIVISION E OF SECTION SIX HUNDRED FOUR-B OF THIS ARTICLE.

S 2. Subdivision f of section 604-d of the retirement and social security law is amended by adding a new paragraph 15 to read as follows:

15. AN ELIGIBLE FORMER PARTICIPANT, AS DEFINED IN THIS PARAGRAPH, SHALL BE ENTITLED TO A REFUND OF THE EMPLOYEE PORTION OF HIS OR HER ADDITIONAL CONTRIBUTIONS MADE PURSUANT TO THIS SUBDIVISION WHICH SHALL INCLUDE ANY AND ALL INTEREST THEREON PAID TO THE RETIREMENT SYSTEM TOGETHER WITH INTEREST THEREON AT THE RATE OF FIVE PERCENT PER ANNUM,

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

LBD07396-04-0

COMPOUNDED ANNUALLY AND SUCH REFUND SHALL BE PAYABLE, UPON SUCH PARTICIPANT'S APPLICATION PURSUANT TO PROCEDURES PROMULGATED IN REGULATIONS OF THE BOARD OF TRUSTEES OF THE RETIREMENT SYSTEM. AN ELIGIBLE FORMER PARTICIPANT SHALL BE A CURRENT NEW YORK CITY TRANSIT AUTHORITY MEMBER, AS DEFINED IN SUBDIVISION A OF SECTION SIX HUNDRED FOUR-B OF THIS ARTICLE, WHO WAS A PARTICIPANT IN THE AGE FIFTY-SEVEN RETIREMENT PROGRAM PRIOR TO THE STARTING DATE OF THE ELIMINATION OF ADDITIONAL MEMBER CONTRIBUTIONS, AS SUCH DATE IS DEFINED IN AN ELECTION MADE PURSUANT TO PARAGRAPH TEN OF SUBDIVISION E OF SECTION SIX HUNDRED FOUR-B OF THIS ARTICLE.

S 3. This act shall take effect immediately.

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

PROVISIONS OF PROPOSED LEGISLATION: This proposed legislation would amend New York State Retirement and Social Security Law ("RSSL") Sections 604-c and 604-d to provide to certain New York City Transit Authority ("NYCTA") members of the New York City Employees' Retirement System ("NYCERS") a refund of Additional Member Contributions ("AMC") that were paid while participants of one of the Chapter 96 of the Laws of 1995 ("Chapter 96/95") Retirement Programs.

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

This Fiscal Note assumes that the proposed legislation is intended to refund interest on AMC in accordance with NYCERS procedures for crediting interest on member contributions.

IMPACT ON PLAN PROVISIONS - ADDITIONAL MEMBER CONTRIBUTIONS: Under Chapter 96/95, AMC were required under each of the Early Retirement Programs:

* The Twenty-Five-Year Early Retirement Program ("55/25 Program") and
* The Age-Fifty-Seven Retirement Program ("57/5 Program").

Those NYCERS members who participated in either of such Programs paid AMC of:

4.35% of salary for service on and after January 1, 1995 until January 1, 1998,

2.85% of salary for service on and after January 1, 1998 until December 2, 2001, and

1.85% of salary for service on and after December 2, 2001.

In addition, if such member's job title was considered Physically-Taxing ("PT"), an additional PTAMC of 1.98% of salary was required for all service on and after January 1, 1995.

As a result of Chapter 10 of the Laws of 2000, many of the NYCTA Tier IV members of NYCERS who participated in the Chapter 96/95 Retirement Program were transferred into the Transit Twenty-Five-Year and Age Fifty-Five Retirement Program ("Transit 55/25 Program") effective December 15, 2000. For these members, the AMC and PTAMC that had been payable under the Chapter 96/95 Retirement Programs were no longer required after January 3, 2001 (i.e., the effective implementation date, the first payroll period following the transfer date).

This proposed legislation would refund, on and after the Effective Date, to certain Transit 55/25 Program participants with initial Program participation dates on or before December 15, 2000, the employee portion of the AMC and PTAMC, if any, paid for participation in the Chapter 96/95 Retirement Programs, including accrued interest at 5.0% per annum.

Note, under the Chapter 96/95 Retirement Programs, 50% of the AMC and PTAMC paid into such Programs is considered an employer contribution while the other 50% is considered to be the employee portion. If the proposed legislation were enacted, those impacted Transit 55/25 Program

participants would receive the balance of the accumulated employee portion of AMC and PTAMC.

To receive such refund, those eligible participants would be required to complete a form and follow procedures to be established by the NYCERS Board of Trustees.

FINANCIAL IMPACT - OVERVIEW: If enacted into the law, the ultimate employer cost of this proposed legislation will be determined by the reduction in expected benefits paid (due to there no longer being a requirement to refund AMC on a future withdrawal), offset by the reduction in Fund assets due to the current refund of AMC.

FINANCIAL IMPACT - ACTUARIAL PRESENT VALUES: With respect to NYCERS and based on the census data and actuarial assumptions and methods described herein, the enactment of this proposed legislation would result in a decrease in the Actuarial Present Value ("APV") of Benefits ("APVB") of approximately $0.2 million as of June 30, 2008.

In addition, there would be a reduction in Actuarial Asset Value as of June 30, 2008 to reflect the expected refund of the employee portion of accumulated Chapter 96/95 Retirement Program AMC and PTAMC, if any, for those impacted Transit 55/25 Program participants of approximately $1.9 million.

Together, the enactment of the proposed legislation would result in a net increase in the APV of Future Employer Normal Costs to NYCERS of approximately $1.7 million as of June 30, 2008.

FINANCIAL IMPACT - ADDITIONAL ANNUAL EMPLOYER COSTS AND CONTRIBUTIONS: With respect to NYCERS, the enactment of this proposed legislation would increase annual employer costs by approximately $230,000 per year.

If enacted during the 2010 Legislative Session before June 30, 2010, then employer contributions to NYCERS would begin Fiscal Year 2010.

If enacted during the 2010 Legislative Session after June 30, 2010 and before June 30, 2011, then increased employer contributions to NYCERS would begin Fiscal Year 2011.

Increases in employer contributions would be comparable to the estimated increases in employer costs.

OTHER COSTS: Not measured in this Fiscal Note are any additional administrative costs or the impact of this proposed legislation on the Manhattan and Bronx Surface Transit Operating Authority ("MaBSTOA").

CENSUS DATA: The census data used for estimates of APVB, APV of Future Employer Normal Costs and employer contributions presented herein are the 36,715 Tier IV active members of NYCERS who participate in the Transit 55/25 Program with annual salaries of approximately $2,426.9 million included in the June 30, 2008 actuarial valuation of NYCERS.

Of these 36,715 Tier IV members of NYCERS who participate in the Transit 55/25 Program as of June 30, 2008, 778 members with annual salaries of approximately $57.4 million have AMC balances from contributions made under the Chapter 96/95 Retirement Programs while 35,937 of these members do not have such AMC balances.

Of such 778 NYCERS members, 540 members with salaries of approximately $44.8 million became participants of the Transit 55/25 Program on or before December 15, 2000 while 238 of such members with salaries of approximately $12.5 million have Chapter 96/95 AMC balances but are not eligible for a refund.

Those former participants of the Transit 55/25 Program who withdrew and their length of absence has exceeded five years, or withdrew with deferred vested benefits or who have retired, do not meet the definition of active participant and were therefore excluded.

ACTUARIAL ASSUMPTIONS AND METHODS: Additional APVB, APV of Future Employer Normal Costs and employer costs have been calculated using the actuarial assumptions and methods in effect for the June 30, 2008 (Lag) actuarial valuation of NYCERS to determine employer contributions for Fiscal Year 2010.

The development of the APVB and the expected refund of Chapter 96/95 AMC and PTAMC assume that all impacted Transit 55/25 Program participants would still be active participants in that Program.

Additional annual employer costs have been estimated assuming the additional APV of Future Normal Costs would be financed through future normal contributions.

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 2010-04, dated February 10, 2010, prepared by the Chief Actuary for the New York City Employees' Retirement System.