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

5151

2009-2010 Regular Sessions

I N A S S E M B L Y

February 10, 2009

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

AN ACT to amend the education law and the retirement and social security law, in relation to transfers of a pension reserve

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

Section 1. Subdivision 5 of section 522 of the education law, as added by chapter 647 of the laws of 2004, is amended to read as follows:

5. Notwithstanding any other provision of law to the contrary, EXCEPT FOR THE PURPOSES OF PROVIDING THE BENEFITS, IF ANY, OF SUBDIVISION FOUR OF THIS SECTION, with respect to transfers pursuant to this section which occur on or after the effective date of this subdivision, no transfer of a pension reserve pursuant to subdivision one or two of this section shall be required when the member is transferring from a public employee retirement system of this state to any other public employee retirement system of this state. For the purpose of giving the transferring member such status and crediting such service in the retirement system to which the member is transferring as such member was allowed in the retirement system from which the member has transferred, the transfer shall be deemed complete upon receipt by the transferee retirement system of (a) a statement from the transferor retirement system of the transferring member's date of membership in the transferor retirement system, tier status, service credited to the transferred membership, and such other information as the transferee retirement system may require to effectuate the transfer, and (b) such member's accumulated contributions from the transferor retirement system, if same had not been previously withdrawn, or notice from the transferor retirement system that such member had no accumulated contributions, or notice from the transferor retirement system that such member's accumulated contributions had been withdrawn and the amount thereof and, as applicable,

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

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receipt from such member of such member's accumulated contributions and interest.

S 2. Subdivision k of section 43 of the retirement and social security law, as amended by chapter 647 of the laws of 2004, is amended to read as follows:

k. Notwithstanding any other provision of this section, any member of the New York state and local employees' retirement system or the New York city teachers' retirement system who retired from service from either the New York city employees' retirement system or the New York city board of education retirement system as a member of the career pension plan maintained by such system and who, but for the fact that he or she retired, would be eligible for transfer and who has not, in fact, received a pension payment from such system shall be permitted to transfer his or her retirement system membership pursuant to the provisions of this section. In such event, the application for retirement shall be deemed to have been rescinded and the retirement system from which the service shall be transferred shall transfer the appropriate reserves as provided by this section, provided, however, that with respect to transfers pursuant to this subdivision which occur on or after the [effective date of the chapter of the laws of two thousand four which amended this subdivision] TWENTY-SIXTH DAY OF OCTOBER, TWO THOUSAND FOUR, EXCEPT FOR THE PURPOSES OF PROVIDING THE BENEFITS, IF ANY, OF SUBDIVISION FOUR OF SECTION FIVE HUNDRED TWENTY-TWO OF THE EDUCATION LAW, no determination of a reserve pursuant to subdivision c of this section or transfer thereof pursuant to the first sentence of subdivision d of this section shall be required in the case of any transfer pursuant to this subdivision. Notwithstanding the provision of this subdivision or any other provision of law, an individual who transfers pursuant to this subdivision shall not be required to render any minimum period of service following transfer in order to be eligible to receive the full benefit provided hereunder. Notwithstanding the foregoing, a retiree covered by either the career pension plan or the fifty-five-year-increased-service-fraction plan who has received a pension payment or payments from such system shall be eligible for the provisions of this subdivision upon payment, to the retirement system from which the pension payment or payments were made, of an amount equal to such pension payment or payments. After such payments are received, such person shall be permitted to transfer his or her retirement system membership pursuant to the provisions of this section.

S 3. Subdivision l of section 43 of the retirement and social security law, as added by chapter 647 of the laws of 2004, is amended to read as follows:

l. Notwithstanding any other provision of law to the contrary, with respect to transfers pursuant to this section which occur on or after the [effective date of this subdivision] TWENTY-SIXTH DAY OF OCTOBER, TWO THOUSAND FOUR, EXCEPT FOR THE PURPOSES OF PROVIDING THE BENEFITS, IF ANY, OF SUBDIVISION FOUR OF SECTION FIVE HUNDRED TWENTY-TWO OF THE EDUCATION LAW, no determination of a reserve pursuant to subdivision c of this section or transfer thereof pursuant to the first sentence of subdivision d of this section shall be required in the case of any transfer pursuant to this section. For the purpose of giving the transferring member such status and crediting such service in the second retirement system as such member was allowed in the first retirement system in those cases to which this subdivision shall apply, the transfer shall be deemed complete upon receipt by the second retirement system of:

1. a statement from the first retirement system of the transferring member's date of membership in the first retirement system, tier status, service credited to such membership being transferred, and such other information as the second retirement system may require to effectuate the transfer; and

2. such member's accumulated contributions from the first retirement system, if same had not been previously withdrawn, or notice from the first retirement system that such member had no accumulated contributions, or notice from the first retirement system that such member's accumulated contributions had been withdrawn and the amount thereof and, as applicable, receipt from such member of such member's accumulated contributions and interest.

S 4. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after October 26, 2004.

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

This bill would amend section 522 of the Education Law and section 43 of the Retirement and Social Security Law to once again require the transfer of reserves for former members of the New York City Teachers' Retirement System (NYCTRS) who transferred to the New York State Teachers' Retirement System (NYSTRS) and meet the eligibility requirements of subdivision 4 of section 522. Subdivision 4 provides a benefit for former NYCTRS members who had at least 20 years of service and whose date of membership is prior to 7/27/76 and whose transfer reserves, including ITHP, exceeds their accrued liability in the NYSTRS. Any "excess ITHP" resulting from this calculation is given to the member. Subdivision 5 ended the practice of transferring reserves between these retirement systems in 2004.

It is estimated that there will be no additional annual cost to the employers of members of the New York State Teachers' Retirement System if this bill is enacted. Reserves will be transferred from the NYCTRS to the NYSTRS on behalf of these individuals.

The source of this estimate is Fiscal Note 2009-12 dated January 30, 2009 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2009 Legislative Session.