

5314

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

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:

1 Section 1. Section 511 of the education law is amended by adding a new
2 subdivision 10 to read as follows:
3 10. A MEMBER WHO HAS BEEN RETIRED FOR DISABILITY PURSUANT TO THIS
4 SECTION SHALL, UPON ATTAINMENT OF AGE SIXTY-TWO, BE ENTITLED TO AN
5 UPWARD ADJUSTMENT IN THE AMOUNT OF THE MEMBER'S DISABILITY RETIREMENT
6 ALLOWANCE DETERMINED PRIOR TO OPTIONAL MODIFICATION TO THE AMOUNT OF THE
7 DEFERRED SERVICE RETIREMENT ALLOWANCE DETERMINED PRIOR TO OPTIONAL
8 MODIFICATION WHICH WOULD HAVE BEEN PAYABLE TO SUCH MEMBER BASED UPON
9 SUCH MEMBER'S ACTUAL CREDITED SERVICE AND FINAL AVERAGE SALARY AS OF THE
10 EFFECTIVE DATE OF THE MEMBER'S DISABILITY RETIREMENT, HAD THE MEMBER
11 COMMENCED RECEIVING SUCH DEFERRED SERVICE RETIREMENT ALLOWANCE AT AGE
12 SIXTY-TWO, WHERE THE AMOUNT OF THE MEMBER'S DISABILITY RETIREMENT ALLOW-
13 ANCE PRIOR TO OPTIONAL MODIFICATION IS LESS THAN THE AMOUNT OF SUCH
14 DEFERRED SERVICE RETIREMENT ALLOWANCE PRIOR TO OPTIONAL MODIFICATION.
15 NOTHING IN THIS SUBDIVISION SHALL AUTHORIZE ANY CHANGE IN THE FORM OF
16 RETIREMENT ALLOWANCE UNDER WHICH THE MEMBER WAS RETIRED. WHERE AN
17 OPTIONAL FORM OF RETIREMENT ALLOWANCE HAD BEEN ELECTED BY THE MEMBER AT
18 RETIREMENT, THE MEMBER'S OPTIONAL RETIREMENT ALLOWANCE AND ANY SURVIVOR
19 PORTION OF THE ALLOWANCE SHALL BE CALCULATED USING THE OPTION FACTOR
20 USED TO COMPUTE SUCH BENEFITS AT THE TIME THE MEMBER RETIRED. IF THE
21 MEMBER HAD ELECTED AN OPTIONAL FORM OF RETIREMENT ALLOWANCE REQUIRING
22 THE PAYMENT OF A LIFETIME SURVIVOR BENEFIT ONLY AND DIED PRIOR TO
23 ATTAINING AGE SIXTY-TWO, AND SUCH LIFETIME SURVIVOR BENEFIT WOULD HAVE
24 BEEN ADJUSTED UPWARD UPON THE MEMBER'S ATTAINING AGE SIXTY-TWO, SUCH
25 LIFETIME SURVIVOR BENEFIT SHALL BE ADJUSTED UPWARD, COMMENCING WHEN THE
26 MEMBER WOULD HAVE ATTAINED AGE SIXTY-TWO.

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

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

3 K. A MEMBER OF THE NEW YORK STATE TEACHERS' RETIREMENT SYSTEM WHO HAS
4 BEEN RETIRED FOR DISABILITY PURSUANT TO THIS SECTION SHALL, UPON ATTAIN-
5 MENT OF AGE SIXTY-TWO, BE ENTITLED TO AN UPWARD ADJUSTMENT IN THE AMOUNT
6 OF THE MEMBER'S DISABILITY RETIREMENT ALLOWANCE DETERMINED PRIOR TO
7 OPTIONAL MODIFICATION TO THE AMOUNT OF THE DEFERRED VESTED BENEFIT
8 DETERMINED PRIOR TO OPTIONAL MODIFICATION WHICH WOULD HAVE BEEN PAYABLE
9 TO SUCH MEMBER BASED UPON SUCH MEMBER'S ACTUAL CREDITED SERVICE AND
10 FINAL AVERAGE SALARY AS OF THE EFFECTIVE DATE OF THE MEMBER'S DISABILITY
11 RETIREMENT, HAD THE MEMBER COMMENCED RECEIVING SUCH DEFERRED VESTED
12 BENEFIT AT AGE SIXTY-TWO, WHERE THE AMOUNT OF THE MEMBER'S DISABILITY
13 RETIREMENT ALLOWANCE PRIOR TO OPTIONAL MODIFICATION IS LESS THAN THE
14 AMOUNT OF SUCH DEFERRED VESTED BENEFIT PRIOR TO OPTIONAL MODIFICATION.
15 NOTHING IN THIS SUBDIVISION SHALL AUTHORIZE ANY CHANGE IN THE FORM OF
16 RETIREMENT ALLOWANCE UNDER WHICH THE MEMBER WAS RETIRED. WHERE AN
17 OPTIONAL FORM OF RETIREMENT ALLOWANCE HAD BEEN ELECTED BY THE MEMBER AT
18 RETIREMENT, THE MEMBER'S OPTIONAL RETIREMENT ALLOWANCE AND ANY SURVIVOR
19 PORTION OF THE ALLOWANCE SHALL BE CALCULATED USING THE OPTION FACTOR
20 USED TO COMPUTE SUCH BENEFITS AT THE TIME THE MEMBER RETIRED. IF THE
21 MEMBER HAD ELECTED AN OPTIONAL FORM OF RETIREMENT ALLOWANCE REQUIRING
22 THE PAYMENT OF A LIFETIME SURVIVOR BENEFIT ONLY AND DIED PRIOR TO
23 ATTAINING AGE SIXTY-TWO, AND SUCH LIFETIME SURVIVOR BENEFIT WOULD HAVE
24 BEEN ADJUSTED UPWARD UPON THE MEMBER'S ATTAINING AGE SIXTY-TWO, SUCH
25 LIFETIME SURVIVOR BENEFIT SHALL BE ADJUSTED UPWARD, COMMENCING WHEN THE
26 MEMBER WOULD HAVE ATTAINED AGE SIXTY-TWO.

27 S 3. This act shall take effect June 30, 2009 and shall apply to the
28 affected disability benefits payable on or after such date, except that
29 if this act shall have become a law after June 30, 2009, this act shall
30 take effect immediately and shall be deemed to have been in full force
31 and effect on and after June 30, 2009 and shall apply to the affected
32 disability benefits payable on or after such date; provided, however,
33 that the amendments to section 605 of the retirement and social security
34 law, made by section two of this act, shall not affect the expiration of
35 such section pursuant to section 615 of such law and shall be deemed to
36 expire therewith.

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 \$4.1 million or .03% of payroll if this bill is enacted.

The source of this estimate is Fiscal Note 2009-1 dated October 15, 2008 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2009 Legislative Session.