

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

6957--C

2009-2010 Regular Sessions

I N A S S E M B L Y

March 17, 2009

Introduced by M. of A. SWEENEY, ABBATE, JOHN, WEISENBERG, FIELDS, PHEFFER, GALEF, HOOPER, BOYLAND, SCHROEDER, ZEBROWSKI -- Multi-Sponsored by -- M. of A. ALFANO, BOYLE, CAHILL, CARROZZA, CHRISTENSEN, CLARK, COLTON, COOK, CYMBROWITZ, DeMONTE, DESTITO, ESPAILLAT, GUNTHER, JAFFEE, KOON, LENTOL, LUPARDO, MAGEE, MAYERSOHN, McENENY, MILLMAN, ORTIZ, PERRY, POWELL, J. RIVERA, ROBINSON, TOWNS, WRIGHT -- 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 -- recommitted to the Committee on Education in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the retirement and social security law, in relation to the employment of retired persons

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

1 Section 1. Subdivision 2 of section 212 of the retirement and social
2 security law, as amended by chapter 74 of the laws of 2006, is amended
3 to read as follows:

4 2. The earning limitations for retired persons in positions of public
5 service under this section shall be in accordance with the following
6 table:

	For the year	Earnings limitation
7	1996	\$12,500
8	1997	\$13,500
9	1998	\$14,500
10	1999	\$15,500
11		

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

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1	2000	\$17,000
2	2001	\$18,500
3	2002	\$20,000
4	2003	\$25,000
5	2004	\$27,500
6	2005 and 2006	\$27,500
7	2007 [and thereafter],	\$30,000
8	2008 AND 2009	
9	2010 AND THEREAFTER	\$32,500

10 S 2. This act shall take effect immediately and shall be deemed to
 11 have been in full force and effect on and after January 1, 2010.

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

This bill would amend Section 212 of the Retirement and Social Security Law to set the amount a retired person may earn in public employment without reduction in retirement allowance during the year 2010 and thereafter, to \$32,500.

If this bill is enacted, insofar as it would affect the New York State and Local Employees' Retirement System, we expect that a number of members will retire earlier than they otherwise would have due to the expectation of collecting both a pension and the salary they were receiving before they retired. A significant number of members changing their retirement dates will result in a shorter funding period and greater annual employer contributions. The extent of the increase in employer contributions will be determined by the number of members retiring early to collect both salary and pension.

Insofar as this bill would affect the New York State and Local Police and Fire Retirement System, there would be negligible additional annual costs.

This estimate, dated December 4, 2009 and intended for use only during the 2010 Legislative Session, is Fiscal Note No. 2010-15, prepared by the Actuary for the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System.

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

With respect to the New York City Retirement Systems ("NYCRS"), this proposed legislation would amend Retirement and Social Security Law ("RSSL") Section 212 to increase the earnings limit of certain members who have returned to employment in Public Service.

The Effective Date of the proposed legislation would be the date of enactment retroactive to January 1, 2010.

IMPACT ON BENEFITS: Retired members of the NYCRS are permitted to return to employment in "Public Service" where such term means employment in the service of New York State ("NYS") or any of its political divisions including:

- * A special district,
- * District corporation,
- * School district,
- * Board of cooperative educational services,
- * County vocational education and extension board,
- * Public benefit corporation,
- * Public authority created by or pursuant to NYS laws, or
- * An agency or organization which contributes as a participating employer in a retirement system or pension plan administered by NYS or any of its political subdivisions.

Retirees who return to Public Service and elect to be covered under the provisions of RSSL Section 212 are permitted to earn in a calendar

year an amount not exceeding a specific dollar limit without loss, suspension or diminution of their retirement allowances. Once a retiree attains age 65 in a calendar year, there are no earnings limitations in that calendar year or thereafter. Currently, the dollar limitation in effect for Calendar Year 2007 and thereafter is \$30,000.

Under the proposed legislation, the dollar limitation would be increased to \$32,500 for Calendar Year 2010 and thereafter.

FINANCIAL IMPACT - EMPLOYER COST: The ultimate cost of a pension plan is the benefits it pays.

To the extent the current RSSL Section 212 earnings limitation applies in Calendar Years 2010 and later, certain retirees would have their retirement allowances temporarily suspended in years where their earnings in Public Service exceed that earnings limitation.

Enactment of the proposed legislation would raise the amount that could be earned in Public Service. This would result in a slight increase in benefits paid to retirees where their Public Service earnings exceed the current RSSL Section 212 earnings limitation.

If a definite amount of change to the expected retirement allowances to be paid in a calendar year were known, it would be reflected in the fiscal year the legislation is enacted.

However, a change in the applicable retirement allowances paid to NYCERS retired members in a calendar year under this proposed legislation are not known in advance. These changes would be treated as actuarial experience gains/losses recognized in the assets of the respective NYCERS at the end of that fiscal year (i.e., a change in retirement allowances paid during Calendar Year 2010 would be reflected in the NYCERS assets as of June 30, 2011).

Under the Lag actuarial valuation methodology, adjustments in the June 30, 2011 asset values would first impact employer contributions to the respective NYCERS for Fiscal Year 2013.

For those NYCERS reemployed retirees who have elected to become subject to RSSL Section 212 and who have exceeded the limit, the Actuary estimates that the theoretical maximum annual potential impact of the proposed legislation would be to increase payouts from the NYCERS by less than \$150,000.

However, recent experience of all reemployed retirees shows that the majority choose to limit their post-retirement earnings in Public Service to be less than the maximum amount permissible before retirement benefits would be suspended.

Consequently, the Actuary believes that the increase in the dollar limit from \$30,000 to \$32,500 would increase payouts from the NYCERS by significantly less than \$150,000 and, overall, there would be a de minimis impact on the retirement allowances otherwise payable.

FINANCIAL IMPACT: EMPLOYER CONTRIBUTIONS: If enacted during the 2010 Legislative Session, the impact on employer costs to the NYCERS would begin Fiscal Year 2013.

Any changes in NYCERS assets that result in changes in the Actuarial Present Values of Future Normal Costs would be financed through future employer normal contributions.

Overall, the Actuary believes the changes in employer costs and employer contributions to the NYCERS as a result of enactment of the proposed legislation would be de minimis.

OTHER COSTS: Not measured in this Fiscal Note are any possible increased administrative costs attributable to enactment of the proposed legislation.

CENSUS DATA: For purposes of analyzing the impact of the proposed legislation, data on retirees reemployed in Public Service were furnished by the staffs of the NYCERS. This data was reviewed and considered illustrative of those who could potentially be impacted by this proposed legislation. Where data was not final, a percentage of those retirees employed in Public Service under age 65 were assumed to exceed the RSSL Section 212 limit.

Table 1
NYCERS Retirees Reemployed in Public Service
Who Elected to Be Subject to
RSSL Section 212

Retirement System{1}	Number Reemployed All Ages Any Earnings	Number Reemployed Under Age 65 Earnings in Excess of \$30,000
NYCERS{2}	240	36{4}
TRS{2}	3,402	4
BERS{3}	40{4}	2
POLICE{2}	141	12
FIRE{3}	9	2{4}
Total	3,832	56

{1} New York City Employees' Retirement System ("NYCERS")
 New York City Teachers' Retirement System ("TRS")
 New York City Board of Education Retirement System ("BERS")
 New York City Police Pension fund ("POLICE")
 New York City Fire Pension Fund ("FIRE")

{2} The reemployment period is Calendar Year 2009.

{3} The reemployment period is Calendar Year 2008.

{4} Estimated from information furnished.

ACTUARIAL ASSUMPTIONS AND METHODS: Any changes in Actuarial Present Values of Benefits and employer contributions have been estimated based on the actuarial assumptions and methods used in the June 30, 2008 (Lag) actuarial valuations of the NYCERS.

For purposes of analyzing the impact of the proposed legislation, it was assumed that the current number of reemployed NYCERS retirees in Public Service under age 65 earning in excess of the RSSL Section 212 dollar limit would remain constant over time.

It was also assumed that the earnings in Public Service of such reemployed retirees would also exceed the proposed new RSSL Section 212 dollar limit by amounts comparable to those being earned in excess of the current dollar limit.

This estimate is intended for use only during the 2010 Legislative Session. It is Fiscal Note 2010-09, dated April 8, 2010 prepared by the Chief Actuary for the New York City Retirement Systems.

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

This bill would amend subdivision 2 of section 212 of the Retirement and Social Security Law to increase the earnings limitation for retired members in positions of public employment to \$32,500 for the calendar year 2010 and thereafter. The prior year's earnings limitation was \$30,000.

The annual cost to the employers of members of the New York State Teachers' Retirement System is estimated to be negligible if this bill is enacted.

The source of this estimate is Fiscal Note 2010-42 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.

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

This bill would amend subdivision 2 of section 212 of the Retirement and Social Security Law to increase the earnings limitation for retired members in positions of public employment to \$32,500 for the calendar year 2010 and thereafter. The prior year's earnings limitation was \$30,000.

The annual cost to the employers of members of the New York State Teachers' Retirement System is estimated to be negligible if this bill is enacted.

The source of this estimate is Fiscal Note 2010-42 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.