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

8371

2009-2010 Regular Sessions

I N A S S E M B L Y

May 15, 2009

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

AN ACT to amend the retirement and social security law, in relation to removing limitations pertaining to certain retirees earnings

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

Section 1. Subdivision a of section 607-b of the retirement and social security law, as amended by chapter 725 of the laws of 2004, is amended to read as follows:

a. Any member of the New York city employees' retirement system who is employed by the city of New York or by the New York city health and hospital corporation in the position of emergency medical technician or advanced emergency medical technician, as those terms are defined in section three thousand one of the public health law, who, on or after March seventeenth, nineteen hundred ninety-six, becomes physically or mentally incapacitated for the performance of duties as the natural and proximate result of an injury, sustained in the performance or discharge of his or her duties shall be paid a performance of duty disability retirement allowance equal to three-quarters of final average salary, subject to [the provisions of subdivision c of section six hundred five of this article and] section 13-176 of the administrative code of the city of New York. Any member who has made application or who, after the effective date of the chapter of the laws of two thousand four which amended this subdivision, makes application for such performance of duty pension shall be entitled to invoke the medical review procedure provided for in subdivision e of section six hundred five of this article, subject to the terms and conditions set forth in such subdivision.

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after January 1, 2009; provided, however, the amendments to subdivision a of section 607-b of the retirement and social security law made by section one of this act

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

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shall not affect the expiration of such subdivision and shall be deemed to expire therewith.

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

This proposed legislation would amend Retirement and Social Security Law ("RSSL") Section 607-b.a to remove one of the references to RSSL Section 605.c in the definition of Performance of Duty Accidental Disability Retirement ("ADR") benefits ("ACCDIS") of certain Emergency Medical Technician ("EMT") members of the New York City Employees' Retirement System ("NYCERS").

The Effective Date of the proposed legislation would be January 1, 2009.

IMPACT ON BENEFITS: Tier IV EMT members of NYCERS who become mentally or physically incapacitated as the result of an accident sustained in the performance of duty are, under RSSL 607-b (Chapter 587 of the Laws of 1998, effective August 5, 1998), entitled to an ACCDIS of 75% of Final Average Salary.

Under RSSL Section 605.c NCERS is permitted to make a determination as to whether such EMT member is disabled so that such member may be retired. In addition, NYCERS is permitted to establish rules for the purpose of determining initial entitlement or continued entitlement to disability benefits.

NYCERS has established rules to administer the eligibility for and entitlement to disability benefits arising under RSSL Sections 507-a and 605.

One of the NYCERS rules restricts the total Personal Service Income ("PSI") of a disabled retiree, in a calendar year, resulting from employment in a position with:

the State of New York ("NYS"), or

the City of New York ("City") or

any non-NYS or non-City employer.

If a disabled retiree's PSI exceeds the NYCERS PSI limitation, then such retiree's ACCDIS is suspended for up to a year.

Since RSSL 607-b.a subjects the amount of the EMT ACCDIS to RSSL 605.c, NYCERS determined, in Calendar Year 2008, that the PSI limitation rule would also apply to EMT ADR retiree earnings under RSSL 607-b.a and that such limitation should be effective for Calendar Years commencing on and after January 1, 2009. This limitation of PSI, if imposed, would be approximately $26,000 for Calendar Year 2009.

If the proposed legislation is enacted, the RSSL 605.c reference would be eliminated. Therefore, commencing on and after January 1, 2009, EMT ADR retirees PSI earnings would not be limited by the NYCERS rules.

It is the understanding of the Actuary that in lieu of such NYCERS limitations, the limitations on PSI for EMT ACCDIS recipients would fall back to the restrictions imposed by New York City Charter ("NYCC") Section 1117.

NYCC Section 1117 limits the sum of the retirement allowance and the PSI for all New York City Retirement Systems retirees to $1,800 per year from all public employment with NYS and the City ("NY Employ"). However, NYCC Section 1117 places no limits on the amounts of PSI that may be earned from employment with non-NY Employ employers.

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

To the extent NYCERS earnings limitations would have applied in Calendar Years 2009 and later, certain EMT ACCDIS would have been temporarily suspended in years where PSI exceeded those NYCERS earnings limitations.

Enactment of the legislation would eliminate the decrease in benefits to ADR retirees where PSI exceeds the NYCERS earnings limitations. As the Actuary believes that few, if any, ADR retirees would continue to earn excess PSI if that income resulted in a suspension of their ACCDIS benefits, the decrease in benefits would be de minimis.

FINANCIAL IMPACT: EMPLOYER CONTRIBUTIONS: If enacted during the 2009 Legislative Session prior to June 30, 2009, reduced employer costs to NYCERS would begin Fiscal Year 2009.

If enacted during the 2009 Legislative Session after June 30, 2009 and prior to June 30, 2010, reduced employer costs to NYCERS would begin Fiscal Year 2010.

Any, change in the Actuarial Present value of Benefits would be financed through future employer normal contributions.

Overall, the Actuary believes that change in employer costs and employer contributions to NYCERS to 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: There were approximately 230 EMT ADR retirees in the June 30, 2008 actuarial valuation of NYCERS who could potentially be impacted by this proposed legislation.

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 2009 Legislative Session. It is Fiscal Note 2009-09, dated May 14, 2009 prepared by the Chief Actuary for the New York City Employees' Retirement.