

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

9102--A

2009-2010 Regular Sessions

I N A S S E M B L Y

August 17, 2009

Introduced by M. of A. LENTOL -- 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

AN ACT to amend the administrative code of the city of New York, in relation to extending the benefits of the variable supplements fund for housing police and transit police members of the New York city employees' retirement system

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

1 Section 1. Paragraph (c) of subdivision 1 of section 13-191 of the
2 administrative code of the city of New York, as amended by chapter 577
3 of the laws of 1992, is amended to read as follows:
4 (c) "Beneficiary". Any person who receives a retirement allowance by
5 reason of having retired, on or after [July first, nineteen hundred
6 eighty-seven] OCTOBER FIRST, NINETEEN HUNDRED SIXTY-EIGHT for service
7 (with credit for twenty or more years of service toward the minimum
8 period) as a transit police officer; provided, that no person who held a
9 rank or position as a transit police superior officer, as defined in
10 subdivision eighty-four of section 13-101 of this title who, on or after
11 May first, nineteen hundred ninety-two, subsequently became a transit
12 police officer shall be considered a beneficiary unless such person (1)
13 subsequently performed at least three years of service as a transit
14 police officer or (2) returned to service, from the position of
15 sergeant, as a transit police officer during the eighteen month proba-
16 tionary period, or such other probationary period as may be applicable
17 or (3) returned to service as a transit police officer during the three
18 year period specified in paragraph (e) of subdivision one of section
19 seventy-five of the civil service law, or (4) returned to service as a

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

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1 transit police officer as the result of a hearing conducted pursuant to
2 applicable law.

3 S 2. Paragraph (c) of subdivision 1 of section 13-191 of the adminis-
4 trative code of the city of New York, as amended by chapter 375 of the
5 laws of 1993, is amended to read as follows:

6 (c) "Beneficiary". Any person who receives a retirement allowance by
7 reason of having retired, on or after [July first, nineteen hundred
8 eighty-seven] OCTOBER FIRST, NINETEEN HUNDRED SIXTY-EIGHT for service
9 (with credit for twenty or more years of service toward the minimum
10 period) as a housing police officer; provided, that no person who held a
11 rank or position as a housing police superior officer, as defined in
12 subdivision eighty-four of section 13-101 of this [chapter] TITLE who,
13 on or after May first, nineteen hundred ninety-two, subsequently became
14 a housing police officer shall be considered a beneficiary unless such
15 person (1) subsequently performed at least three years of service as a
16 housing police officer or (2) returned to service, from the position of
17 sergeant, as a housing police officer during the eighteen month proba-
18 tionary period, or such other probationary period as may be applicable
19 or (3) returned to service as a housing police officer during the three
20 year period specified in paragraph (e) of subdivision one of section
21 seventy-five of the civil service law, or (4) returned to service as a
22 housing police officer as the result of a hearing conducted pursuant to
23 applicable law.

24 S 3. Paragraph (b) of subdivision 1 of section 13-192 of the adminis-
25 trative code of the city of New York, as amended by chapter 720 of the
26 laws of 1994, is amended to read as follows:

27 (b) "Beneficiary". Any person who receives a retirement allowance by
28 reason of having retired, on or after [July first, nineteen hundred
29 eighty-seven,] OCTOBER FIRST, NINETEEN HUNDRED SIXTY-EIGHT, for service
30 (with credit for twenty or more years of service toward the minimum
31 period) as a transit police member and as a transit police superior
32 officer; provided, however, that where a person who held or holds a rank
33 or position as a transit police superior officer, subsequently and on or
34 after May first, nineteen hundred ninety-two became or becomes a transit
35 police officer, and while a transit police officer, retired or retires
36 for service under such circumstances that he or she would have qualified
37 as a beneficiary under the provisions of paragraph (c) of subdivision
38 one of section 13-191 of this title (other than the proviso thereof),
39 but did not or does not qualify as a beneficiary under such paragraph
40 (c) because he or she was or is disqualified by the terms of such provi-
41 so, such retiree shall nevertheless be deemed to be a beneficiary under
42 the provisions of this section.

43 S 4. Paragraph (b) of subdivision 1 of section 13-192 of the adminis-
44 trative code of the city of New York, as amended by chapter 719 of the
45 laws of 1994, is amended to read as follows:

46 (b) "Beneficiary". Any person who receives a retirement allowance by
47 reason of having retired, on or after [July first, nineteen hundred
48 eighty-seven,] OCTOBER FIRST, NINETEEN HUNDRED SIXTY-EIGHT, for service
49 (with credit for twenty or more years of service toward the minimum
50 period) as a housing police member and as a housing police superior
51 officer, provided, however, that where a person who held or holds a rank
52 of position as a housing police superior officer, subsequently and on or
53 after May first, nineteen hundred ninety-two became or becomes a housing
54 police officer, and while a housing police officer, retired or retires
55 for service under such circumstances that he or she would have qualified
56 as a beneficiary under the provisions of paragraph (c) of subdivision

1 one of section 13-191 of this title (other than the proviso thereof),
2 but did not or does not qualify as a beneficiary under such paragraph
3 (c) because he or she was or is disqualified by the terms of such provi-
4 so, such retiree shall nevertheless be deemed to be a beneficiary under
5 the provisions of this section.

6 S 5. This act shall take effect immediately.

FISCAL NOTE.-- PROVISIONS OF PROPOSED LEGISLATION - OVERVIEW:

This proposed legislation would amend Administrative Code of the City of New York ("ACNY") sections 13-191{1}, 13-191{2}, 13-192{1}, and 13-192{2} to extend the payment of Variable Supplements Fund ("VSF") benefits to certain retirees.

The proposed legislation would extend the payment of VSF benefits to certain former members who are retired for service from the New York City Employees' Retirement System ("NYCERS"). Such retired NYCERS members consist of those who retired for service with 20 years or more years of service as New York City Housing Police ("HP") or New York City Transit Police ("TP") between October 1, 1968 and June 30, 1987 ("Prior Retirees").

Specifically, this proposed legislation would provide for payments to prior retirees from the following VSFs (referred to hereafter as the "IMPACTED VSFs"):

- * Housing Police Officers' Variable Supplements Fund ("HPOVSF"),
- * Housing Police Superior Officers' Variable Supplements Fund ("HPSOVSF"),
- * Transit Police Officers' Variable Supplements Fund ("TPOVSF"), and
- * Transit Police Superior Officers' Variable Supplements Fund ("TPSOVSF").

The effective date of the proposed legislation would be the date of enactment.

IMPACT ON BENEFITS - VSF PAYMENTS: Each of the IMPACTED VSFs currently provides supplemental benefits to former NYCERS members who retired for services as HP or TP with 20 or more years of service on or after July 1, 1987.

The level of VSF benefits paid is based on a defined schedule varying by calendar year. For calendar year 2010 and after the level of VSF benefits is \$12,000.

These VSF benefits are payable on an annual basis on or about December 15th to eligible former NYCERS members for their lifetimes. There are no optional forms of payment. Upon the death of the NYCERS retiree, VSF payments cease.

If the proposed legislation were to be enacted, all prior retirees would become immediately eligible for VSF benefits on the December 15th subsequent to the effective date and for each year thereafter.

Note, the Actuary has assumed that benefits payable under this proposed legislation are prospective only (i.e., there would be no retroactive VSF payments due before the effective date for such prior retirees).

FINANCIAL IMPACT - BACKGROUND: Obligations of each respective New York City Retirement System ("NYCRS") for the liabilities that arise under each VSF are recognized through the Liability Valuation Method ("LVM"). Under the LVM, whenever the Actuarial Present Value of Benefits ("APVB") of a VSF exceeds the Actuarial Asset Value ("AAV") of that VSF, an Actuarial Present Value ("APV") of Future SKIM is established as a liability in the related NYCRS.

The AAV of each VSF equals a smoothed value of Market Value ("MV") of assets. The MV of assets equals the sum of the transfers of excess earn-

ings on equities ("SKIM") from the related NYCERS to that VSF, together with investment earnings on the VSF, offset by payments from that VSF.

FINANCIAL IMPACT - ACTUARIAL PRESENT VALUE OF BENEFITS: Based on the census data and the actuarial assumptions and methods noted herein, the enactment of the proposed legislation would increase the APVB of the IMPACTED VSFs by approximately \$88.7 million as of June 30, 2008.

FINANCIAL IMPACT - APV OF FUTURE SKIM: In general, an increase in the APVB of a VSF increases the APV of Future SKIM to be paid from the related NYCERS.

Thus, the APV of Future SKIM of NYCERS would increase by approximately \$88.7 million as of June 30, 2008 due to increases in the APVB of the IMPACTED VSFs.

In accordance with chapter 255 of the laws of 2000 ("chapter 255/00"), the increase in APV of Future SKIM would become an obligation of NYCERS.

Actual transfers of assets from NYCERS to the IMPACTED VSFs would occur as payments of the VSF benefits to prior retirees whenever such IMPACTED VSF assets are insufficient.

FINANCIAL IMPACT - ANNUAL EMPLOYER CONTRIBUTIONS: Based on the census data and the actuarial assumptions and methods noted herein, the enactment of this proposed legislation would increase annual employer contributions to NYCERS by approximately \$ 11.5 million.

If enacted during the 2010 Legislative Session before June 30, 2010, increased contributions to NYCERS would begin fiscal year 2010.

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

OTHER COSTS: The enactment of this proposed legislation would also be expected to result in increases (including certain one-time increases) in administrative expenses of NYCERS and certain New York city agencies.

CENSUS DATA: The census data used for estimates of APVB and employer contributions presented herein include 1,200 HP and 2,576 TP retirees and beneficiaries who were included in the June 30, 2008 actuarial valuation of NYCERS.

Of such 3,776 HP and TP retirees and beneficiaries, there are 467 HP and 655 TP retirees who currently receive VSF benefits.

Under this proposed legislation, an additional 294 HP and 635 TP service retirees between October 1, 1968 and June 30, 1987 would qualify as prior retirees and would become eligible to receive VSF benefits.

ACTUARIAL ASSUMPTIONS AND METHODS: Additional APVB and employer contributions have been estimated as of June 30, 2008 based on the actuarial assumptions and methods used in the June 30, 2008 (Lag) actuarial valuation of NYCERS, including an Actuarial Interest Rate ("AIR") assumption of 8.0% per annum, to determine employer contributions for fiscal year 2010 and thereafter.

The actuarial assumptions used to determine the increase in APVB of VSF benefits include an AIR assumption of 4.0% per annum for each of the IMPACTED VSFs.

Additional employer contributions to NYCERS have been estimated assuming the additional APV of Future SKIM 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 No. 2010-03, dated January 27, 2010, prepared by the Chief Actuary for the New York City Employees' Retirement System.