

3202

2009-2010 Regular Sessions

I N S E N A T E

March 12, 2009

Introduced by Sen. C. JOHNSON -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

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:

1 Section 1. Subdivision 5 of section 522 of the education law, as added  
2 by chapter 647 of the laws of 2004, is amended to read as follows:  
3 5. Notwithstanding any other provision of law to the contrary, EXCEPT  
4 FOR THE PURPOSES OF PROVIDING THE BENEFITS, IF ANY, OF SUBDIVISION FOUR  
5 OF THIS SECTION, with respect to transfers pursuant to this section  
6 which occur on or after the effective date of this subdivision, no  
7 transfer of a pension reserve pursuant to subdivision one or two of this  
8 section shall be required when the member is transferring from a public  
9 employee retirement system of this state to any other public employee  
10 retirement system of this state. For the purpose of giving the trans-  
11 ferring member such status and crediting such service in the retirement  
12 system to which the member is transferring as such member was allowed in  
13 the retirement system from which the member has transferred, the trans-  
14 fer shall be deemed complete upon receipt by the transferee retirement  
15 system of (a) a statement from the transferor retirement system of the  
16 transferring member's date of membership in the transferor retirement  
17 system, tier status, service credited to the transferred membership, and  
18 such other information as the transferee retirement system may require  
19 to effectuate the transfer, and (b) such member's accumulated contrib-  
20 utions from the transferor retirement system, if same had not been  
21 previously withdrawn, or notice from the transferor retirement system  
22 that such member had no accumulated contributions, or notice from the  
23 transferor retirement system that such member's accumulated contrib-  
24 utions had been withdrawn and the amount thereof and, as applicable,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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1 receipt from such member of such member's accumulated contributions and  
2 interest.

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

6 k. Notwithstanding any other provision of this section, any member of  
7 the New York state and local employees' retirement system or the New  
8 York city teachers' retirement system who retired from service from  
9 either the New York city employees' retirement system or the New York  
10 city board of education retirement system as a member of the career  
11 pension plan maintained by such system and who, but for the fact that he  
12 or she retired, would be eligible for transfer and who has not, in fact,  
13 received a pension payment from such system shall be permitted to trans-  
14 fer his or her retirement system membership pursuant to the provisions  
15 of this section. In such event, the application for retirement shall be  
16 deemed to have been rescinded and the retirement system from which the  
17 service shall be transferred shall transfer the appropriate reserves as  
18 provided by this section, provided, however, that with respect to trans-  
19 fers pursuant to this subdivision which occur on or after the [effective  
20 date of the chapter of the laws of two thousand four which amended this  
21 subdivision] TWENTY-SIXTH DAY OF OCTOBER, TWO THOUSAND FOUR, EXCEPT FOR  
22 THE PURPOSES OF PROVIDING THE BENEFITS, IF ANY, OF SUBDIVISION FOUR OF  
23 SECTION FIVE HUNDRED TWENTY-TWO OF THE EDUCATION LAW, no determination  
24 of a reserve pursuant to subdivision c of this section or transfer ther-  
25 eof pursuant to the first sentence of subdivision d of this section  
26 shall be required in the case of any transfer pursuant to this subdivi-  
27 sion. Notwithstanding the provision of this subdivision or any other  
28 provision of law, an individual who transfers pursuant to this subdivi-  
29 sion shall not be required to render any minimum period of service  
30 following transfer in order to be eligible to receive the full benefit  
31 provided hereunder. Notwithstanding the foregoing, a retiree covered by  
32 either the career pension plan or the fifty-five-year-increased-ser-  
33 vice-fraction plan who has received a pension payment or payments from  
34 such system shall be eligible for the provisions of this subdivision  
35 upon payment, to the retirement system from which the pension payment or  
36 payments were made, of an amount equal to such pension payment or  
37 payments. After such payments are received, such person shall be permit-  
38 ted to transfer his or her retirement system membership pursuant to the  
39 provisions of this section.

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

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

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

6 2. such member's accumulated contributions from the first retirement  
7 system, if same had not been previously withdrawn, or notice from the  
8 first retirement system that such member had no accumulated contrib-  
9 utions, or notice from the first retirement system that such member's  
10 accumulated contributions had been withdrawn and the amount thereof and,  
11 as applicable, receipt from such member of such member's accumulated  
12 contributions and interest.

13 S 4. This act shall take effect immediately and shall be deemed to  
14 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.