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I N   S E N A T E

April 13, 2012

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

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 ASSEM-  
BLY, 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		
8	1996	\$12,500
9	1997	\$13,500
10	1998	\$14,500
11	1999	\$15,500
12	2000	\$17,000
13	2001	\$18,500
14	2002	\$20,000
15	2003	\$25,000
16	2004	\$27,500
17	2005 and 2006	\$27,500
18	2007 [and thereafter],	\$30,000
19	2008, 2009, 2010 AND 2011	
20	2012 AND THEREAFTER	\$32,500

21     S 2. This act shall take effect immediately and shall be deemed to  
22     have been in full force and effect on and after January 1, 2012.

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

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

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without reduction in retirement allowance during the year 2012 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.

Summary of relevant resources:

Data: March 31, 2011 Actuarial Year End File with distributions of membership and other statistics displayed in the 2011 Report of the Actuary and 2011 Comprehensive Annual Financial Report.

Assumptions and Methods: 2010 and 2011 Annual Report to the Comptroller on Actuarial Assumptions, Codes Rules and Regulations of the State of New York: Audit and Control.

Market Assets and GASB Disclosures: March 31, 2011 New York State and Local Retirement System Financial Statements and Supplementary Information.

Valuations of Benefit Liabilities and Actuarial Assets: summarized in the 2011 Actuarial Valuations report.

I am a member of the American Academy of Actuaries and meet the Qualification Standards to render the actuarial opinion contained herein.

This estimate, dated November 21, 2011 and intended for use only during the 2012 Legislative Session, is Fiscal Note No. 2012-25, 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:

PROVISIONS OF PROPOSED LEGISLATION: 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, 2012.

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 2012 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 2012 and later, certain retirees would have their retirement allowances suspended for the remainder of the calendar year in which 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 were 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 2012 would be reflected in the NYCERS assets as of June 30, 2013).

Under the Lag actuarial valuation methodology, adjustments in the June 30, 2013 asset values would first impact employer contributions to the respective NYCERS for Fiscal Year 2015.

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 annual potential impact of the proposed legislation would be to increase payouts from the NYCERS by 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 2012 Legislative Session, the impact on employer costs to the NYCERS would begin Fiscal Year 2015.

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

NYCRS Retirees Reemployed in Public Service  
Who Elected to be Subject to  
RSSL Section 212

(Based on the Latest Information Furnished to the OA)

Retirement System{1}	Number Reemployed	Number Reemployed
	All Ages Any Earnings	Under Age 65 Earnings in Excess of \$30,000
NYCERS{2}	444	37
TRS{2}	3,323	26
BERS{3}	40{4}	2
POLICE{2}	209	17
FIRE{2}	9	2{4}
Total	4,025	84

- {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 Department Pension Fund ("FIRE")  
 {2} The reemployment period is Calendar Year 2010.  
 {3} The reemployment period is Calendar Year 2008.  
 {4} Estimated from information furnished.

ACTUARIAL ASSUMPTIONS AND METHODS: Any changes in employer contributions have been estimated based on the actuarial assumptions and methods used in the June 30, 2010 (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.

ACTUARIAL ASSUMPTIONS AND METHODS: Additional employer costs have been calculated using the actuarial assumptions and methods currently in effect for the June 30, 2010 (Lag) actuarial valuation of NYCERS to determine employer contributions for Fiscal Year 2012.

POTENTIAL CHANGES IN ACTUARIAL ASSUMPTIONS AND METHODS: The impact of enactment of the proposed legislation provided in this Fiscal Note has been based on the continued use of the current actuarial assumptions and methods.

However, the Actuary is currently in the process of proposing a new package of actuarial assumptions and methods for use in determining employer contributions to NYCERS for Fiscal Year 2012 and after, as the current actuarial assumptions no longer represent the Actuary's best estimates.

It is anticipated that the proposed new package of actuarial assumptions and methods would likely result in a minimal difference in employer contributions than the amount determined under the current actuarial assumptions and methods. The overall increase in employer contributions is still expected to be de minimis.

Hence, the estimated financial impact of proposed legislation incorporating the new package of actuarial assumptions and methods is expected to differ, even if minimally, from the financial impact computed using the actuarial assumptions and methods continued from Fiscal Year 2011.

**ECONOMIC VALUES OF BENEFITS:** The actuarial assumptions used to determine the financial impact of the proposed legislation discussed in this Fiscal Note are those appropriate for budgetary models and determining annual employer contributions to NYCERS.

However, the economic assumptions (current and proposed) that are used for determining employer contributions do not develop risk-adjusted, economic values of benefits. Such risk-adjusted, economic values of benefits would likely differ significantly from those developed by the budgetary models.

**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 2012 Legislative Session. It is Fiscal Note 2012-04, dated February 1, 2012 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 2012 and thereafter. The earnings limitation for the calendar year 2011 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 2012-15 dated February 22, 2012 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2012 Legislative Session. I, Richard A. Young, am the Actuary for the New York State Teachers' Retirement System. I am a member of the American Academy of Actuaries and I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.