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

10128

I N A S S E M B L Y

May 9, 2012

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

AN ACT to amend the education law, in relation to election of a public retirement plan

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

Section 1. Subdivision 1 of section 393 of the education law, as amended by chapter 696 of the laws of 1965, is amended to read as follows:

1. Election of the optional retirement program.

(a) Each eligible employee initially appointed on or after July first, nineteen hundred sixty-four, within [thirty] THREE HUNDRED SIXTY-FIVE days of his OR HER entry into service, shall elect (i) to join either the New York state teachers' retirement system or the New York state employees' retirement system or other public retirement system in this state in accordance with the provisions of law applicable thereto or (ii) to elect the optional retirement program established pursuant to this article; provided however, that (1) such persons initially entering service during the period July first, nineteen hundred sixty-four through November fourth, nineteen hundred sixty-four may defer such election until December fourth, nineteen hundred sixty-four, and (2) eligible employees of an electing employer initially appointed on or after the effective date of the election to offer such program may defer such election until the [ninetieth] THREE HUNDRED SIXTY-FIFTH day following [such effective date of the election to offer such program established by an electing employer] THE FIRST DAY OF HIS OR HER ENTRY INTO SERVICE. Any such deferred election shall be effective as of the date of entry into service or the effective date of such offer, whichever is later.

(b) In the event an eligible employee fails to make an election as provided in paragraph (a) of this subdivision, he OR SHE shall be deemed to have elected membership in the New York state teachers' retirement system, or such public retirement system in this state in which his membership may be otherwise required in accordance with law, except that

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

LBD15596-01-2

eligible employees of institutions under the management and control of Cornell university or Alfred university as the representative of the state university trustees shall be deemed to have elected membership in the New York state employees' retirement system. Such membership shall be effective as of the date of entry into service, or in the case of membership in the New York city [employees] EMPLOYEES' retirement system, at the time otherwise required by law.

(c) The amount, if any, required to have been contributed by any employee in accordance with an election, a deferred election or failure to elect pursuant to paragraph (a) or paragraph (b) of this subdivision shall be collected by payroll deductions in such manner as may be provided by the comptroller for employees of state university electing the optional retirement program, or by the appropriate fiscal officer for employees of an electing employer, or in the case of membership in either the New York state employees' retirement system or the New York state teachers' retirement system or other public retirement system in this state, by the retirement system concerned.

(d) Eligible employees other than those employed by an electing employer appointed on or before June thirtieth, nineteen hundred sixty-four, may elect the optional retirement program established pursuant to this article. Such election shall be made on or before December fourth, nineteen hundred sixty-four, and shall become effective as of January first, nineteen hundred sixty-five. Eligible employees of an electing employer appointed before the effective date of the election to offer such program may elect the optional retirement program established pursuant to this article. Such election shall be made on or before the [ninetieth] THREE HUNDRED SIXTY-FIFTH day following [the effective date of such offer] THE FIRST DAY OF HIS OR HER ENTRY INTO SERVICE and shall become effective [on or as of the first day of January next following the effective date of such offer] AS OF THE DATE OF ENTRY INTO SERVICE.

(e) Any state employee or employee of an electing employer who becomes eligible to elect the optional retirement program by reason of (i) the certification of the position held by him pursuant to [paragraph] SUBDIVISION three of section three hundred ninety of this article or (ii) his appointment, promotion, transfer or reclassification to a position previously so certified, may elect the optional retirement program established pursuant to this article. Such election shall be made within [thirty] THREE HUNDRED SIXTY-FIVE days after notice in writing to such employee of his eligibility, and shall become effective [on the date of such election] AS OF THE DATE OF ENTRY INTO SERVICE, except that in no case shall such election by a state employee become effective prior to January first, nineteen hundred sixty-five, or in the case of an eligible employee of an electing employer, prior to the first day of January next following the effective date of the offer of such program.

(f) Any eligible employee who was employed by the University of Buffalo prior to its merger into state university and who elected to continue in the retirement program theretofore provided by the University of Buffalo in accordance with section three of chapter nine hundred eighty of the laws of nineteen hundred sixty-two and who elects the optional retirement program established pursuant to this article as provided in paragraphs (d) or (e) of this subdivision shall become ineligible to continue in the retirement program provided by the University of Buffalo prior to merger on the effective date of such election. Such election shall constitute a waiver of all rights and benefits provided under sections three and seven of chapter nine hundred eighty of the laws of nineteen hundred sixty-two.

(g) No election by an eligible employee of the optional retirement program shall be effective unless it shall be accompanied by an appropriate application, where required, for the issuance of a contract or contracts under the program.

S 2. Subdivision 1 of section 6253 of the education law, as added by chapter 1028 of the laws of 1965, is amended to read as follows:

1. Election of the optional retirement program. (a) Each eligible employee initially appointed on or after the effective date of the election to offer such program established by the board shall, within [thirty] THREE HUNDRED SIXTY-FIVE days of his OR HER entry into service, elect (i) to join the New York city teachers' retirement system in accordance with the provisions of law applicable thereto, or (ii) to elect the optional retirement program established pursuant to this article; provided however, that such persons initially appointed on or after the effective date of the election to offer such program may defer such election until the [ninetieth] THREE HUNDRED SIXTY-FIFTH day following [such effective date of the election to offer such program established by the board] HIS OR HER ENTRY INTO SERVICE. Any such deferred election shall be effective as of the date of entry into service.

(b) In the event an eligible employee fails to make an election as provided in paragraph (a) of this subdivision, he OR SHE shall be deemed to have elected membership in the New York City teachers' retirement system. Such membership shall be effective as of the date of entry into service.

(c) The amount, if any, required to have been contributed by any employee in accordance with an election, a deferred election or failure to elect pursuant to paragraph (a) or (b) of this subdivision shall be collected by payroll deductions in such manner as may be provided by the comptroller for those persons electing the optional retirement program, or in the case of membership in the New York city teachers' retirement system, by the retirement system.

(d) Eligible employees appointed before the effective date of the election to offer such program may elect the optional retirement program established pursuant to this article. Such election shall be made on or before the [ninetieth] THREE HUNDRED SIXTY-FIFTH day following the effective date of such offer, and shall become effective [on or] as of the [first day of January next following the effective date of such offer] DATE OF ENTRY INTO SERVICE.

(e) Any employee who becomes eligible to elect the optional retirement program by reason of his OR HER appointment, promotion, transfer or reclassification to an eligible position may elect the optional retirement program established pursuant to this article. Such election shall be made within [thirty] THREE HUNDRED SIXTY-FIVE days after notice in writing to such employee of his OR HER eligibility, and shall become effective [on the date of such election, except that in no case shall such election become effective prior to the first day of January next following the effective date of the offer of such program] AS OF THE FIRST DAY OF ENTRY INTO SERVICE.

(f) No election by an eligible employee of the optional retirement program shall be effective unless it shall be accompanied by an appropriate application, where required, for the issuance of a contract or contracts under the program.

S 3. This act shall take effect immediately.

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

This bill would amend Section 393 and Section 6253 of the Education Law to extend the statutory time period for certain employees of the

State University of New York, the City University of New York and community colleges to select membership in a public retirement plan or the optional retirement plan from thirty days to three hundred and sixty-five days.

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 2012-7 dated January 20, 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.

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

This bill amends Sections 393 and 6253 of the education law to extend the waiting period for option retirement plan selection from thirty days to one year.

The City University of New York's Office of Faculty and Staff Relations has determined that there is no fiscal impact.

This fiscal note, dated December 2, 2011, is intended for use only during the 2011-2012 Legislative Session.