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

5093--B

2011-2012 Regular Sessions

I N A S S E M B L Y

February 11, 2011

Introduced by M. of A. ABBATE -- Multi-Sponsored by -- M. of A. AUBRY, BOYLAND, CANESTRARI, CLARK, COOK, CYMBROWITZ, GOTTFRIED, LIFTON, MAGEE, McENENY, ORTIZ, SWEENEY, WEISENBERG -- read once and referred to the Committee on Governmental Employees -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- 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 retirement and social security law, in relation to the definitions of final average salary

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

Section 1. Subdivisions a and b of section 512 of the retirement and social security law, subdivision a as amended by chapter 379 of the laws of 1986 and subdivision b as amended by chapter 286 of the laws of 2010, are amended to read as follows:

a. A member's final average salary shall be the average wages earned by such a member during any three consecutive years which provide the highest average wage; provided, however, if the wages earned during any year included in the period used to determine final average salary exceeds that of the average of the previous two years by more than [ten] TWENTY percent, the amount in excess of [ten] TWENTY percent shall be excluded from the computation of final average salary. Where the period used to determine final average salary is the period which immediately precedes the date of retirement, any month or months (not in excess of twelve) which would otherwise be included in computing final average salary but during which the member was on authorized leave of absence at partial pay or without pay shall be excluded from the computation of final average salary and the month or an equal number of months immediately preceding such period shall be substituted in lieu thereof.

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

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b. Notwithstanding the provisions of subdivision a of this section, with respect to members of the New York state AND LOCAL employees' retirement system, the New York state and local police and fire retirement system and the New York city teachers' retirement system, a member's final average salary shall be equal to one-third of the highest total wages earned during any continuous period of employment for which the member was credited with three years of service credit; provided, however, if the wages earned during any year of credited service included the period used to determine final average salary exceeds the average of the wages of the previous two years of credited service by more than [ten] TWENTY percent, the amount in excess of [ten] TWENTY percent shall be excluded from the computation of final average salary.

S 2. Subdivisions a and b of section 608 of the retirement and social security law, subdivision a as amended by chapter 379 of the laws of 1986 and subdivision b as amended by chapter 286 of the laws of 2010, are amended to read as follows:

a. A member's final average salary shall be the average wages earned by such a member during any three consecutive years which provide the highest average wage; provided, however, if the wages earned during any year included in the period used to determine final average salary exceeds that of the average of the previous two years by more than [ten] TWENTY percent, the amount in excess of [ten] TWENTY percent shall be excluded from the computation of final average salary. Where the period used to determine final average salary is the period which immediately precedes the date of retirement, any month or months (not in excess of twelve) which would otherwise be included in computing final average salary but during which the member was on authorized leave of absence at partial pay or without pay shall be excluded from the computation of final average salary and the month or an equal number of months immediately preceding such period shall be substituted in lieu thereof.

b. Notwithstanding the provisions of subdivision a of this section, with respect to members of the New York state AND LOCAL employees' retirement system and the New York city teachers' retirement system, a member's final average salary shall be equal to one-third of the highest total wages earned by such member during any continuous period of employment for which the member was credited with three years of service credit; provided, however, if the wages earned during any year of credited service included in the period used to determine final average salary exceeds the average of the wages of the previous two years of credited service by more than [ten] TWENTY percent, the amount in excess of [ten] TWENTY percent shall be excluded from the computation of final average salary.

S 3. This act shall take effect immediately and shall be deemed to have been in full force and effect on or after June 30, 2012.

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

This bill will amend the definition of final average salary in Sections 512 and 608 of the Retirement and Social Security Law for certain Tiers 3, 4 and 5 members. It would raise the restriction that limits salary from a maximum of a 10% increase over the average of the previous two years to a 20% maximum.

If this bill is enacted, insofar as this bill will affect Tiers 3, 4 and 5 members of the New York State and Local Employees' Retirement System (ERS) and Tier 3 members of the New York State and Local Police and Fire Retirement System (PFRS) who are subject to the provisions of Article 14, there would be estimated additional annual contributions of approximately $94 million to the State of New York, $135 million to the

participating employers in the ERS and $71,000 to the participating employers in the PFRS.

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 28, 2011, and intended for use only during the 2012 Legislative Session, is Fiscal Note No. 2012-28, prepared by the Actuary for the ERS and PFRS.