

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

5123--A

2011-2012 Regular Sessions

I N A S S E M B L Y

February 14, 2011

Introduced by M. of A. ABBATE, COLTON -- Multi-Sponsored by -- M. of A. BOYLAND, COOK, PHEFFER -- read once and referred to the Committee on Governmental Employees -- 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 date of membership in public retirement systems

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

1 Section 1. Paragraph 1 of subdivision b of section 803 of the retire-
2 ment and social security law, as added by chapter 437 of the laws of
3 1993, is amended to read as follows:
4 (1) the member files a written request for retroactive membership in a
5 public retirement system with the member's current retirement system
6 [within three years of the effective date of this article] ON OR BEFORE
7 DECEMBER THIRTY-FIRST, TWO THOUSAND TWELVE, or within two years of the
8 enactment of a local law by the city of New York for a member who: (i)
9 is an employee of the city of New York; or (ii) is not an employee of
10 the city of New York, but has prior employment with such city, which
11 without the transfer and crediting provisions of this article would
12 render him or her ineligible for retroactive membership under the
13 provisions of this section;
14 S 2. Paragraph 2 of subdivision e of section 803 of the retirement and
15 social security law, as added by chapter 683 of the laws of 1995, is
16 amended to read as follows:
17 (2) In the case of an individual who [on March thirty-first, nineteen
18 hundred ninety-three was a member of any public retirement system and
19 who, on such date] IS ELIGIBLE TO APPLY FOR RETROACTIVE MEMBERSHIP
20 PURSUANT TO THIS SECTION AND WHO, ON SUCH DATE OF APPLICATION, was
21 employed by an employer other than the employer which employed such
22 member at the time he or she was first eligible to join a public retire-
23 ment system, costs to such original employer shall not exceed a percent-

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

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1 age of the total cost but not greater than one hundred percent of such
2 cost; (a) such percentage to be determined in the case of the New York
3 state and local employees' retirement system and the New York state and
4 local police and fire retirement system by dividing the greater of the
5 amounts calculated under [subparagraph] CLAUSE (i) or (ii) of this
6 [paragraph] SUBPARAGRAPH by the salary used for calculating costs under
7 paragraph one of this subdivision: (i) the annual compensation such
8 member would have earned during the salary period used for calculating
9 costs under this subdivision had such member remained in the original
10 position, as determined by applying annual increases of seven percent
11 from the time of such original twelve month period to the amount of
12 annual compensation such member was actually paid by such employer
13 during the first twelve months of employment or (ii) the amount deter-
14 mined by applying annual increases of seven percent to the amount an
15 individual employed on a full-time basis at the then applicable state
16 minimum wage would have earned during such twelve month period; (b) such
17 percentage in the case of the New York state teachers' retirement system
18 to be determined by dividing by the member's annualized salary in the
19 year in which the cost under paragraph one of this subdivision is deter-
20 mined, by the following: the member's annualized salary in the plan year
21 in which the member was first eligible to join a public retirement
22 system increased by seven percent per year for each year from the plan
23 year in which the member was first eligible to join a public retirement
24 system to the plan year in which such cost is determined.

25 S 3. Subdivision a of section 806 of the retirement and social securi-
26 ty law, as added by chapter 437 of the laws of 1993, is amended to read
27 as follows:

28 a. A person who was not a member of a public retirement system as of
29 [March thirty-first, nineteen hundred ninety-three] DECEMBER
30 THIRTY-FIRST, NINETEEN HUNDRED NINETY-FIVE shall be ineligible for the
31 benefits provided by sections eight hundred one and eight hundred three
32 of this article.

33 S 4. This act shall take effect immediately and shall be deemed to
34 have been in full force and effect on and after June 30, 2011.

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

This bill would amend Article 18 of the Retirement and Social Security Law by extending the filing deadline to December 31, 2012 in Section 803 of the Retirement and Social Security Law and by also extending the date of membership used for inclusion for Section 803 to December 31, 1995.

Insofar as this bill would affect employers in the New York State and Local Employees' Retirement System (ERS) or the New York State and Local Police and Fire Retirement System (PFRS), extending the Section 803 filing deadline and the date of membership restriction would allow additional members to receive service credit and/or retroactive membership. The average cost of an 803 case is approximately \$12,000. Of this amount, on average, approximately 80% would be payable by the employee's original employer and the remainder would be shared by the State of New York and all of the participating employers in the ERS or the PFRS pursuant to Chapter 606 of the Laws of 1997.

This estimate, dated November 24, 2010 and intended for use only during the 2011 Legislative Session, is Fiscal Note No. 2011-57, 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:

This bill would amend Article 18 of the Retirement and Social Security Law by extending the filing deadline to December 31, 2011 in Section 803 of the Retirement and Social Security Law and by also extending the date of membership used for inclusion for Section 803 to December 31, 1995.

Insofar as this bill would affect employers in the New York State and Local Employees' Retirement System (ERS) or the New York State and Local Police and Fire Retirement System (PFRS), extending the Section 803 filing deadline and the date of membership restriction would allow additional members to receive service credit and/or retroactive membership. The average cost of an 803 case is approximately \$12,000. Of this amount, on average, approximately 80% would be payable by the employee's original employer and the remainder would be shared by the State of New York and all of the participating employers in the ERS or the PFRS pursuant to Chapter 606 of the Laws of 1997.

This estimate, dated November 17, 2010 and intended for use only during the 2011 Legislative Session, is Fiscal Note No. 2011-10, prepared by the Actuary for the New York State and Employees' Retirement System and the New York State and Local Police and Fire Retirement System.

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

This bill would re-open the window for section 803 relief and extend the filing deadline to December 31, 2012. Additionally this bill would amend section 806 to allow any person who was a member of a public retirement system as of December 31, 1995 to be eligible for benefits provided by sections 801 and 803. This benefit was previously available only for members with a date of membership on or before March 31, 1993.

The annual cost to the employers of members of the New York State Teachers' Retirement System for this benefit is estimated to be \$2.0 million or 0.01% of payroll if this bill is enacted.

The source of this estimate is Fiscal Note 2011-17 dated March 9, 2011 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2011 Legislative Session.