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

7090

I N S E N A T E

April 27, 2012

Introduced by Sen. GOLDEN -- 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 refunding contributions made to the twenty-five year early retirement program and the age fifty-seven retirement program by New York city transit authority members

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

Section 1. Subdivision d of section 604-c of the retirement and social security law, as added by chapter 96 of the laws of 1995, is amended by adding a new paragraph 15 to read as follows:

15. AN ELIGIBLE FORMER PARTICIPANT, AS DEFINED IN THIS PARAGRAPH, SHALL BE ENTITLED TO A REFUND OF THE EMPLOYEE PORTION OF HIS OR HER ADDITIONAL MEMBER CONTRIBUTIONS MADE PURSUANT TO THIS SUBDIVISION WHICH SHALL INCLUDE ANY AND ALL INTEREST THEREON AT THE RATE OF FIVE PERCENT PER ANNUM, COMPOUNDED ANNUALLY AND SUCH REFUND SHALL BE PAYABLE, UPON SUCH PARTICIPANT'S APPLICATION PURSUANT TO PROCEDURES PROMULGATED IN REGULATIONS OF THE BOARD OF TRUSTEES OF THE RETIREMENT SYSTEM. AN ELIGIBLE FORMER PARTICIPANT SHALL BE A PARTICIPANT WHO IS OR WAS EMPLOYED IN A TITLE REPRESENTED FOR PURPOSES OF COLLECTIVE BARGAINING BY AN EMPLOYEE ORGANIZATION REPRESENTING A MAJORITY OF SUPERVISORY EMPLOYEES IN THE NEW YORK CITY TRANSIT AUTHORITY'S STATIONS DEPARTMENT, RECOGNIZED OR CERTIFIED PURSUANT TO ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW, AND WHO, ON OCTOBER FIRST, TWO THOUSAND SIX, WAS EMPLOYED BY THE NEW YORK CITY TRANSIT AUTHORITY IN SUCH TITLE AND WHO WAS A PARTICIPANT IN THE TWENTY-FIVE YEAR EARLY RETIREMENT PROGRAM PRIOR TO THE STARTING DATE OF THE ELIMINATION OF ADDITIONAL MEMBER CONTRIBUTIONS, AS SUCH DATE IS DEFINED IN AN ELECTION MADE PURSUANT TO PARAGRAPH TEN OF SUBDIVISION E OF SECTION SIX HUNDRED FOUR-B OF THIS ARTICLE.

S 2. Subdivision f of section 604-d of the retirement and social security law is amended by adding a new paragraph 15 to read as follows:

15. AN ELIGIBLE FORMER PARTICIPANT, AS DEFINED IN THIS PARAGRAPH, SHALL BE ENTITLED TO A REFUND OF THE EMPLOYEE PORTION OF HIS OR HER ADDITIONAL MEMBER CONTRIBUTIONS MADE PURSUANT TO THIS SUBDIVISION WHICH

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

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SHALL INCLUDE ANY AND ALL INTEREST THEREON AT THE RATE OF FIVE PERCENT PER ANNUM, COMPOUNDED ANNUALLY AND SUCH REFUND SHALL BE PAYABLE, UPON SUCH PARTICIPANT'S APPLICATION PURSUANT TO PROCEDURES PROMULGATED IN REGULATIONS OF THE BOARD OF TRUSTEES OF THE RETIREMENT SYSTEM. AN ELIGIBLE FORMER PARTICIPANT SHALL BE A PARTICIPANT WHO IS OR WAS EMPLOYED IN A TITLE REPRESENTED FOR PURPOSES OF COLLECTIVE BARGAINING BY AN EMPLOYEE ORGANIZATION REPRESENTING A MAJORITY OF SUPERVISORY EMPLOYEES IN THE NEW YORK CITY TRANSIT AUTHORITY'S STATIONS DEPARTMENT, RECOGNIZED OR CERTIFIED PURSUANT TO ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW, AND WHO, ON OCTOBER FIRST, TWO THOUSAND SIX, WAS EMPLOYED BY THE NEW YORK CITY TRANSIT AUTHORITY IN SUCH TITLE AND WHO WAS A PARTICIPANT IN THE AGE FIFTY-SEVEN RETIREMENT PROGRAM PRIOR TO THE STARTING DATE OF THE ELIMINATION OF ADDITIONAL MEMBER CONTRIBUTIONS, AS SUCH DATE IS DEFINED IN AN ELECTION MADE PURSUANT TO PARAGRAPH TEN OF SUBDIVISION E OF SECTION SIX HUNDRED FOUR-B OF THIS ARTICLE.

S 3. This act shall take effect immediately.

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

PROVISIONS OF PROPOSED LEGISLATION: This proposed legislation would amend New York State Retirement and Social Security Law ("RSSL") Sections 604-c and 604-d to provide to certain New York City Transit Authority ("NYCTA") members of the New York City Employees' Retirement System ("NYCERS") a refund of Additional Member Contributions ("AMC") that were paid while participants of one of the Chapter 96 of the Laws of 1995 ("Chapter 96/95") Retirement Programs.

The Effective Date of the proposed legislation would be the date of enactment.

This Fiscal Note assumes that the proposed legislation is intended to refund interest on AMC in accordance with NYCERS procedures for crediting interest on member contributions.

IMPACT ON PLAN PROVISIONS - ADDITIONAL MEMBER CONTRIBUTIONS: Under Chapter 96/95, AMC were required under each of the Early Retirement Programs:

* The Twenty-Five-Year Early Retirement Program ("55/25 Program") and
* The Age-Fifty-Seven Retirement Program ("57/5 Program").

Those NYCERS members who participated in either of such Programs paid AMC of:

4.35% of salary for service on and after January 1, 1995 until January 1, 1998,

2.85% of salary for service on and after January 1, 1998 until December 2, 2001, and

1.85% of salary for service on and after December 2, 2001.

In addition, if such member's job title was considered Physically-Taxing ("PT"), an additional Physically-Taxing AMC ("PTAMC") of 1.98% of salary was required for all service on and after January 1, 1995.

As a result of Chapter 10 of the Laws of 2000, many of the NYCTA Tier IV members of NYCERS who participated in the Chapter 96/95 Retirement Program were transferred into the Transit Twenty-Five-Year and Age Fifty-Five Retirement Program ("Transit 55/25 Program") effective December 15, 2000. For these members, the AMC and PTAMC that had been payable under the Chapter 96/95 Retirement Programs were no longer required after January 3, 2001 (i.e., the effective implementation date, the first payroll period following the transfer date).

This proposed legislation would refund, on and after the Effective Date, to certain Transit 55/25 Program participants with initial Program participation dates on or before December 15, 2000 who were employed by the Transit Authority as Station Supervisors Level 2 as of October 1,

2006, including those who are currently retired, the employee portion of the AMC and PTAMC, if any, paid for participation in the Chapter 96/95 Retirement Programs, including accrued interest at 5.0% per annum. For those who are currently retired, interest would accrue until retirement date.

Note, under the Chapter 96/95 Retirement Programs, 50% of the AMC and PTAMC paid into such Programs is considered an employer contribution while the other 50% is considered to be the employee portion. The employee portion of the AMC and PTAMC is refunded to members who decease prior to retirement or who retire at age 62 or later. If the proposed legislation were enacted, those impacted Transit 55/25 Program participants would receive the balance of the accumulated employee portion of AMC and PTAMC.

To receive such refund, those eligible participants would be required to complete a form and follow procedures to be established by the NYCERS Board of Trustees.

FINANCIAL IMPACT - OVERVIEW: If enacted into the law, the ultimate employer cost of this proposed legislation would be determined by the reduction in expected benefits paid (due to there no longer being a requirement to refund AMC on a future withdrawal), offset by the reduction in Fund assets due to the current refund of AMC.

FINANCIAL IMPACT - ACTUARIAL PRESENT VALUES: With respect to NYCERS and based on the census data and actuarial assumptions and methods described herein, the enactment of this proposed legislation would result in a decrease in the Actuarial Present Value ("APV") of Benefits ("APVB") of approximately $10,000 as of June 30, 2010.

In addition, there would be a reduction in Actuarial Asset Value as of June 30, 2010 to reflect the expected refund of the employee portion of accumulated Chapter 96/95 Retirement Program AMC and PTAMC, if any, for those impacted Transit 55/25 Program participants of approximately $320,000.

Together, the enactment of the proposed legislation would result in a net increase in the APV of Future Employer Normal Costs to NYCERS of approximately $310,000 as of June 30, 2010.

FINANCIAL IMPACT - ADDITIONAL ANNUAL EMPLOYER COSTS AND CONTRIBUTIONS: With respect to NYCERS, the enactment of this proposed legislation would increase annual employer costs by approximately $40,000 per year.

Increases in employer contributions would be comparable to the estimated increases in employer costs.

If enacted on or before June 30, 2012, increased employer contributions to NYCERS would begin Fiscal Year 2012.

If enacted after June 30, 2012 and on or before June 30, 2013, increased employer contributions to NYCERS would begin Fiscal Year 2013.

OTHER COSTS: Not measured in this Fiscal Note are any additional administrative costs or the impact of this proposed legislation on the Manhattan and Bronx Surface Transit Operating Authority ("MaBSTOA").

CENSUS DATA: The census data used for estimates of APVB, APV of Future Employer Normal Costs and employer contributions presented herein are the 187 Tier IV active members of NYCERS who participate in the transit 55/25 Program and who were employed by the Transit Authority as Station Supervisors Level 2 as of June 30, 2006 with annual salaries of approximately $15.7 million included in the June 30, 2006 actuarial valuation of NYCERS.

Of these 187 Tier IV members of NYCERS who participate in the Transit 55/25 Program and who were employed by the Transit Authority as Station Supervisors Level 2 as of June 30, 2006, 57 members with annual salaries

of approximately $4.7 million have AMC (and, in certain cases, PTAMC) account balances from contributions made under the Chapter 96/95 Retirement Programs. The remaining 130 of these members do not have such AMC or PTAMC account balances.

Of the 57 members, 36 were active members as of June 30, 2010 and 18 retired before age 62. In addition, two members deceased before retirement and one member retired after age 62 and these three members were already refunded the employee portion of their AMC and PTAMC.

ACTUARIAL ASSUMPTIONS AND METHODS: Additional APVB, APV of Future Employer Normal Costs and 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.

Additional annual employer costs have been estimated assuming the additional APV of Future Normal Costs would be financed through future normal contributions.

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 greater increase in APVB than the amount determined under the current actuarial assumptions and methods. Annual employer costs and contributions would increase similarly assuming that the prior service obligation associated with this increase in APVB were amortized over a period comparable to that required under the current actuarial methodology.

Hence, the estimated financial impact of proposed legislation incorporating the new package of actuarial assumptions and methods is expected to differ 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 2012-02, dated January 20, 2012, prepared by the Chief Actuary for the New York City Employees' Retirement System.