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

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2013-2014 Regular Sessions

I N S E N A T E

May 13, 2013

Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Civil Service and Pensions in accordance with Senate Rule 6, sec. 8 -- 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 permitting certain retired members of the New York City Teachers' Retirement System to change their retirement options with the consent of the nominated survivor beneficiary (Part A); and to amend the education law, in relation to permitting certain retired members of the New York State Teachers' Retirement System to change their retirement options with the consent of the nominated survivor beneficiary (Part B)

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

Section 1. This act enacts into law components of legislation relating to certain options of the teachers' retirement system and the New York City teachers' retirement system. Each component is wholly contained within a Part identified as Parts A and B. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

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

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PART A

Section 1. Section 514 of the retirement and social security law is amended by adding a new subdivision e to read as follows:

E. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WHERE A RETIRED MEMBER OF THE NEW YORK CITY TEACHERS' RETIREMENT SYSTEM HAS NOMINATED HIS OR HER SPOUSE AS THE SURVIVOR BENEFICIARY UNDER OPTION ONE, TWO OR FIVE PROVIDED FOR IN SUBDIVISION A OF THIS SECTION, AND SUCH PERSON SO NOMINATED CEASES BY CAUSES OTHER THAN DEATH TO BE HIS OR HER SPOUSE OR IS SEPARATED FROM HIM OR HER, OR IF SUCH OPTION WAS SELECTED IN CONTEMPLATION OF MARRIAGE WHICH HAS NOT TAKEN PLACE, THEN THE BOARD OF TRUSTEES OF SUCH RETIREMENT SYSTEM SHALL HAVE THE AUTHORITY TO PERMIT THE CHANGE OF SUCH OPTION TO THE MAXIMUM BENEFIT THAT IS THE ACTUARIAL EQUIVALENT BY AND WITH THE CONSENT OF ALL PARTIES.

S 2. Section 610 of the retirement and social security law is amended by adding a new subdivision g to read as follows:

G. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WHERE A RETIRED MEMBER OF THE NEW YORK CITY TEACHERS' RETIREMENT SYSTEM HAS NOMINATED HIS OR HER SPOUSE AS THE SURVIVOR BENEFICIARY UNDER OPTION ONE, TWO OR FIVE PROVIDED FOR IN SUBDIVISION A OF THIS SECTION, AND SUCH PERSON SO NOMINATED CEASES BY CAUSES OTHER THAN DEATH TO BE HIS OR HER SPOUSE OR IS SEPARATED FROM HIM OR HER, OR IF SUCH OPTION WAS SELECTED IN CONTEMPLATION OF MARRIAGE WHICH HAS NOT TAKEN PLACE, THEN THE BOARD OF TRUSTEES OF SUCH RETIREMENT SYSTEM SHALL HAVE THE AUTHORITY TO PERMIT THE CHANGE OF SUCH OPTION TO THE MAXIMUM BENEFIT THAT IS THE ACTUARIAL EQUIVALENT BY AND WITH THE CONSENT OF ALL PARTIES.

S 3. This act shall take effect June 30, 2014.

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") Sections 514 and 610 to allow certain Tier III, Tier IV and Tier VI retirees of the New York City Teachers' Retirement System ("TRS") the opportunity to change certain optional forms of benefit after retirement similar to the provisions set forth in Administrative Code of the City of New York ("ACNY") Section 565(c).

ACNY Section 565(c) covers only Tier I and Tier II members of TRS.

Specifically, Part A of this proposed legislation would permit a Tier III, Tier IV or Tier VI retiree of TRS who has nominated his or her spouse as the survivor beneficiary to change, under certain optional forms of benefit and with the consent of his or her spouse and the TRS Retirement Board, from the optional form of benefit originally chosen to the maximum benefit that is the actuarial equivalent, if such person:

(1) ceases by causes other than death to be his or her spouse, or

(2) is separated from him or her, or

(3) if such option was selected in contemplation of marriage which has not taken place.

The Effective Date of the proposed legislation would be the date of enactment and shall be deemed to have been in full force and effect on or after June 30, 2014.

FINANCIAL IMPACT - ACTUARIAL PRESENT VALUE OF BENEFITS, EMPLOYER NORMAL COST, ACTUARIAL ACCRUED LIABILITY AND EMPLOYER CONTRIBUTIONS: To the extent that the probabilities of survival of the retiree and the beneficiary designated under the optional form of benefit have not changed significantly since such optional form of benefit was instituted, then the enactment of this proposed legislation is expected to

result in little or no change in the Actuarial Present Value of Benefits, Employer Normal Cost, Actuarial Accrued Liability or employer contributions to TRS.

OTHER COSTS: With respect to the NYCRS, the enactment of this proposed legislation would result in some administrative expenses for TRS.

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 2014 Legislative Session. It is Fiscal Note 2014-08R, dated March 18, 2014, prepared by the Chief Actuary of the New York City Teachers' Retirement System.

PART B

Section 1. Section 539 of the education law is amended by adding a new subdivision 8 to read as follows:

8. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A RETIREE SUBJECT TO THIS ARTICLE OR ARTICLE FOURTEEN OR FIFTEEN OF THE RETIREMENT AND SOCIAL SECURITY LAW WHO AT RETIREMENT HAD DULY SELECTED AN OPTION FORM OF RETIREMENT PROVIDING FOR THE PAYMENT OF A LESSER RETIREMENT ALLOWANCE OVER THE LIFE OF THE RETIREE WITH THE PROVISION THAT UPON THE RETIREE'S DEATH ALL OR A PORTION OF SUCH ALLOWANCE SHALL BE CONTINUED FOR THE LIFE OF AND PAID TO A BENEFICIARY DULY NOMINATED BY THE RETIREE AT RETIREMENT, SHALL BE PERMITTED TO RESCIND SUCH SELECTION WITHIN ONE YEAR AFTER SUCH BENEFICIARY HAS CEASED TO BE THE RETIREE'S SPOUSE BY REASON OF A FINAL JUDGMENT OR DECREE OF DIVORCE ISSUED BY A COURT OF COMPETENT JURISDICTION. IN ORDER TO RESCIND SUCH SELECTION, THE RETIREE AND BENEFICIARY MUST EACH FILE A WRITTEN CONSENT TO SUCH CHANGE WITH THE SYSTEM ON A FORM PRESCRIBED BY THE SYSTEM. UPON SATISFACTORILY RECEIVING SUCH JUDGMENT OR DECREE OF DIVORCE AND SUCH CONSENTS, ANY AND ALL OBLIGATIONS OF THE SYSTEM TO THE BENEFICIARY UNDER THE RETIREE'S OPTION SELECTION SHALL BE TOTALLY DISCHARGED AND THE RETIREE SHALL THEREAFTER BE PAID FOR THE REMAINDER OF SUCH RETIREE'S LIFE THE MAXIMUM SINGLE LIFE BENEFIT WHICH WOULD HAVE BEEN PAYABLE, HAD THE RETIREE MADE NO OPTION SELECTION AT THE TIME OF RETIREMENT. THE RETIREMENT BOARD IS AUTHORIZED TO ADOPT SUCH RULES AND REGULATIONS AS MAY BE NECESSARY TO IMPLEMENT THIS SUBDIVISION.

S 2. This act shall take effect June 30, 2014.

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

This bill would amend Section 539 of the Education Law to allow a retired member of the New York State Teachers' Retirement System (NYSTRS) who has selected an optional form of retirement benefit that provides that upon the retired member's death, all, or a percentage of, such retirement benefit shall be continued for the life of a beneficiary, to rescind the selection of such option within one year after such beneficiary ceases to be the retired member's spouse by reason of a final judgment or decree of divorce. In order to rescind such optional form of retirement benefit, the retired member and beneficiary must each file a written consent with respect to such change with NYSTRS. Upon NYSTRS' receipt of the judgment or decree of divorce and the written consents, the retired member would receive the maximum single-life retirement benefit for the remainder of his or her lifetime, as if no option had been selected at retirement. Any and all obligations of

NYSTRS to the beneficiary under the option selection shall be considered fully discharged. This bill shall apply to retirement benefits payable on or after June 30, 2014.

The annual cost to the employers of members of the New York State Teachers' Retirement System for this benefit is estimated to be very low, likely less than $200,000 per year. Allowing retired members to change the terms of their option after retirement creates the potential for anti-selection however.

The source of this estimate is Fiscal Note 2014-11 dated January 21, 2014 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2014 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.

S 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 3. This act shall take effect immediately provided, however, that the applicable effective date of Parts A and B of this act shall be as specifically set forth in the last section of such Parts.