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

10124

I N A S S E M B L Y

June 16, 2014

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Lentol) -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the administrative code of the city of New York, in relation to extending the benefits of the variable supplements fund for housing police and transit police members of the New York city employees' retirement system

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

Section 1. Paragraph (c) of subdivision 1 of section 13-191 of the administrative code of the city of New York, as amended by chapter 577 of the laws of 1992, is amended to read as follows:

(c) "Beneficiary". Any person who receives a retirement allowance by reason of having retired, on or after [July first, nineteen hundred eighty-seven] OCTOBER FIRST, NINETEEN HUNDRED SIXTY-EIGHT for service (with credit for twenty or more years of service toward the minimum period) as a transit police officer; provided, that no person who held a rank or position as a transit police superior officer, as defined in subdivision eighty-four of section 13-101 of this title who, on or after May first, nineteen hundred ninety-two, subsequently became a transit police officer shall be considered a beneficiary unless such person (1) subsequently performed at least three years of service as a transit police officer or (2) returned to service, from the position of sergeant, as a transit police officer during the eighteen month probationary period, or such other probationary period as may be applicable or (3) returned to service as a transit police officer during the three year period specified in paragraph (e) of subdivision one of section seventy-five of the civil service law, or (4) returned to service as a transit police officer as the result of a hearing conducted pursuant to applicable law.

S 2. Paragraph (c) of subdivision 1 of section 13-191 of the administrative code of the city of New York, as amended by chapter 375 of the laws of 1993, is amended to read as follows:

(c) "Beneficiary". Any person who receives a retirement allowance by reason of having retired, on or after [July first, nineteen hundred

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

LBD04796-02-4

eighty-seven] OCTOBER FIRST, NINETEEN HUNDRED SIXTY-EIGHT for service (with credit for twenty or more years of service toward the minimum period) as a housing police officer; provided, that no person who held a rank or position as a housing police superior officer, as defined in subdivision eighty-four of section 13-101 of this [chapter] TITLE who, on or after May first, nineteen hundred ninety-two, subsequently became a housing police officer shall be considered a beneficiary unless such person (1) subsequently performed at least three years of service as a housing police officer or (2) returned to service, from the position of sergeant, as a housing police officer during the eighteen month probationary period, or such other probationary period as may be applicable or (3) returned to service as a housing police officer during the three year period specified in paragraph (e) of subdivision one of section seventy-five of the civil service law, or (4) returned to service as a housing police officer as the result of a hearing conducted pursuant to applicable law.

S 3. Paragraph (b) of subdivision 1 of section 13-192 of the administrative code of the city of New York, as amended by chapter 720 of the laws of 1994, is amended to read as follows:

(b) "Beneficiary". Any person who receives a retirement allowance by reason of having retired, on or after [July first, nineteen hundred eighty-seven,] OCTOBER FIRST, NINETEEN HUNDRED SIXTY-EIGHT, for service (with credit for twenty or more years of service toward the minimum period) as a transit police member and as a transit police superior officer; provided, however, that where a person who held or holds a rank or position as a transit police superior officer, subsequently and on or after May first, nineteen hundred ninety-two became or becomes a transit police officer, and while a transit police officer, retired or retires for service under such circumstances that he or she would have qualified as a beneficiary under the provisions of paragraph (c) of subdivision one of section 13-191 of this title (other than the proviso thereof), but did not or does not qualify as a beneficiary under such paragraph (c) because he or she was or is disqualified by the terms of such proviso, such retiree shall nevertheless be deemed to be a beneficiary under the provisions of this section.

S 4. Paragraph (b) of subdivision 1 of section 13-192 of the administrative code of the city of New York, as amended by chapter 719 of the laws of 1994, is amended to read as follows:

(b) "Beneficiary". Any person who receives a retirement allowance by reason of having retired, on or after [July first, nineteen hundred eighty-seven,] OCTOBER FIRST, NINETEEN HUNDRED SIXTY-EIGHT, for service (with credit for twenty or more years of service toward the minimum period) as a housing police member and as a housing police superior officer, provided, however, that where a person who held or holds a rank of position as a housing police superior officer, subsequently and on or after May first, nineteen hundred ninety-two became or becomes a housing police officer, and while a housing police officer, retired or retires for service under such circumstances that he or she would have qualified as a beneficiary under the provisions of paragraph (c) of subdivision one of section 13-191 of this title (other than the proviso thereof), but did not or does not qualify as a beneficiary under such paragraph (c) because he or she was or is disqualified by the terms of such proviso, such retiree shall nevertheless be deemed to be a beneficiary under the provisions of this section.

S 5. This act shall take effect immediately.

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

PROVISIONS OF PROPOSED LEGISLATION - OVERVIEW: This proposed legislation would amend Administrative Code of the City of New York ("ACNY") Sections 13-191, 13-191, 13-192, and 13-192 to extend the payment of Variable Supplements Fund ("VSF") benefits to certain retirees.

The proposed legislation would extend the payment of VSF benefits to certain former members who are retired for service from the New York City Employees' Retirement System ("NYCERS"). Such retired NYCERS members consist of those who retired for service with 20 or more years of service as New York City Housing Police ("HP") or New York City Transit Police ("TP") between October 1, 1968 and June 30, 1987 ("Prior Retirees").

Specifically, this proposed legislation would provide for payments to Prior Retirees from the following VSFs (referred to hereafter as the "IMPACTED VSFs):

* Housing Police Officers' Variable Supplements Fund ("HPOVSF"),
* Housing Police Superior Officers' Variable Supplements Fund ("HPSOVSF"),
* Transit Police Officers' Variable Supplements Fund ("TPOVSF"), and
* Transit Police Superior Officers' Variable Supplements Fund ("TPSOVSF").

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

IMPACT ON BENEFITS - VSF PAYMENTS: Each of the IMPACTED VSFs currently provides supplemental benefits to former NYCERS members who retired for service on or after July 1, 1987 as HP or TP with 20 or more years of service.

The level of VSF benefits paid is based on a defined schedule varying by Calendar Year. For Calendar Year 2014 and after the level of VSF benefits is $12,000.

These VSF benefits are payable on an annual basis on or about December 15th to eligible former NYCERS members for their lifetimes. There are no optional forms of payment. Upon the death of the NYCERS retiree, VSF payments cease.

If the proposed legislation were to be enacted, all Prior Retirees would become immediately eligible for VSF benefits on the December 15th subsequent to the Effective Date and for each year thereafter.

Note, the Actuary has assumed that benefits payable under this proposed legislation are prospective only (i.e., there would be no retroactive VSF payments due before the Effective Date for such Prior Retirees).

FINANCIAL IMPACT - BACKGROUND: Obligations of each respective New York City Retirement System ("NYCRS"), for the liabilities that arise under each VSF are recognized through the Liability Valuation Method ("LVM"). Under the LVM, whenever the Actuarial Present Value of Benefits ("APVB") of a VSF exceeds the Actuarial Asset Value ("AAV") of that VSF, an Actuarial Present Value ("APV") of Future SKIM is established as a liability in the related NYCRS.

The AAV of each VSF equals a smoothed value of Market Value ("MV") of assets. The MV of assets equals the sum of the transfers of excess earnings on equities ("SKIM") from the related NYCRS to that VSF, together with investment earnings on the VSF, offset by payments from that VSF.

FINANCIAL IMPACT - ACTUARIAL PRESENT VALUE OF BENEFITS: Based on the census data and the actuarial assumptions and methods noted herein, the enactment of the proposed legislation would increase the APVB of the IMPACTED VSFs by approximately $71.3 million as of June 30, 2013.

FINANCIAL IMPACT - APV OF FUTURE SKIM: In general, an increase in the APVB of a VSF increases the APV of Future SKIM to be paid from the related NYCRS.

Thus, the APV of Future SKIM of NYCERS would increase by approximately $71.3 million as of June 30, 2013 due to increases in the APVB of the IMPACTED VSFs.

In accordance with Chapter 255 of the Laws of 2000 ("Chapter 255/00"), the increase in APV of Future SKIM would become an obligation of NYCERS.

Because the additional APV of Future SKIM would be attributable to retirees, that APV of Future SKIM would be established as an additional Unfunded Actuarial Accrued Liability ("UAAL").

Actual transfers of assets from NYCERS to the IMPACTED VSFs would occur as payments of the VSF benefits to Prior Retirees whenever such IMPACTED VSF assets are insufficient.

FINANCIAL IMPACT - ANNUAL EMPLOYER COST AND CONTRIBUTIONS: Based on the census data, the actuarial assumptions and methods noted herein, and assuming the Actuary chooses to amortize the additional APV of Future SKIM over five years, the enactment of this proposed legislation would increase annual employer costs to NYCERS by approximately $18.0 million per year for five years.

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

If enacted during the 2014 Legislative Session before June 30, 2014, increased contributions to NYCERS would begin no later than Fiscal Year 2016.

If enacted during the 2014 Legislative Session after June 30, 2014 but before June 30, 2015, increased employer contributions to NYCERS would begin no later than Fiscal Year 2017.

OTHER COSTS: The enactment of this proposed legislation would also be expected to result in increases (including certain one-time increases) in administrative expenses of NYCERS and certain New York City agencies.

CENSUS DATA: The census data used for estimates of APVB and employer contributions presented herein include 1,027 HP and 2,298 TP retirees and beneficiaries who were included in the June 30, 2013 actuarial valuation of NYCERS.

Of such 3,325 HP and TP retirees and beneficiaries, there are 419 HP and 604 TP retirees who currently receive VSF benefits.

Under this proposed legislation, an additional 216 HP and 535 TP Service Retirees between October 1, 1968 and June 30, 1987 would qualify as Prior Retirees and would become eligible to receive VSF benefits.

ACTUARIAL ASSUMPTIONS AND METHODS: Additional APVB and employer contributions have been estimated as of June 30, 2013 based on the actuarial assumptions and methods adopted by the NYCERS Board of Trustees during Fiscal Year 2012 and enacted as Chapter 3 of the Laws of 2013 ("2012 A&M") for determining employer contributions for fiscal years beginning on and after July 1, 2011 (i.e., Fiscal Year 2012 and after).

In accordance with Section 13.638.2(k-2) of the Administrative Code of the City of New York ("ACNY") as enacted by Chapter 3/13, as one component of the 2012 A&M, new UAAL attributable to benefit changes are to be amortized as determined by the Actuary but generally over the remaining working lifetimes of those impacted by these benefit changes.

For this proposed legislation, the average remaining working lifetime is zero years because all those that would be impacted are retired. However, given the history of the amortization period used for other legislation impacting primarily retired or soon-to-be-retired members, such as Retirement Incentive Programs, the Actuary is inclined to amor-

tize the proposed legislation over five years with the payment period beginning one year after the establishment of the UAAL. This approach is consistent with the One-Year Lag Methodology ("OYLM") where the UAAL is considered to be amortized over six years with five years of payments beginning in the second year.

The actuarial assumptions used to determine the increase in APVB of VSF benefits include an AIR assumption of 4.0% per annum for each of the IMPACTED VSFs.

This fiscal note dated April 16, 2014 was created by Robert C. North, Jr., chief actuary for the Office of the Actuary for the city of New York and is intended for use only during the 2014 legislative session.