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

4983--A

2013-2014 Regular Sessions

I N A S S E M B L Y

February 13, 2013

Introduced by M. of A. ABBATE -- (at request of the New York State Teachers' Retirement System) -- 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 clarifying the maximum salary which may be used to calculate the ordinary death benefit of members of the public retirement systems of the state

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

Section 1. Subdivision c of section 448 of the retirement and social security law, as amended by chapter 510 of the laws of 1974, is amended to read as follows:

c. For the purpose of this section, salary shall be the regular compensation earned during the member's last twelve months of service in full pay status as a member or, if he OR SHE had not completed twelve months of service prior to the date of death, but was subject to the provisions of subdivision b of this section, the compensation he OR SHE would have earned had he OR SHE worked for the twelve months prior to such date; provided, however, for the purpose of this section salary shall exclude any form of termination pay (which shall include any compensation in anticipation of retirement), or any lump sum payment for deferred compensation sick leave, or accumulated vacation credit or any other payment for time not worked (other than compensation received while on sick leave or authorized leave of absence) and in no event shall it exceed the maximum salary specified in section one hundred thirty of the civil service law, AS ADDED BY PART B OF CHAPTER TEN OF THE LAWS OF TWO THOUSAND EIGHT, OR THE MAXIMUM SALARY SPECIFIED IN SECTION ONE HUNDRED THIRTY OF THE CIVIL SERVICE LAW, AS HEREAFTER AMENDED, WHICHEVER IS GREATER.

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

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S 2. Subdivision c of section 508 of the retirement and social security law, as added by chapter 617 of the laws of 1986, is amended to read as follows:

c. For the purpose of this section, salary shall be the regular compensation earned during the member's last twelve months of service in full pay status as a member or, if he OR SHE had not completed twelve months of service prior to the date of death, but was subject to the provisions of subdivision b of this section, the compensation he OR SHE would have earned had he OR SHE worked for the twelve months prior to such date; provided, however, for the purpose of this section salary shall exclude any form of termination pay (which shall include any compensation in anticipation of retirement), or any lump sum payment for deferred compensation sick leave, or accumulated vacation credit or any other payment for time not worked (other than compensation received while on sick leave or authorized leave of absence) and in no event shall it exceed the maximum salary specified in section one hundred thirty of the civil service law, AS ADDED BY PART B OF CHAPTER TEN OF THE LAWS OF TWO THOUSAND EIGHT, OR THE MAXIMUM SALARY SPECIFIED IN SECTION ONE HUNDRED THIRTY OF THE CIVIL SERVICE LAW, AS HEREAFTER AMENDED, WHICHEVER IS GREATER.

S 3. Subdivision c of section 606 of the retirement and social security law, as added by chapter 617 of the laws of 1986, is amended to read as follows:

c. For the purpose of this section, salary shall be the regular compensation earned during the member's last twelve months of service in full pay status as a member or, if he OR SHE had not completed twelve months of service prior to the date of death, but was subject to the provisions of subdivision b of this section, the compensation he OR SHE would have earned had he OR SHE worked for the twelve months prior to such date; provided, however, for the purpose of this section salary shall exclude any form of termination pay (which shall include any compensation in anticipation of retirement), or any lump sum payment for deferred compensation sick leave, or accumulated vacation credit or any other payment for time not worked (other than compensation received while on sick leave or authorized leave of absence) and in no event shall it exceed the maximum salary specified in section one hundred thirty of the civil service law, AS ADDED BY PART B OF CHAPTER TEN OF THE LAWS OF TWO THOUSAND EIGHT, OR THE MAXIMUM SALARY SPECIFIED IN SECTION ONE HUNDRED THIRTY OF THE CIVIL SERVICE LAW, AS HEREAFTER AMENDED, WHICHEVER IS GREATER.

S 4. Notwithstanding any other provision of law to the contrary, none of the provisions of this act shall be subject to section 25 of the retirement and social security law.

S 5. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2011.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50: This bill would clarify the maximum salary used for ordinary death benefit calculations for Tiers 2, 3, 4, 5 and 6 members who joined certain public retirement systems after the effective date of Chapter 491 of the Laws of 2011. The maximum salary used to calculate the ordinary death benefit would be the greater of the maximum salary CURRENTLY specified in Section 130 of the Civil Service Law or such maximum salary specified in Section 130 PRIOR to the changes to Section 130 enacted pursuant to Chapter 491. This bill would ensure that no members who first join a retirement system on or after the effective date of Chapter 491 of the Laws of 2011 would receive a reduced ordinary death benefit due to the provisions of that enactment. This bill also states that none of the provisions of this act shall be subject to Section 25 of the Retirement and Social Security Law.

If this bill is enacted, insofar as this bill affects the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System, we anticipate that very few members would be affected, and the costs would be negligible. These costs would be borne by the state of New York and the participating employers in the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System.

Summary of relevant resources:

Data: March 31, 2012 Actuarial Year End File with distributions of membership and other statistics displayed in the 2012 Report of the Actuary and 2012 Comprehensive Annual Financial Report.

Assumptions and Methods: 2010, 2011 and 2012 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, 2012 New York State and Local Retirement System Financial Statements and Supplementary Information.

Valuations of Benefit Liabilities and Actuarial Assets: summarized in the 2012 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 May 6, 2013, and intended for use only during the 2013 Legislative Session, is Fiscal Note No. 2013-139 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 Sections 448, 508 and 606 of the Retirement and Social Security Law to clarify the maximum salary used to calculate the paragraph 2 death benefit for Tier 2, 3, 4, 5 and 6 members of the New York State Teachers' Retirement System. The maximum salary used to calculate the paragraph 2 death benefit shall not be less than the maximum salary specified in Section 130 of the Civil Service Law, as it was added by part B of Chapter 10 of the Laws of 2008, or the maximum salary specified in Section 130 of the Civil Service Law, as thereafter amended, whichever is greater. Chapter 491 of the Laws of 2011 slightly lowered the salary limit for death benefit calculation purposes, yet the current limit in constitutionally protected for current members.

The annual cost to the employers of members of the New York State Teachers' Retirement System is estimated to be negligible if this bill is enacted.

The source of this estimate is Fiscal Note 2013-2 dated September 19, 2012 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2013 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.