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

8023

2013-2014 Regular Sessions

I N A S S E M B L Y

June 14, 2013

Introduced by M. of A. COLTON -- read once and referred to the Committee on Governmental Employees

AN ACT in relation to authorizing John H. Di Veglio, Jr. to apply for service credit for a period of time during which he received long-term disability benefits prior to returning to his employment with the New York city school construction authority

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

Section 1. Notwithstanding any provision of law to the contrary, John H. Di Veglio, Jr. who commenced employment with the New York city school construction authority on October 23, 1989, and who through no negligence of his own was disabled while employed with the New York city school construction authority in August 2000 and who received workers' compensation payments from August 2000 and received long term disability benefits in February 2001 through October 3, 2004 during which time he completed rehabilitation and subsequently returned to full-time employment on October 3, 2004 with the New York city school construction authority, shall be deemed to have been a member of the New York city board of education retirement system from February 2001 through October 3, 2004 and shall be entitled to receive service credit for such period provided he files an application therefor with the board of trustees of the New York city board of education retirement system on or before December 31, 2013 provided he pays the member cost based on the rate of pay as of his last day of employment prior to his date of disability. Such payment may be made by means of a trustee to trustee transfer between Mr. Di Veglio's deferred compensation plan and the New York city board of education retirement system.

S 2. This act shall take effect immediately.

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

PROVISIONS OF PROPOSED LEGISLATION: The proposed legislation would deem John H. Di Veglio, Jr. to have been a member of the New York City

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

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Board of Education Retirement System ("BERS") during the time he was receiving Long Term Disability ("LTD") benefits from February 2001 through October 3, 2004, as the result of being disabled while employed with the New York City School Construction Authority, and, after meeting certain criteria, receive service credit for such period.

The Effective Date of the proposed legislation would be the Date of Enactment.

STATUTORY PROVISIONS: Mr. Di Veglio is a Tier IV member of BERS and is covered under the provisions of Retirement and Social Security Law ("RSSL") Article 15.

RSSL Article 15, Section 609 captioned "Credit for service" provides in Subdivision c caption "Creditable service," in pertinent part, that

"[o]ther than previous service, a member shall only be eligible to obtain credit for active service with a participating employer."

RSSL Section 601 captioned "Definitions" under Subdivision a captioned "Active service" provides that active service

" shall mean service while being paid on the payroll of a participating employer provided, however, a leave of absence with pay may be deemed active service pursuant to rules and regulations adopted by a public retirement system of the state."

RSSL Section 609.b captioned "Previous service" provides pertinent part that:

"[a] member shall be eligible to obtain retirement credit hereunder for previous service with a public employer if retirement credit had previously been granted for such service or if such service which would have been creditable in one of the public retirement systems of the state,..."

Accordingly, since the time Mr. Di Veglio spent on LTD is not active service nor previous service, he would not be able under the existing statutes to obtain such service as creditable service for retirement benefits.

This proposed legislation would provide Mr. Di Veglio the opportunity to purchase on or before December 31, 2013, service for his time on LTD.

FINANCIAL IMPACT - ACTUARIAL PRESENT VALUES: With respect to BERS, and assuming that Mr. Di Veglio purchases expeditiously the service credits permitted under this proposed legislation, then the enactment of this proposed legislation would result in an increase in the Actuarial Present Value of Benefits ("APVB") by approximately $74,700 as of June 30, 2013.

The proposed legislation requires that Mr. Di Veglio pay for the member cost of service credit from February 2001 through October 3, 2004, based on his rate of pay as of his last day of employment prior to his date of disability. The member contributions to buy back the prior service would be approximately $17,500 as of June 30, 2013.

After reflecting the member contributions of $17,500 required to buy back the service and the increase in the Actuarial Present Value of Future Normal Costs of approximately $1,300, the net increase in the Actuarial Present Value ("APV") of future employer contributions would be approximately $57,200 and the net increase in Unfunded Actuarial Accrued Liability ("UAAL") would be approximately $55,900 as of June 30, 2013.

FINANCIAL IMPACT - ADDITIONAL ANNUAL EMPLOYER COSTS AND CONTRIBUTIONS: In accordance with Administrative Code of the City of New York ("ACNY") Section 13.638.2(k-2), 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 the benefit changes.

Mr. Di Veglio has an expected future working lifetime of approximately three years.

Therefore, under the One-Year Lag Methodology and following the intent of ACNY Section 13.638.2(k-2), the increase in the UAAL would be amortized over a three-year period (two payments under the One-Year Lag Methodology).

With respect to BERS, the enactment of the proposed legislation would increase annual employer costs in each of the first two years that the change is recognized by approximately $33,000. Subsequent to the first two years, the enactment of the proposed legislation would increase annual employer costs each year until his ultimate assumed retirement age of 70 by the increase in the Normal Cost due to the legislation which has been estimated to be approximately $1,000 per year.

Increases in employer contributions would be comparable to the estimated increases in employer costs and, as Mr. Di Veglio is employed by the New York City School Construction Authority ("SCA"), it is expected that SCA would pay the increased employer contributions.

If enacted on or before June 30, 2013, increased employer contributions to BERS would begin Fiscal Year 2015.

If enacted after June 30, 2013 but prior to finalization of Fiscal Year 2015 employer contributions (I.E., on or before approximately April 2014), increased employer contributions to BERS would begin Fiscal Year 2015.

If enacted after finalization of Fiscal Year 2015 employer contributions, increased employer contributions to BERS would begin Fiscal Year 2016 or later, depending upon the date of enactment.

OTHER COSTS: Not measured in this Fiscal Note are any additional administrative costs or possible increased Other Postemployment Benefit ("OPEB") costs.

ACTUARIAL ASSUMPTIONS AND METHODS: Estimates of changes in APVB, UAAL and employer costs have been calculated using the actuarial assumptions and methods adopted by the BERS 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 Years 2012 and after).

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 2013 Legislative Session. It is Fiscal Note 2013-13, dated June 13, 2013 prepared by the Chief Actuary of the New York City Board of Education Retirement System.