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

5162--B

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

AN ACT to amend the retirement and social security law and the education law, in relation to permitting certain retired members of the New York State Teachers' Retirement System or the New York City Teachers' Retirement System to change their retirement options with the consent of the nominated survivor beneficiary

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

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 NOMI-

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

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NATED 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. 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 4. This act shall take effect immediately and shall be deemed to have been in full force and effect on or after June 30, 2013.

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

This proposed legislation would amend Retirement and Social Security Law ("RSSL") Sections 514 and 610 to allow certain Tier III and Tier IV 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.

In addition, for purposes of this Fiscal Note, the references herein to Tier IV include those TRS members whose dates of membership are on or after April 1, 2013 (a.k.a., Tier VI members).

Specifically, this proposed legislation would permit a Tier III or Tier IV 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.

FINANCIAL IMPACT - ACTUARIAL PRESENT VALUE OF BENEFITS 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: 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 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 No. 2013-03, dated February 28, 2013 prepared by the Chief Actuary of the New York City Teachers' Retirement System.

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, 2013.

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 2013-18 dated April 23, 2013 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.