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

5936--A

2013-2014 Regular Sessions

I N S E N A T E

September 18, 2013

Introduced by Sens. MAZIARZ, LIBOUS, SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- 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 participation by public or quasi-public organizations in the retirement system

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

Section 1. Subdivision a of section 31 of the retirement and social security law, as amended by chapter 379 of the laws of 1989, is amended to read as follows:

a. Any public or quasi-public organization created wholly or partly or deriving its powers by the legislature of the state and which organization employs persons engaged in service to the public or any state agency as defined in section fifty-three-a of the state finance law, or the New York state association of town superintendents of highways, inc. or any school board association, by resolution legally adopted by its governing body and approved by the comptroller, may elect to have its officers and employees become eligible to participate in the retirement system. Acceptance of the officers and employees of such an employer for membership in the retirement system shall be optional with the comptroller. If he shall approve their participation, such organization, except as specifically provided in this article to the contrary, shall thereafter be treated as a participating employer. Any election made pursuant to this subdivision by a school board association shall be applicable to current employees of such association. NOTWITHSTANDING THE FOREGOING PROVISIONS, ANY OFFICER OR EMPLOYEE OF THE NEW YORK STATE ASSOCIATION OF TOWN SUPERINTENDENTS OF HIGHWAYS, INC., THE NEW YORK STATE SCHOOL BOARDS ASSOCIATION, THE NEW YORK STATE ASSOCIATION OF COUN-

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

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TIES, THE ASSOCIATION OF TOWNS OF THE STATE OF NEW YORK, THE NEW YORK CONFERENCE OF MAYORS AND OTHER MUNICIPAL OFFICIALS, OR ANY SCHOOL BOARD ASSOCIATION, FIRST EMPLOYED ON OR AFTER THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND FOURTEEN WHICH AMENDED THIS SUBDIVISION, SHALL NOT BE ELIGIBLE TO PARTICIPATE AND/OR RECEIVE SERVICE CREDIT IN THE RETIREMENT SYSTEM BASED ON SUCH EMPLOYMENT.

S 2. Section 609 of the retirement and social security law is amended by adding a new subdivision i to read as follows:

I. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION OR ANY OTHER LAW, RULE OR REGULATION, AN OFFICER OR EMPLOYEE OF THE NEW YORK STATE ASSOCIATION OF TOWN SUPERINTENDENTS OF HIGHWAYS, INC., THE NEW YORK STATE SCHOOL BOARDS ASSOCIATION, THE NEW YORK STATE ASSOCIATION OF COUNTIES, THE ASSOCIATION OF TOWNS OF THE STATE OF NEW YORK, THE NEW YORK CONFERENCE OF MAYORS AND OTHER MUNICIPAL OFFICIALS, OR ANY SCHOOL BOARD ASSOCIATION, SHALL NOT RECEIVE SERVICE CREDIT FOR EMPLOYMENT WITH SUCH ORGANIZATION ON OR AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION.

S 3. 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 4. This act shall take effect immediately.

FISCAL NOTE.--This bill would require that persons first employed by the following associations on or after the effective date will not be eligible for membership in the New York State and Local Employees' Retirement System:

The New York state association of town superintendents of highways, inc,

The New York state school board association,

The New York state association of counties,

The association of towns of the state of New York,

The New York conference of mayors and other municipal officials, and

Any school board association.

This legislation also would freeze the benefit accruals of employees of one of the boards or associations who are members of the NYS&LERS as of the effective date. If this bill is enacted, it is likely to face a constitutional challenge based upon the guarantee that a member's benefits may not be diminished.

If this bill is enacted, there will be no cost to the retirement system.

Summary of relevant resources:

The membership data used in measuring the impact of the proposed change was the same as that used in the March 31, 2013 actuarial valuation. Distributions and other statistics can be found in the 2013 Report of the Actuary and the 2013 Comprehensive Annual Financial Report when released in the fall of 2013.

The actuarial assumptions and methods used are described in the 2010, 2011, 2012 and 2013 Annual Report to the Comptroller on Actuarial Assumptions, and the Codes Rules and Regulations of the State of New York: Audit and Control.

The Market Assets and GASB Disclosures are found in the March 31, 2013 New York State and Local Retirement System Financial Statements and Supplementary Information.

I am a member of the American Academy of Actuaries and meet the Qualification Standards to render the statement of actuarial opinion contained herein.

This estimate, dated September 13, 2013, and intended for use only during the 2014 Legislative Session, is Fiscal Note No. 2014-10, prepared by the Actuary for the New York State and Local Employees' Retirement System.