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

7694

I N S E N A T E

May 29, 2014

Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to amend the retirement and social security law, in relation to twenty-five-year and age fifty-five retirement program for New York city transit authority members

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

Section 1. Paragraph 1 of subdivision e of section 604-b of the retirement and social security law, as amended by chapter 10 of the laws of 2000, is amended to read as follows:

1. In addition to the member contributions required by section six hundred thirteen of this article, each participant in the twenty-five-year and age fifty-five retirement program shall contribute to the retirement system of which he or she is a member (subject to the applicable provisions of section 13-125.1 of the administrative code) an additional two and thirty-hundredths percent of his or her compensation earned from all allowable service in the transit authority rendered on and after the starting date of the twenty-five-year and age fifty-five retirement program. A participant in the twenty-five-year and age fifty-five retirement program shall contribute additional member contributions only until he or she has thirty years of allowable service in the transit authority. In the event that the New York city transit authority elects to eliminate additional member contributions pursuant to paragraph ten of this subdivision, a participant in the twenty-five-year and age fifty-five retirement program who becomes a participant pursuant to the provisions of paragraph four-a of subdivision b of this section shall not be required to make any additional member contributions pursuant to this subdivision. ANY ADDITIONAL MEMBER CONTRIBUTIONS MADE PURSUANT TO THIS SUBDIVISION PRIOR TO ANY ELECTION BY THE NEW YORK CITY TRANSIT AUTHORITY TO ELIMINATE SUCH CONTRIBUTIONS PURSUANT TO PARAGRAPH TEN OF THIS SUBDIVISION, SHALL BE REFUNDED TO A PARTICIPANT IN THE TWENTY-FIVE-YEAR AND AGE FIFTY-FIVE RETIREMENT PROGRAM, TO INCLUDE A PREVIOUS PARTICIPANT WHO HAS SUCCESSFULLY RETIRED UNDER SUCH PROGRAM TOGETHER WITH INTEREST THEREON AT THE RATE OF FIVE PERCENT PER

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

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ANNUM, COMPOUNDED ANNUALLY AND SUCH REFUND SHALL BE PAYABLE UPON SUCH PREVIOUS PARTICIPANT'S APPLICATION, AS PERMITTED UNDER PARAGRAPH TEN OF THIS SUBDIVISION, AND PURSUANT TO PROCEDURES PROMULGATED IN REGULATIONS OF THE BOARD OF TRUSTEES OF THE RETIREMENT SYSTEM.

S 2. Paragraph 10 of subdivision e of section 604-b of the retirement and social security law, as amended by chapter 379 of the laws of 2007, is amended to read as follows:

10. The New York city transit authority, by the adoption of a resolution or resolutions, may make an election or elections to eliminate the additional member contributions required to be made pursuant to paragraph one of this subdivision. Such election or elections may be made applicable to all employees of the transit authority, to employees who are represented by a specific collective bargaining organization, recognized or certified pursuant to article fourteen of the civil service law, and/or to employees who are not represented for the purposes of collective bargaining. Such election or elections shall define the starting date of the elimination of additional member contributions, except as set forth below, which shall in no event be earlier than the first payroll period following December fifteenth, two thousand. An election made pursuant to this paragraph shall be irrevocable. A demand for an elimination of additional member contributions shall not be subject to the provisions of subdivision five of section two hundred nine of the civil service law. The New York city transit authority shall notify the head of the New York city employees' retirement system of any election or elections made pursuant to this paragraph. Notwithstanding the aforementioned starting date of the elimination of additional member contributions or any other provision of this section, an eligible participant, as defined below, shall be entitled to a refund of all of his or her accumulated additional member contributions made pursuant to this subdivision which shall include any and all interest thereon paid to the retirement system, together with interest thereon at the rate of five percent per annum, compounded annually, and such refund shall be payable, upon such participant's application, pursuant to procedures promulgated in regulations of the board of trustees of the retirement system. An eligible participant shall be a participant (i) who is or was employed in a title represented for purposes of collective bargaining by an employee organization representing a majority of non-supervisory employees in the New York city transit authority's Queens Bus and/or Staten Island Bus Divisions, recognized or certified pursuant to article fourteen of the civil service law, and who, on December twenty-eight, two thousand five, had an accumulated balance of additional member contributions at the retirement system; [or] (ii) who is or was employed in a title represented for purposes of collective bargaining by the employee organization representing the majority of non-supervisory employees in the New York city transit authority in other than the Queens Bus and/or Staten Island Bus Divisions, recognized or certified pursuant to article fourteen of the civil service law, and who, on December sixteenth, two thousand five, had an accumulated balance of additional member contributions at the retirement system[.]; OR (III) WHO WAS EMPLOYED IN A TITLE REPRESENTED FOR PURPOSES OF COLLECTIVE BARGAINING BY THE EMPLOYEE ORGANIZATION REPRESENTING THE MAJORITY OF NON-SUPERVISORY EMPLOYEES IN THE NEW YORK CITY TRANSIT AUTHORITY IN OTHER THAN THE QUEENS BUS AND/OR STATEN ISLAND BUS DIVISIONS, RECOGNIZED OR CERTIFIED PURSUANT TO ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW, AND WHO, BY REASON OF RETIREMENT PRIOR TO DECEMBER SIXTEENTH, TWO THOUSAND FIVE, WAS NOT ELIGIBLE FOR A REFUND UNDER (II) OF THIS PARAGRAPH, BUT

HAD OR WOULD HAVE HAD AN ACCUMULATED BALANCE OF ADDITIONAL MEMBER CONTRIBUTIONS AT THE RETIREMENT SYSTEM IF THE IMPACT OF THE ELECTION BY SUCH TRANSIT AUTHORITY TO ELIMINATE ADDITIONAL EMPLOYEE CONTRIBUTIONS UNDER THIS PARAGRAPH IS TAKEN INTO ACCOUNT AND APPLIED TO THEIR PREVIOUS EMPLOYEE CONTRIBUTIONS AS OF THE DAY OR DATE OF THEIR RETIREMENT. NO INTEREST AUTHORIZED BY THIS PROVISION SHALL ACCRUE AFTER THE DAY OR DATE OF THE RETIREMENT OF THE APPLICANT.

S 3. This act shall take effect immediately.

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

PROVISIONS OF PROPOSED LEGISLATION: This proposed legislation would amend New York State Retirement and Social Security Law ("RSSL") Sections 604-b.e(1) and 604-b.e(10) to provide to certain New York City Transit Authority ("NYCTA") retired members of the New York City Employees' Retirement System ("NYCERS") a refund of Additional Member Contributions ("AMC") that were paid by these members while they were participants of the Transit 25 Year/Age 55 Retirement Program ("Transit 55/25 Program").

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

This Fiscal Note assumes that the proposed legislation is intended to refund interest on AMC in accordance with NYCERS procedures for crediting interest on member contributions including an assumption that no interest would be paid past a member's retirement date.

IMPACT ON PLAN PROVISIONS - ADDITIONAL MEMBER CONTRIBUTIONS: Those NYCERS members who participated in the Transit 55/25 Program paid AMC of 2.3% of gross wages for service rendered between August 28, 1994 and December 15, 2000.

This proposed legislation would refund AMC to retired Transit 55/25 Program participants who are former members of the Transit Workers Union Local 100 ("Local 100") and who retired prior to December 16, 2005 with initial Program participation dates on or before December 15, 2000, including interest at 5.0% per annum accrued through the retired member's retirement date.

To receive such refund, those eligible retirees would be required to file an application pursuant to procedures to be established by the NYCERS Board of Trustees.

FINANCIAL IMPACT - OVERVIEW: If enacted into the law, the ultimate employer cost of the proposed legislation would be determined by the reduction in fund assets due to the refund of AMC.

FINANCIAL IMPACT - UNFUNDED ACTUARIAL ACCRUED LIABILITY: With respect to NYCERS and based on the census data and actuarial assumptions and methods described herein, the enactment of this proposed legislation would result in a decrease in the Actuarial Asset Value as of June 30, 2014 and an increase in the Unfunded Actuarial Accrued Liability ("UAAL") of approximately $2,761,000.

FINANCIAL IMPACT - ADDITIONAL ANNUAL EMPLOYER COSTS AND CONTRIBUTIONS: With respect to NYCERS, the enactment of this proposed legislation would increase annual employer costs by approximately $843,000 per year for four years.

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

As the impact is generally measurable and RSSL Section 430 expresses the idea that benefit improvements are not to be implemented in a fiscal year prior to the commencement of financing, enactment of the proposed legislation on or before June 30, 2015 would result in increased employer contributions to NYCERS beginning Fiscal Year 2015.

CENSUS DATA: The census data used for estimates of the expected refund of AMC and change in employer contributions presented herein are the 264 retired Local 100 members of NYCERS who participated in the Transit 55/25 Program, retired prior to December 16, 2005 and are alive as of April 2, 2014.

ACTUARIAL ASSUMPTIONS AND METHODS: Estimates of changes in AAL, UAAL and employer costs have been calculated using 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 Years 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 have already retired.

Legislation with similar structures were enacted for Transit Operating non-supervisory employees as Chapter 734 of the Laws of 2006 ("Chapter 734/06") and as Chapter 379 of the Laws of 2007 ("Chapter 379/07") and the additional UAAL was amortized for each legislation under the actuarial assumptions and methods then in effect (i.e., amortized implicitly over the average remaining working lifetimes of all NYCERS active members).

Similar legislation to the proposed legislation was enacted for certain Station Supervisors Level 2 as Chapter 522 of the Laws of 2013 ("Chapter 522/13"). The additional UAAL for that legislation is expected to be amortized over five years using four payments beginning one year after the establishment of the UAAL in accordance with One-Year Lag Methodology ("OYLM") that is used for the actuarial valuations of NYCERS.

The Actuary believes that the appropriate financing period for this proposed legislation would be the average remaining working lifetime of the entire group impacted.

However, given the history of the financing of similar legislations (e.g., Chapter 734/06, Chapter 379/07 and Chapter 522/13), the Actuary is inclined to amortize the proposed legislation over five years. Essentially, this is a compromise between the remaining average working lifetime of the entire group impacted and the average remaining lifetime of all NYCERS members.

For this particular legislation, as with Chapter 522/13, the Actuary would likely treat the five years of amortization with the payment period beginning one year after the establishment of the UAAL. This approach is consistent with OYLM, where the UAAL is considered to be amortized over five years with four years of payments beginning in the second year.

Also note that, historically, other legislation impacting primarily retired or soon-to-be-retired members was often amortized over five years (Retirement Incentive Programs) or 10 years (Supplemental Programs).

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 2014 Legislative Session. It is Fiscal Note 2014-23, dated May 20, 2014, prepared by the Chief Actuary for the New York City Employees' Retirement System.