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

4865

2015-2016 Regular Sessions

I N A S S E M B L Y

February 9, 2015

Introduced by M. of A. FITZPATRICK, TENNEY, DiPIETRO, BORELLI, HAWLEY, FINCH, CORWIN, GOODELL, McLAUGHLIN -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the civil service law, in relation to improper employer practices relating to the continuation of pay, vacation and health care benefits; to amend the education law, in relation to employer contributions to certain retirement plans; and to amend the civil service law, in relation to disputed agreements

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

Section 1. Paragraph (e) of subdivision 1 of section 209-a of the civil service law, as amended by chapter 244 of the laws of 2007, is amended to read as follows:

(e) to refuse to continue [all the] terms of an expired agreement *THAT RELATE TO LEAVES OF ABSENCE, ACTIVE EMPLOYEES HEALTH INSURANCE, HOLIDAYS, SALARIES EXCLUDING STEP INCREASES, AND ALL OTHER MANDATORY SUBJECTS OF A BARGAINING AGREEMENT AS DEFINED BY THE PUBLIC EMPLOYMENT RELATIONS BOARD CASE LAW PRIOR TO ITS CONVERSION DOCTRINE* until a new agreement is negotiated, unless the employee organization which is a party to such agreement has, during such negotiations or prior to such resolution of such negotiations, engaged in conduct violative of subdivision one of section two hundred ten of this article;

S 2. Subdivision 1-a of section 392 of the education law, as added by chapter 18 of the laws of 2012, is amended to read as follows:

1-a. Employer contributions. (A) In the case of any electing employee excluded from or not encompassed within a negotiating unit within the meaning of article fourteen of the civil service law initially hired on or after July first, two thousand thirteen, the state and the electing employer shall, during the continuance of his or her employment, make contributions at the rate of eight per centum of his or her salary.

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

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(B) IN THE CASE OF ANY ELECTING EMPLOYEE INITIALLY HIRED ON OR AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN, THE STATE AND THE ELECTING EMPLOYER SHALL, DURING THE CONTINUANCE OF HIS OR HER EMPLOYMENT, MAKE CONTRIBUTIONS AT THE RATE OF EIGHT PER CENTUM OF HIS OR HER SALARY.

S 3. Subdivision 3-a of section 390 of the education law, as added by chapter 18 of the laws of 2012, is amended to read as follows:

3-a. (A) Beginning July first, two thousand thirteen, the term "eligible employees" shall also mean any person excluded from or not encompassed within a negotiating unit within the meaning of article fourteen of the civil service law who would otherwise be entitled to receive a benefit under the retirement and social security law or the education law initially hired on or after July first, two thousand thirteen with estimated annual wages of seventy-five thousand per annum or greater. Such estimate of annual wages to determine eligibility for the purposes of this subdivision shall be provided by the employer. For the purposes of this subdivision, a newly hired state employee whose immediate preceding employment was with another department, division, or agency of the state shall not be deemed to be an eligible employee.

(B) BEGINNING JANUARY FIRST, TWO THOUSAND SIXTEEN, THE TERM "ELIGIBLE EMPLOYEES" SHALL ALSO MEAN ANY PERSON WHO WOULD OTHERWISE BE A MEMBER OF THE NEW YORK STATE EMPLOYEES' RETIREMENT SYSTEM OR THE NEW YORK STATE TEACHERS' RETIREMENT SYSTEM INITIALLY HIRED ON OR AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN OR CURRENT MEMBERS OF THE NEW YORK STATE EMPLOYEES' RETIREMENT SYSTEM OR THE NEW YORK STATE TEACHERS' RETIREMENT SYSTEM WHO ARE NOT YET VESTED.

(C) BEGINNING JANUARY FIRST, TWO THOUSAND SIXTEEN, THE TERM "ELIGIBLE EMPLOYEES" SHALL ALSO MEAN ALL NON-CIVIL SERVICE APPOINTED EMPLOYEES AND ELECTED OFFICIALS EMPLOYED BY THE STATE OR ANY OTHER PUBLIC EMPLOYER, EXCEPT FOR THOSE NON-CIVIL SERVICE EMPLOYEES AND ELECTED OFFICIALS WHO HAD PRIOR MEMBERSHIP IN A STATE OR LOCAL RETIREMENT PLAN.

S 4. Section 209 of the civil service law is amended by adding a new subdivision 7 to read as follows:

7. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, FOR ANY DISPUTE THAT IS SUBJECT TO THE PROVISIONS OF THIS SECTION, THE DETERMINATION OF THE PUBLIC ARBITRATION PANEL ON A DISPUTED AGREEMENT SHALL NOT CONTAIN AN INCREASE IN ALL COMPENSATION ITEMS SUBJECT TO NEGOTIATION WHICH IS GREATER THAN TWO PERCENT MORE THAN ALL COMPENSATION ITEMS SUBJECT TO NEGOTIATION RECEIVED BY THE EMPLOYEE ORGANIZATION IN THE AGREEMENT BETWEEN THE PUBLIC EMPLOYER AND THE EMPLOYEE ORGANIZATION IMMEDIATELY PRECEDING THE AGREEMENT BEING ARBITRATED.

S 5. This act shall take effect immediately. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.

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

This bill would:

1) amend section 209-a of the civil service law (Triborough act) to no longer continue the terms of certain expired agreements.

2) amend the Education law to allow any person who would have become a member of either the New York State and Local Employees' Retirement System (NYS&LERS) or the New York State Teachers Retirement System (NYSTRS) as well as current members who are not yet vested employees of either NYS&LERS or the NYSTRS to join the SUNY optional retirement system on or after January 1, 2016. In addition this bill will allow non-civil service employees and elected officials who have no prior

membership in a state or local retirement plan join the SUNY optional retirement system on or after January 1, 2016.

Pursuant to Chapter 18 of the Laws of 2012, participation currently is optional in a defined contribution plan for non-union employees hired on or after July 1, 2013 whose salary is $75,000 or higher.

3) limit binding arbitration awards to a maximum of 2% for all compensation items subject to negotiation.

There would be additional NYSLRS administrative expenses to inform employers and new members of joining the SUNY optional retirement system. These expenses are expected to be small.

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, 2014 Actuarial Valuation. Distributions and other statistics can be found in the 2014 Report of the Actuary and the 2014 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2010, 2011, 2012, 2013 and 2014 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, 2014 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 actuarial opinion contained herein.

This estimate, dated January 28, 2015, and intended for use only during the 2015 Legislative Session, is Fiscal Note No. 2015-44 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.