

5872

2015-2016 Regular Sessions

I N   S E N A T E

June 9, 2015

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Introduced by Sen. LANZA -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the administrative code of the city of New York, in relation to extending the benefits of the variable supplements fund for housing police and transit police members of the New York city employees' retirement system

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

1     Section 1. Paragraph (c) of subdivision 1 of section 13-191 of the  
2     administrative code of the city of New York, as amended by chapter 577  
3     of the laws of 1992, is amended to read as follows:  
4     (c) "Beneficiary". Any person who receives a retirement allowance by  
5     reason of having retired, on or after [July first, nineteen hundred  
6     eighty-seven] OCTOBER FIRST, NINETEEN HUNDRED SIXTY-EIGHT for service  
7     (with credit for twenty or more years of service toward the minimum  
8     period) as a transit police officer; provided, that no person who held a  
9     rank or position as a transit police superior officer, as defined in  
10    subdivision eighty-four of section 13-101 of this title who, on or after  
11    May first, nineteen hundred ninety-two, subsequently became a transit  
12    police officer shall be considered a beneficiary unless such person (1)  
13    subsequently performed at least three years of service as a transit  
14    police officer or (2) returned to service, from the position of  
15    sergeant, as a transit police officer during the eighteen month proba-  
16    tionary period, or such other probationary period as may be applicable  
17    or (3) returned to service as a transit police officer during the three  
18    year period specified in paragraph (e) of subdivision one of section  
19    seventy-five of the civil service law, or (4) returned to service as a  
20    transit police officer as the result of a hearing conducted pursuant to  
21    applicable law.

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

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1 S 2. Paragraph (c) of subdivision 1 of section 13-191 of the adminis-  
2 trative code of the city of New York, as amended by chapter 375 of the  
3 laws of 1993, is amended to read as follows:

4 (c) "Beneficiary". Any person who receives a retirement allowance by  
5 reason of having retired, on or after [July first, nineteen hundred  
6 eighty-seven] OCTOBER FIRST, NINETEEN HUNDRED SIXTY-EIGHT for service  
7 (with credit for twenty or more years of service toward the minimum  
8 period) as a housing police officer; provided, that no person who held a  
9 rank or position as a housing police superior officer, as defined in  
10 subdivision eighty-four of section 13-101 of this [chapter] TITLE who,  
11 on or after May first, nineteen hundred ninety-two, subsequently became  
12 a housing police officer shall be considered a beneficiary unless such  
13 person (1) subsequently performed at least three years of service as a  
14 housing police officer or (2) returned to service, from the position of  
15 sergeant, as a housing police officer during the eighteen month proba-  
16 tionary period, or such other probationary period as may be applicable  
17 or (3) returned to service as a housing police officer during the three  
18 year period specified in paragraph (e) of subdivision one of section  
19 seventy-five of the civil service law, or (4) returned to service as a  
20 housing police officer as the result of a hearing conducted pursuant to  
21 applicable law.

22 S 3. Paragraph (b) of subdivision 1 of section 13-192 of the adminis-  
23 trative code of the city of New York, as amended by chapter 720 of the  
24 laws of 1994, is amended to read as follows:

25 (b) "Beneficiary". Any person who receives a retirement allowance by  
26 reason of having retired, on or after [July first, nineteen hundred  
27 eighty-seven,] OCTOBER FIRST, NINETEEN HUNDRED SIXTY-EIGHT, for service  
28 (with credit for twenty or more years of service toward the minimum  
29 period) as a transit police member and as a transit police superior  
30 officer; provided, however, that where a person who held or holds a rank  
31 or position as a transit police superior officer, subsequently and on or  
32 after May first, nineteen hundred ninety-two became or becomes a transit  
33 police officer, and while a transit police officer, retired or retires  
34 for service under such circumstances that he or she would have qualified  
35 as a beneficiary under the provisions of paragraph (c) of subdivision  
36 one of section 13-191 of this title (other than the proviso thereof),  
37 but did not or does not qualify as a beneficiary under such paragraph  
38 (c) because he or she was or is disqualified by the terms of such provi-  
39 so, such retiree shall nevertheless be deemed to be a beneficiary under  
40 the provisions of this section.

41 S 4. Paragraph (b) of subdivision 1 of section 13-192 of the adminis-  
42 trative code of the city of New York, as amended by chapter 719 of the  
43 laws of 1994, is amended to read as follows:

44 (b) "Beneficiary". Any person who receives a retirement allowance by  
45 reason of having retired, on or after [July first, nineteen hundred  
46 eighty-seven,] OCTOBER FIRST, NINETEEN HUNDRED SIXTY-EIGHT, for service  
47 (with credit for twenty or more years of service toward the minimum  
48 period) as a housing police member and as a housing police superior  
49 officer, provided, however, that where a person who held or holds a rank  
50 of position as a housing police superior officer, subsequently and on or  
51 after May first, nineteen hundred ninety-two became or becomes a housing  
52 police officer, and while a housing police officer, retired or retires  
53 for service under such circumstances that he or she would have qualified  
54 as a beneficiary under the provisions of paragraph (c) of subdivision  
55 one of section 13-191 of this title (other than the proviso thereof),  
56 but did not or does not qualify as a beneficiary under such paragraph

1 (c) because he or she was or is disqualified by the terms of such provi-  
2 so, such retiree shall nevertheless be deemed to be a beneficiary under  
3 the provisions of this section.

4 S 5. This act shall take effect immediately.

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

PROVISIONS OF PROPOSED LEGISLATION - OVERVIEW: This proposed legis-  
lation would amend Administrative Code of the City of New York ("ACNY")  
Sections 13-191{1}, 13-191{2}, 13-192{1}, and 13-192{2} to extend the  
payment of Variable Supplements Fund ("VSF") benefits to certain reti-  
rees.

The proposed legislation would extend the payment of the VSF benefits  
to certain former members who are retired for service from the New York  
City Employees' Retirement System ("NYCERS"). Such retired NYCERS  
members consist of those who retired for service with 20 or more years  
of service as New York City Housing Police ("HP") or New York City Tran-  
sit Police ("TP") between October 1, 1968 and June 30, 1987 ("Prior  
Retirees").

Specifically, this proposed legislation would provide for payments to  
Prior Retirees from the following VSFs (referred to hereafter as the  
"IMPACTED VSFs"):

- \* Housing Police Officers' Variable Supplements Fund ("HPOVSF"),
- \* Housing Police Superior Officers' Variable Supplements Fund  
("HPSOVSF"),
- \* Transit Police Officers' Variable Supplements Fund ("TPOVSF"), and
- \* Transit Police Superior Officers' Variable Supplements Fund  
("TPSOVSF").

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

IMPACT ON BENEFITS - VSF PAYMENTS: Each of the IMPACTED VSFs currently  
provides supplemental benefits to former NYCERS members who retired for  
service on or after July 1, 1987 as HP or TP with 20 or more years of  
service.

The level of VSF benefits paid is based on a defined schedule varying  
by Calendar Year. For Calendar Year 2015 and after the level of VSF  
benefits is \$12,000.

These VSF benefits are payable on an annual basis on or about December  
15th to eligible former NYCERS members for their lifetimes. There are no  
optional forms of payment. Upon the death of the NYCERS retiree, VSF  
payments cease.

If the proposed legislation were to be enacted, all Prior Retirees  
would become immediately eligible for VSF benefits on the December 15th  
subsequent to the Effective Date and for each year thereafter.

Note, the Actuary has assumed that benefits payable under this  
proposed legislation are prospective only (i.e., there would be no  
retroactive VSF payments due before the Effective Date for such Prior  
Retirees).

FINANCIAL IMPACT - BACKGROUND: Obligations of each respective New York  
City Retirement System ("NYCRS") for the liabilities that arise under  
each VSF are recognized through the Liability Valuation Method ("LVM").  
Under the LVM, whenever the Actuarial Present Value of Benefits ("APVB")  
of a VSF exceeds the Actuarial Asset Value ("AAV") of that VSF, an Actu-  
arial Present Value ("APV") of Future SKIM is established as a liability  
in the related NYCRS.

The AAV of each VSF equals a smoothed value of Market Value ("MV") of  
assets. The MV of assets equals the sum of the transfers of excess earn-

ings on equities ("SKIM") from the related NYCERS to that VSF, together with investment earnings on the VSF, offset by payments from that VSF.

**FINANCIAL IMPACT - ACTUARIAL PRESENT VALUE OF BENEFITS:** Based on the census data and the actuarial assumptions and methods noted herein, the enactment of the proposed legislation would increase the APVB of the IMPACTED VSFs by approximately \$63.3 million as of June 30, 2013 on a cost basis and by approximately \$50.3 million as of June 30, 2013 on a contribution basis.

**FINANCIAL IMPACT-APV OF FUTURE SKIM:** In general, an increase in the APVB of a VSF increases the APV of Future SKIM to be paid from the related NYCERS.

Thus, the APV of Future SKIM of NYCERS would increase by approximately \$63.3 million as of June 30, 2013 on a cost basis and \$50.3 million as of June 30, 2013 on a contribution basis due to increases in the APVB of the IMPACTED VSFs.

In accordance with Chapter 255 of the Laws of 2000 ("Chapter 255/00"), the increase in APV of Future SKIM would become an obligation of NYCERS.

Because the additional APV of Future SKIM would be attributable to retirees, that APV of Future SKIM would be established as an additional Unfunded Actuarial Accrued Liability ("UAAL").

Actual transfers of assets from NYCERS to the IMPACTED VSFs would occur as payments of the VSF benefits to Prior Retirees whenever such IMPACTED VSF assets are insufficient.

**FINANCIAL IMPACT-ANNUAL EMPLOYER COST:** Based on the census data, the actuarial assumptions and methods noted herein, and assuming the Actuary chooses to amortize the additional APV of Future SKIM over five years, the enactment of this proposed legislation would increase annual employer costs to NYCERS by approximately \$16.0 million per year for five years.

**FINANCIAL IMPACT-ANNUAL EMPLOYER CONTRIBUTION:** Based on the census data, the actuarial assumptions and methods noted herein, and assuming the Actuary chooses to amortize the additional APV of Future SKIM over five years, the enactment of this proposed legislation would increase annual employer contributions to NYCERS by approximately \$12.7 million per year for five years.

If enacted during the 2015 Legislative Session before June 30, 2015, increased contributions to NYCERS would begin no later than Fiscal Year 2015.

If enacted during the 2015 Legislative Session after June 30, 2015 but before June 30, 2016, increased employer contributions to NYCERS would begin no later than Fiscal Year 2016.

**OTHER COSTS:** The enactment of this proposed legislation would also be expected to result in increases (including certain one-time increases) in administrative expenses of NYCERS and certain New York City agencies.

**CENSUS DATA:** The census data used for estimates of APVB and employer contributions presented herein include 1,027 HP and 2,298 TP retirees and beneficiaries who were included in the June 30, 2013 actuarial valuation of NYCERS.

Of such 3,325 HP and TP retirees and beneficiaries, there are 419 HP and 604 TP retirees who currently receive VSF benefits.

Under this proposed legislation, an additional 216 HP and 535 TP Service Retirees between October 1, 1968 and June 30, 1987 would qualify as Prior Retirees and would become eligible to receive VSF benefits.

**ACTUARIAL ASSUMPTIONS AND METHODS:** Additional APVB on a contribution basis and employer contributions have been estimated as of June 30, 2013 based on 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 Year 2012 and after) including an Actuarial Interest Rate ("AIR") assumption of 7.0% per annum.

The AIR assumption of 7.0% per annum is used for determining the impact of the proposed legislation on a contribution basis because the assets supporting the IMPACTED VSFs are held by NYCERS whose Investment Policy has been assumed by the Actuary to be able to support an AIR assumption of 7.0% per annum.

Additional APVB on a cost basis and employer costs have been estimated as of June 30, 2013 based on the same actuarial assumptions as for contribution purposes with the exception of the AIR assumption, which was set equal to 4.0% per annum, consistent with the long-term expected rate of return for relatively short-term, fixed income investments.

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 are retired. However, given the history of the amortization period used for other legislation impacting primarily retired or soon-to-be-retired members, such as Retirement Incentive Programs, the Actuary is inclined to amortize the proposed legislation over five years with the payment period beginning one year after the establishment of the UAAL. This approach is consistent with the One-Year Lag Methodology ("OYLM") where the UAAL is considered to be amortized over six years with five years of payments beginning in the second year.

STATEMENT OF ACTUARIAL OPINION: I, Robert C. North, Jr., am the Acting 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 2015 Legislative Session. It is Fiscal Note 2015-14, dated March 16, 2015, prepared by the Acting Chief Actuary for the New York City Employees' Retirement System.