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

9531

I N A S S E M B L Y

March 10, 2016

Introduced by M. of A. PAULIN, ABBATE, COLTON, ZEBROWSKI, GOLDFEDER, SANTABARBARA, ABINANTI, BARRETT, BENEDETTO, CAHILL, DINOWITZ, FAHY, GANTT, GUNTHER, HEVESI, JAFFEE, MAGNARELLI, MARKEY, MAYER, ORTIZ, OTIS, PICHARDO, QUART, RAMOS, ROSENTHAL, RUSSELL, RYAN, SCHIMEL, SCHIMMINGER, SEPULVEDA, SIMANOWITZ, SIMOTAS, SKOUFIS, STECK, STIRPE, THIELE, TITUS, WEPRIN, CURRAN, GRAF, KATZ, LUPINACCI, MALLIOTAKIS, NOJAY, SALADINO, STEC, TEDISCO, TENNEY, ROZIC, KAMINSKY, DiPIETRO, BLAKE, LOPEZ, WOERNER, WALTER, PALUMBO, RAIA, WRIGHT, LAVINE, CORWIN, MOSLEY, BRABENEC, BRONSON, WOZNIAK -- Multi-Sponsored by -- M. of A. ARROYO, BARCLAY, BLANKENBUSH, BRAUNSTEIN, BRINDISI, BUCHWALD, BUTLER, CERETTO, CROUCH, CUSICK, DAVILA, DenDEKKER, DUPREY, FARRELL, GARBARINO, GIGLIO, GOTTFRIED, HAWLEY, HOOPER, KEARNS, KOLB, LALOR, LENTOL, LIFTON, LUPARDO, MAGEE, McDONOUGH, McLAUGHLIN, MILLER, MONTESANO, MURRAY, OAKS, PALMESANO, PERRY, RA, RIVERA, RODRIGUEZ, SIMON, SKARTADOS, SOLAGES, TITONE, WEINSTEIN -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the retirement and social security law, in relation to providing credit to members of public retirement systems of the state for military service; and making an appropriation therefor

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

Section 1. Section 1000 of the retirement and social security law, as added by chapter 548 of the laws of 2000, subdivision 9 as added by chapter 547 of the laws of 2002 and subdivision 10 as added by chapter 18 of the laws of 2012, is amended to read as follows:

S 1000. Military service credit. Notwithstanding any law to the contrary, a member of a public retirement system of the state, as defined in subdivision twenty-three of section five hundred one of this chapter, shall be eligible for credit for military service as hereinafter provided:

1. A member, upon application to such retirement system, may obtain a total not to exceed three years of service credit for up to three years of military duty, as defined in section two hundred forty-three of the military law, if the member was honorably discharged from the military

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

LBD07385-11-6

[and all or part of such military service was rendered during the following periods: (a) commencing December seventh, nineteen hundred forty-one and terminating December thirty-first, nineteen hundred forty-six; (b) commencing June twenty-seventh, nineteen hundred fifty and terminating January thirty-first, nineteen hundred fifty-five; or (c) commencing February twenty-eighth, nineteen hundred sixty-one and terminating May seventh, nineteen hundred seventy-five;

2. A member, upon application to such retirement system, may obtain a total not to exceed three years of service credit for up to three years of military duty, as defined in section two hundred forty-three of the military law, if honorably discharged therefrom, if all or part of such services was rendered in the military conflicts referenced below, as follows:

(a) hostilities participated in by the military forces of the United States in Lebanon, from the first day of June, nineteen hundred eighty-three to the first day of December, nineteen hundred eighty-seven, as established by receipt of the armed forces expeditionary medal, the navy expeditionary medal, or the marine corps expeditionary medal;

(b) hostilities participated in by the military forces of the United States in Grenada, from the twenty-third day of October, nineteen hundred eighty-three to the twenty-first day of November, nineteen hundred eighty-three, as established by receipt of the armed forces expeditionary medal, the navy expeditionary medal, or the marine corps expeditionary medal;

(c) hostilities participated in by the military forces of the United States in Panama, from the twentieth day of December, nineteen hundred eighty-nine to the thirty-first day of January, nineteen hundred ninety, as established by receipt of the armed forces expeditionary medal, the navy expeditionary medal, or the marine corps expeditionary medal; or

(d) hostilities participated in by the military forces of the United States, from the second day of August, nineteen hundred ninety, to the end of such hostilities in case of a veteran who served in the theater of operations including Iraq, Kuwait, Saudi Arabia, Bahrain, Qatar, the United Arab Emirates, Oman, the Gulf of Aden, the Gulf of Oman, the Persian Gulf, the Red Sea, and the airspace above these locations].

[3] 2. A member must have at least five years of credited service (not including service granted hereunder) to be eligible to receive credit under this section.

[4] 3. To obtain such credit, a member shall pay such retirement system, for deposit in the fund used to accumulate employer contributions, a sum equal to the product of the number of years of military service being claimed and three percent of such member's compensation earned during the twelve months of credited service immediately preceding the date that the member made application for credit pursuant to this section. If permitted by rule or regulation of the applicable retirement system, the member may pay such member costs by payroll deduction for a period which shall not exceed the time period of military service to be credited pursuant to this section. In the event the member leaves the employer payroll prior to completion of payment, he or she shall forward all remaining required payments to the appropriate retirement system prior to the effective date of retirement. If the full amount of such member costs is not paid to the appropriate retirement system prior to the member's retirement, the amount of service credited shall be proportional to the total amount of the payments made prior to retirement.

[5] 4. In no event shall the credit granted pursuant to this section, when added to credit granted for military service with any retirement system of this state pursuant to this or any other provision of law, exceed a total of three years.

[6] 5. To be eligible to receive credit for military service under this section, a member must make application for such credit before the effective date of retirement. [Notwithstanding the foregoing provisions of this subdivision, an individual who retired on or after December twenty-first, nineteen hundred ninety-eight and before the effective date of this section may make application for credit pursuant to this section within one year following the effective date of this section, in which event, the cost to the retiree would be based on the twelve month period immediately preceding retirement.]

[7] 6. All costs for service credited to a member pursuant to this section, other than the member costs set forth in subdivision three of this section, shall be paid by the state and all employers which participate in the retirement system in which such member is granted credit.

[8] 7. A member who has purchased military service credit pursuant to section two hundred forty-four-a of the military law shall be entitled to a refund of the difference between the amount paid by the member for such purchase and the amount that would be payable if service had been purchased pursuant to this section.

[9] 8. Notwithstanding any other provision of law, in the event of death prior to retirement, amounts paid by the member for the purchase of military service credit pursuant to this section shall be refunded, with interest, to the extent the military service purchased with such amounts does not produce a greater death benefit than would have been payable had the member not purchased such credit.

Notwithstanding any other provision of law, in the event of retirement, amounts paid by the member for the purchase of military service credit pursuant to this section shall be refunded, with interest, to the extent the military service purchased with such amounts does not produce a greater retirement allowance than would have been payable had the member not purchased such credit.

[10.] 9. Anything to the contrary in subdivision [four] THREE of this section notwithstanding, to obtain such credit, a member who first joins a public retirement system of the state on or after April first, two thousand twelve shall pay such retirement system, for deposit in the fund used to accumulate employer contributions, a sum equal to the product of the number of years of military service being claimed and six percent of such member's compensation earned during the twelve months of credited service immediately preceding the date that the member made application for credit pursuant to this section.

S 2. The sum of twenty-four million eight hundred thousand dollars ($24,800,000), or so much thereof as may be necessary, is hereby appropriated to the department of audit and control out of any moneys in the state treasury in the general fund to the credit of the state purposes account, not otherwise appropriated, and made immediately available, for the purpose of carrying out the provisions of this act. Such moneys shall be payable on the audit and warrant of the comptroller on vouchers certified or approved by the head of the appropriate public retirement system in the manner prescribed by law.

S 3. This act shall take effect immediately.

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

This bill would allow up to three (3) years of service credit for military duty by removing all existing requirements that such military

service be performed during certain war periods, during certain hostilities while in the theater of operations or upon receipt of an expeditionary medal. However, the total service credit granted for active and peacetime military service shall not exceed three (3) years. Members must have at least five years of credited service (not including military service). Tier 1-5 members would be required to make a payment of three percent of their most recent compensation per year of additional service credit granted by this bill. Tier 6 members would be required to make a payment of six percent of their most recent compensation per year of additional service credit.

If this bill is enacted, insofar as this proposal affects the New York State and Local Employees' Retirement System (ERS), it is estimated that the past service cost will average approximately 15% (12% for Tier 6) of an affected members' compensation for each year of additional service credit that is purchased.

Insofar as this proposal affects the New York State and Local Police and Fire Retirement System (PFRS), it is estimated that the past service cost will average approximately 19% (16% for Tier 6) of an affected members' compensation for each year of additional service that is purchased.

The exact number of current members as well as future members who could be affected by this legislation cannot be readily determined.

ERS costs would be borne entirely by the State of New York. Since a member can apply for this service credit at any time prior to retirement, a precise cost can't be determined until each member, as well as future members, applies for the service credit. Every year a cost will be determined (and billed to the state) based on those benefiting from this provision.

PFRS costs would be shared by the State of New York and the participating employers in the PFRS.

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, 2015 actuarial valuation. Distributions and other statistics can be found in the 2015 Report of the Actuary and the 2015 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2015 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, 2015 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 14, 2016 and intended for use only during the 2016 Legislative Session, is Fiscal Note No. 2016-25, prepared by the Actuary for the New York State and Local Retirement System.

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

With respect to certain New York City Retirement Systems (NYCRS), this proposed legislation would amend New York State Retirement and Social Security Law (RSSL) Section 1000 to provide certain members of the New York City Employees' Retirement System (NYCERS), the New York City Teachers' Retirement System (NYCTRS), the New York City Board of Education Retirement System (BERS), the New York City Police Pension Fund (POLICE) and the New York Fire Department Pension Fund (FIRE), collectively, the New York City Retirement Systems (NYCRS), the opportunity to

obtain additional retirement service credits for certain Military Service.

This proposed legislation would permit any NYCRS member, prior to the effective date of retirement, to make application for these additional service credits.

To obtain such Military Service credits, members would be required to pay to the appropriate NYCRS, for each year of Military Service purchased, a sum equal to 3.0% (6.0% for members who first join on and after April 1, 2012) of such member's compensation earned during the twelve months of credited service immediately preceding the date that the member makes application for credit.

MEMBERS IMPACTED: Insofar as this proposed legislation relates to the NYCRS, the number of members who could potentially benefit from this proposed legislation cannot be readily determined.

IMPACT ON BENEFITS: With respect to the NYCRS, a member who served in the U.S. military and received an honorable discharge would be permitted, after completing five years of credited service (exclusive of the service credit that could be purchased under this proposed legislation), to purchase a maximum of three years of Military Service (inclusive of any prior purchases of Military Service credit).

In order to purchase the Military Service credits provided in this proposed legislation, a member must have been honorably discharged following a period of "military duty" as defined in New York State Military Law Section 243.

If a member's Military Service meets these conditions, then that member would be permitted to purchase a maximum of three years of Military Service (inclusive of any previously-received Military Service credit) attributable to any period of the member's military career.

For purposes of the respective NYCRS, each year of Military Service credit purchased would apply toward providing the member with a year of benefit accrual under the particular benefit formula covering the member.

In certain circumstances, the member also may be entitled to utilize such Military Service as qualifying service for benefit eligibility purposes.

For purposes of this Fiscal Note, it has been assumed that members who purchase Military Service in accordance with this proposed legislation would generally be entitled to count such service for benefit accrual purposes and for the purpose of qualifying for benefits.

FINANCIAL IMPACT - OVERVIEW: With respect to an individual member, the additional cost of this proposed legislation would depend on the length of all New York City service, age, salary history and Plan in which the member participates, as well as the number of years of service credit purchased.

With respect to employers participating in the NYCRS, the ultimate employer cost of this proposed legislation would be determined by the increase in benefits to be paid, the impact of certain benefits commencing earlier and the reduction in certain future member contributions.

FINANCIAL IMPACT - ACTUARIAL PRESENT VALUES: The additional Actuarial Present Value (APV) of benefits would depend on the number, salaries, ages and lengths of Military Service purchased by members who would be affected by this proposed legislation.

With respect to the NYCRS and based on the census data and assumptions herein, the enactment of this proposed legislation would increase the Actuarial Present Value (APV) of benefits (APVB) by approximately $147.1 million of June 30, 2016.

In addition, with respect to the NYCRS, the APV of future member contributions (primarily attributable to the payments by members of 3.0% (6.0% for members who first join on and after April 1, 2012) of salary per year of Military Service purchased) would increase by approximately $22.2 million when measured as of June 30, 2016.

Consequently, with respect to the NYCRS, the APV of net future employer contributions would increase by approximately $124.9 million as of June 30, 2016.

FINANCIAL IMPACT - ANNUAL EMPLOYER COSTS: The ultimate cost of a pension plan is the benefits it pays. With respect to the NYCRS, the financing of that ultimate cost depends upon the census data used and the actuarial assumptions and methods employed. Assuming that all eligible members were to purchase the eligible Military Service during Fiscal Year 2016 and based on the Actuary's actuarial assumptions and methods in effect as of June 30, 2015, the enactment of this proposed legislation would increase annual employer costs by approximately $14.8 million per year.

FINANCIAL IMPACT - EMPLOYER CONTRIBUTIONS: The impact of the proposed legislation on employer contributions would be a function of the census data (i.e., age/service/salary, etc.) reported to the Actuary and of the timing of the members electing to buy back their Military Service.

With respect to the NYCRS, based on the Actuary's actuarial assumptions and methods in effect as of June 30, 2015, the enactment of this proposed legislation would ultimately increase employer contributions by approximately the estimated additional annual employer costs.

If applications for buying back Military Service were completed during Fiscal Year 2016 and the NYCRS census data were updated to reflect this information by June 30, 2016, then employer contributions would first be impacted for Fiscal Year 2018.

If the Military Service buybacks were completed after Fiscal Year 2016, then the increase in employer contributions would first occur after Fiscal Year 2018.

FINANCIAL IMPACT - SUMMARY: The following table summarizes the estimated financial impact of this proposed legislation on the NYCRS.

Estimated Financial Impact to Allow Members of the NYCRS
To Purchase up to Three Years of Military Service Credit
($ Millions)

Retirement System	Additional APV of Benefits	Additional APV of Future Employer Contributions{1}	Estimated First Year Additional Employer Costs{2}
NYCERS	$51.0	$42.9	$5.1
NYCTRS	15.6	12.8	1.5
BERS	2.2	1.9	0.2
POLICE	61.8	53.0	6.3
FIRE	16.5	14.3	1.7
TOTAL	$147.1	124.9	$14.8

{1} Equals increase in APVB minus increase in APV of future member contributions.

{2} Estimated Additional Employer Costs are determined without regard to the funded status of the Retirement Systems and represent the best estimates of the ultimate annual financial burden of the proposed legislation. Estimated Additional Employer Contributions would ultimately approximate Estimated Additional Employer Costs.

ADDITIONAL EMPLOYER COSTS - GENERAL: In general, the real cost of the enactment of this proposed legislation would be the additional benefits paid.

This Fiscal Note does not include analyses of the impact of this proposed legislation on the expected increases in administrative costs or costs for Other Post-Employment Benefits (OPEB).

CENSUS DATA: The census data used for estimates of APV of benefits and employer contributions presented herein are the active members included in the June 30, 2015 (Lag) actuarial valuations of NYCERS, NYCTRS, BERS, POLICE and FIRE used to determine the Preliminary Fiscal Year 2017 employer contributions.

ACTUARIAL ASSUMPTIONS AND METHODS: Additional APV of benefits, of member contributions and of employer contributions have been estimated as of June 30, 2017 using various approximating techniques and assumptions by the Actuary, including, but not limited to:

* A certain percentage of Veterans being honorably discharged.

* A certain percentage of honorably discharged Veterans being disabled.

* Different percentages of members by NYCERS having prior Military Service.

* Each eligible member purchasing an average of 2.5 years of the Military Service.

Changes in employer contributions have been estimated assuming the increase in the APV of Future Employer Contributions would be financed over a time period comparable to that used for actuarial losses under the Entry Age Actuarial Cost Method. Using this approach, the Additional APV of Future Employer Contributions would be amortized over a closed 15-year period (14 payments under One-Year Lag Methodology) using level dollar payments.

STATEMENT OF ACTUARIAL OPINION: I, Sherry S. Chan, am the Chief Actuary for the New York City Retirement Systems. I am an Associate of the Society of Actuaries, a Fellow of the Conference of Consulting 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 2016 Legislative Session. It is Fiscal Note 2016-04, dated March 1, 2016, prepared by the Chief Actuary for the New York City Employees' Retirement System, the New York City Teachers' Retirement System, the New York City Board of Education Retirement System, the New York City Police Pension Fund and the New York Fire Department Pension Fund.

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

This bill would amend Section 1000 of the Retirement and Social Security Law to allow active members of public retirement systems of New York State to claim service credit for up to three years of military service, regardless of when or where it was performed. Currently, active members can receive service credit for military service performed, but only during specified periods of war. A member must have at least five years of credited service to be eligible and make application for such credit before the effective date of retirement. To obtain such credit, a member must make payments as required in Section 1000 of the Retirement and Social Security Law. Tier 1, 2, 3, 4 and 5 members are required to pay three percent of salary earned during the twelve months of credited service immediately preceding the year in which a claim is made for each year of military service. Tier 6 members are required to pay six percent

of salary earned during the twelve months of credited service immediately preceding the year in which a claim is made for each year of military service.

It is not possible to determine the total annual cost of this bill since the total amount of service credit which would be claimed under this bill cannot be estimated. Pursuant to Section 25 of the Retirement and Social Security Law, the cost to the New York State Teachers' Retirement System (NYSTRS) would be borne by the State of New York and would require an itemized appropriation adequate to pay the cost of this bill. The cost to the State of New York is estimated to be $19,700 per year of service credited for Tier 1, 2, 3, 4 and 5 members and $15,200 per year of service credited for Tier 6 members if this bill is enacted. Each year a cost will be computed and billed to the State of New York for those members of NYSTRS receiving a benefit under this bill.

Employee data is from the System's most recent actuarial valuation files, consisting of data provided by the employers to the Retirement System. Data distributions and statistics can be found in the System's Comprehensive Annual Financial Report (CAFR). System assets are as reported in the System's financial statements, and can also be found in the CAFR. Actuarial assumptions and methods are provided in the System's Actuarial Valuation Report.

The source of this estimate is Fiscal Note 2016-8 dated February 3, 2016 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2016 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.