

STATE OF NEW YORK

5640--A

2017-2018 Regular Sessions

IN SENATE

April 24, 2017

Introduced by Sen. CROCI -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- 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 provide temporary retirement incentive for certain public employees

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. This act enacts into law components of legislation that
2 would establish an age 55/25 temporary retirement incentive for certain
3 public employees.
- 4 § 2. Legislative findings. The legislature finds and declares that the
5 retirement benefit for certain public employees who are above age 55 and
6 with 25 years of service provided for in this act is intended only to be
7 temporary in nature for employees who are eligible to receive and qual-
8 ify for the applicable benefit during the applicable time periods speci-
9 fied in this act. Further, nothing in this act shall be construed to
10 create an expectation of a future or continuing retirement benefit for
11 any public employee who is not eligible to receive and qualify for the
12 retirement benefits herein during the applicable time periods.
- 13 § 3. Definitions. As used in this act, unless the context clearly
14 requires otherwise:
- 15 (a) "Retirement system" means the New York state teachers' retirement
16 system.
- 17 (b) "Teachers' retirement system" means the New York state teachers'
18 retirement system.
- 19 (c) "Educational employer" means a participating employer which is a
20 school district, a board of cooperative educational services, a voca-
21 tional education and extension board, an institution for the instruction

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

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1 of the deaf and of the blind as enumerated in section 4201 of the educa-
2 tion law, or a school district as enumerated in section 1 of chapter 566
3 of the laws of 1967, as amended.

4 (d) "Eligible employee" means a person who is a member of the teach-
5 ers' retirement system, who is an employee of an educational employer,
6 who holds a position represented by the recognized collective bargaining
7 units affiliated with the New York state united teachers employee organ-
8 ization as certified by his or her employer, and who has attained the
9 age of fifty-five and has at least twenty-five years of creditable
10 service in the retirement system.

11 (e) "Active service" means service while being paid on the payroll,
12 provided that (i) a leave of absence with pay shall be deemed active
13 service; (ii) other approved leave without pay not to exceed twelve
14 weeks from March 1, 2018 and the commencement of the designated open
15 period; and (iii) the period of time subsequent to the June 2018 school
16 term and on or before August 31, 2018 for a teacher (or other employee
17 as defined in this act, employed on a school-year basis) who is other-
18 wise in active service on the effective date of this act shall be deemed
19 active service.

20 (f) "Open period" means the period beginning with the commencement
21 date as defined in subdivision (g) of this section and shall be 60 days
22 in length. For educational employers who make election after June 30,
23 2018, the open period shall begin immediately after such election, and
24 shall not extend beyond August 31, 2018. For the purposes of retirement
25 pursuant to this act, a service retirement application must be filed
26 with the appropriate retirement system not less than 14 days prior to
27 the effective date of retirement to become effective, unless a shorter
28 time period is permitted under law.

29 (g) "Commencement date" means the first day the retirement benefit
30 mandated by this act shall be made available, which shall mean a date or
31 dates on or after the effective date of this act to be determined by the
32 educational employer which elects to participate pursuant to section
33 four of this act, but no sooner than June 30, 2018.

34 § 4. On or after June 30, 2018 an educational employer may elect to
35 provide its employees the retirement incentive authorized by this act by
36 the adoption of a resolution of its governing body. A copy of such
37 resolution shall be filed with the appropriate retirement system. The
38 resolution shall be accompanied by the affidavit of the school board
39 president or trustee or other comparable official certifying the validi-
40 ty of such resolution.

41 § 5. Notwithstanding any other provision of law, any eligible employee
42 serving in an eligible title who (a) has been continuously in the active
43 service of an educational employer who has elected to participate in the
44 retirement incentive provided in section six of this act, pursuant to
45 section four of this act, from March 1, 2018 to the date immediately
46 prior to the commencement date of the applicable open period, (b) files
47 an application for service retirement that is effective during the open
48 period, and (c) is otherwise eligible for a service retirement as of the
49 effective date of the application for retirement shall be entitled to
50 the retirement benefit provided in section six of this act.

51 § 6. Notwithstanding any other provision of law, any eligible employee
52 who is: (a) a member of the teachers' retirement system, and (b) enti-
53 tled to retirement benefits pursuant to section five of this act may
54 retire during the open period without the reduction of his or her
55 retirement benefit that would otherwise be imposed by article 11 or 15
56 of the retirement and social security law if he or she has attained the

1 age of 55 and has completed at least 25 or more years of creditable
2 service. An eligible employee who is covered by the provisions of arti-
3 cle 11 or 15 of the retirement and social security law shall retire
4 under the provisions of article 11 or 15 of the retirement and social
5 security law.

6 § 7. The pension benefit costs of section six of this act shall be
7 paid by employers as provided by applicable law for the retirement
8 system covered by this act over a period not to exceed five years
9 commencing in the state fiscal year ending March 31, 2020.

10 § 8. Notwithstanding any other provision of law, this act shall have
11 no impact on retirement incentives, options or inducements offered as
12 part of a contractual agreement between an eligible employee and an
13 educational employer which were negotiated prior to the effective date
14 of this act.

15 § 9. Severability clause. If any clause, sentence, paragraph, subdivi-
16 sion, section or part of this act shall be adjudged by any court of
17 competent jurisdiction to be invalid, such judgment shall not affect,
18 impair, or invalidate the remainder thereof, but shall be confined in
19 its operation to the clause, sentence, paragraph, subdivision, section
20 or part thereof directly involved in the controversy in which such judg-
21 ment shall have been rendered. It is hereby declared to be the intent of
22 the legislature that this act would have been enacted even if such
23 invalid provisions had not been included herein.

24 § 10. This act shall take effect immediately.

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

This bill would provide a temporary retirement incentive to members of the New York State Teachers' Retirement System during fiscal year 2018-2019. This incentive would permit eligible members to retire without an early retirement reduction upon attainment of at least age 55 with 25 years of service. Currently 30 years of service are required in order to retire without reduction. In order to receive this benefit, a member of an employer who has elected to participate must retire during the designated 60-day open period, beginning on or after June 30, 2018 which shall not extend beyond August 31, 2018. In order to be eligible, a member must be an employee of an educational employer and hold a position represented by one of the recognized collective bargaining units affiliated with the New York State United Teachers (NYSUT) as certified by his or her employer. In order to participate in this retirement incentive, the educational employer must be a school district, a board of cooperative educational services, a vocational education and extension board, an institution for the instruction of the deaf and of the blind as enumerated in Section 4201 of the Education Law or a school district as enumerated in Section 1 of Chapter 566 of the Laws of 1967. Employers who elect to participate would pay the cost of the retirement incentive over a period not to exceed five years, beginning in the state fiscal year ending March 31, 2020.

The estimated increase in the present value of benefits due to this temporary retirement incentive is approximately \$210 million. The annual cost, over a five-year period, to the participating employers of members of the New York State Teachers' Retirement System for this benefit is estimated to be \$56.2 million or .34% of payroll if this bill is enacted.

Member data is from the System's most recent actuarial valuation files, consisting of data provided by the employers to the Retirement System. Data contributions 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 2018-16 dated March 26, 2018 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2018 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.