STATE OF NEW YORK

10204--A

IN ASSEMBLY

March 24, 2020

Introduced by M. of A. BUCHWALD, SIMON, MONTESANO, STERN, BUTTENSCHON, AUBRY, GALEF, ENGLEBRIGHT, EPSTEIN, KOLB, SEAWRIGHT, GOTTFRIED, SMULLEN -- Multi-Sponsored by -- M. of A. SCHIMMINGER -- read once and referred to the Committee on Governmental Employees -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the retirement and social security law, in relation to the retiree earnings cap for health care officials and workers during a declared public health related state of emergency

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

Section 1. Section 212 of the retirement and social security law is amended by adding a new subdivision 4 to read as follows:

4. Notwithstanding the earning limitations for retired persons set forth in this section, state and local governments may hire retired public health officials and workers at any reasonable earning level in times of a declared public health related state of emergency declared by the governor, provided that such retirees hired during such state of emergency are hired and continue to be employed for the purpose of combatting COVID-19.

§ 2. This act shall take effect immediately.

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

This bill would exempt from the earnings limitations set forth in Section 212 of the Retirement and Social Security Law (RSSL) any retired public health officials and workers rehired at any reasonable earning level in times of a declared public health related state of emergency declared by the Governor, provided that such retirees hired during such state of emergency are hired and continue to be employed for the purpose of combatting COVID-19.

Insofar as this bill affects the New York State and Local Retirement System (NYSLRS), if this legislation is enacted during the 2020 legislative session, we expect there would be negligible additional annual costs. However, if large numbers of retirees are hired into positions with lucrative earning levels over long periods of time, there could be

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

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additional annual costs which would be shared by the state of New York and all of the participating employers in the NYSLRS.

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, 2019 actuarial valuation. Distributions and other statistics can be found in the 2019 Report of the Actuary and the 2019 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2015, 2016, 2017, 2018, and 2019 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, 2019 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 fiscal note does not constitute a legal opinion on the viability of the proposed change nor is it intended to serve as a substitute for the professional judgment of an attorney.

This estimate, dated March 16, 2020, and intended for use only during the 2020 Legislative Session, is Fiscal Note No. 2020-98, prepared by the Actuary for the New York State and Local Retirement System.

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

SUMMARY OF BILL: This proposed legislation, as it relates to the New York City Pension Funds and Retirement Systems (NYCRS), would amend Retirement and Social Security Law (RSSL) Section 212 to remove the earnings limit of certain NYCRS retirees who have returned to employment in Public Service during a declared public health related state of emergency.

Effective Date: Upon enactment.

IMPACT ON PENSION PAYMENTS: Retirees who return to Public Service and elect to be covered under the provisions of RSSL Section 212 are permitted to earn an amount not exceeding a specific dollar limit in a calendar year without loss, suspension, or diminution of their retirement allowances. Once this dollar limit is reached, the retiree's pension is suspended for the remainder of that calendar year. Generally, there are no earnings limitations in, or following, the calendar year in which the retiree attains age 65.

Currently, the dollar limitation in effect for Calendar Year 2020 and thereafter is $35,000.

Under the proposed legislation, if enacted, the RSSL Section 212 post-retirement Public Service earnings limitation would be removed for retired health care workers hired during a declared public heath related state of emergency who are hired for the purpose of combatting such public health crises.

For illustrative purposes only, the table below presents the estimated additional retirement allowances paid if RSSL Section 212 post-retirement earnings limitation were removed for various sample combinations of post-retirement annual earnings and annual retirement allowance amounts for those retirees who are currently employed in post-retirement public employment and are subject to post-retirement earnings limits.

Annual Retirement	Annual Post-Retirement Earnings in Calendar Year		
Allowance	$40,000	$50,000	$60,000
$30,000	$3,800	$9,000	$12,500

$40,000	$5,000	$12,000	$16,700
$50,000	$6,300	$15,000	$20,800
$60,000	$7,500	$18,000	$25,000
$70,000	$8,800	$21,000	$29,200

FINANCIAL IMPACT - ANNUAL EMPLOYER CONTRIBUTIONS: In accordance with Section 13-638.2(k-2) of the Administrative Code of the City of New York (ACCNY), new Unfunded Accrued Liability attributable to benefit changes are to be amortized as determined by the Actuary, but are generally amortized over the remaining working lifetime of those impacted by the benefit changes. However, since changes in the applicable retirement allowances paid to NYCRS retirees under this proposed legislation are not known in advance, the increase in pension payments due to this legislation would be treated as an actuarial loss. These actuarial losses would be amortized over a 15-year period (14 payments under the One-Year Lag Methodology (OYLM)) using level dollar payments.

The number of NYCRS retirees who could potentially be impacted by this proposed legislation cannot be readily determined. Actual costs would depend on factors such as, but not limited to, the number of retirees that benefit under the legislation and the amount of their earnings and retirement allowances.

Note, however, that to the extent that the proposed legislation results in the rehiring of retirees who would not have otherwise returned to post-employment public service absent the legislation, the legislation is anticipated to create no additional pension cost, and may mitigate cost that would have been realized from additional pensionable wages paid to existing NYCRS members and/or additional new hires.

CONTRIBUTION TIMING: For the purposes of this Fiscal Note, it is assumed that the changes in the annual employer contributions would be reflected for the first time in the June 30, 2020 actuarial valuations of the NYCRS. In accordance with the OYLM used to determine employer contributions, the increase in employer contributions would first be reflected in Fiscal Year 2022.

CENSUS DATA: For purposes of analyzing the impact of the proposed legislation, illustrative examples with various salary and retirement allowance amounts have been provided above.

ACTUARIAL ASSUMPTIONS AND METHODS: The changes in the annual employer contributions presented herein have been calculated based on the actuarial assumptions and methods in effect for the June 30, 2019 (Lag) actuarial valuations used to determine the Preliminary Fiscal Year 2021 employer contributions of NYCRS.

RISK AND UNCERTAINTY: The costs presented in this Fiscal Note depend highly on the realization of the actuarial assumptions used, as well as certain demographic characteristics of NYCRS and other exogenous factors such as investment, contribution, and other risks. If actual experience deviates from actuarial assumptions, the actual costs could differ from those presented herein. Costs are also dependent on the actuarial methods used, and therefore different actuarial methods could produce different results. Quantifying these risks is beyond the scope of this Fiscal Note.

Not measured in this Fiscal Note are the following:

* The initial, additional administrative costs of NYCRS and other New York City agencies to implement the proposed legislation.
* The impact of this proposed legislation on Other Postemployment Benefit (OPEB) costs.

STATEMENT OF ACTUARIAL OPINION: I, Sherry S. Chan, am the Chief Actuary for, and independent of, the New York City Retirement Systems and Pension Funds. I am a Fellow of the Society of Actuaries, an Enrolled Actuary under the Employee Retirement Income and Security Act of 1974, a Member of the American Academy of Actuaries, and a Fellow of the Conference of Consulting Actuaries. I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein. To the best of my knowledge, the results contained herein have been prepared in accordance with generally accepted actuarial principles and procedures and with the Actuarial Standards of Practice issued by the Actuarial Standards Board.

FISCAL NOTE IDENTIFICATION: This Fiscal Note 2020-13 dated March 16, 2020 was prepared by the Chief Actuary for the New York City Retirement Systems and Pension Funds. This estimate is intended for use only during the 2020 Legislative Session.