STATE OF NEW YORK

5361

2019-2020 Regular Sessions

IN ASSEMBLY

February 11, 2019

Introduced by M. of A. FITZPATRICK -- Multi-Sponsored by -- M. of A. MANKTELOW -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the retirement and social security law, in relation to calculating pension benefits for public employees

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

Section 1. Section 75 of the retirement and social security law is amended by adding a new subdivision e to read as follows:

e. For purposes of this title, all final average salaries shall be calculated exclusive of any form of overtime compensation, unused vacation time, unused sick leave or unused personal time.

§ 2. Section 375 of the retirement and social security law is amended by adding a new subdivision e to read as follows:

e. For purposes of this title, all final average salaries shall be calculated exclusive of any form of overtime compensation, unused vacation time, unused sick leave or unused personal time.

§ 3. This act shall take effect on the ninetieth day after it shall have become a law.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50: This bill would reduce the retirement benefits for members who retire from the New York State and Local Employees' Retirement System (ERS) and the New York State and Local Police and Fire Retirement System (PFRS) by requiring the exclusion of any form of overtime compensation, unused vacation time, unused sick leave or unused personal time in the calculation of final average salary (FAS).

This legislation would reduce the benefits of many members in the ERS and the PFRS who retire on or after the effective date. If this becomes law, it is likely to face a constitutional challenge based upon the guarantee that a member's benefits may not be diminished.

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

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There would be an administrative cost to the System to change the FAS calculation.

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, 2018 actuarial valuation. Distributions and other statistics can be found in the 2018 Report of the Actuary and the 2018 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2015, 2016, 2017 and 2018 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, 2018 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 January 10, 2019, and intended for use only during the 2019 Legislative Session, is Fiscal Note No. 2019-20, prepared by the Actuary for the New York State and Local Retirement System.