STATE OF NEW YORK

8151

IN SENATE

April 8, 2020

Introduced by Sen. MARTINEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

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:

Section 1. This act enacts into law components of legislation that would establish an age 55/25 temporary incentive for certain public employees.

§ 2. Legislative findings. The legislature finds and declares that the retirement benefit for certain public employees who are above age 55 and with 25 years of service provided for in this act is intended only to be temporary in nature for employees who are eligible to receive and qualify for the applicable benefit during the applicable time periods specified in this act. Further, nothing in this act shall be construed to create an expectation of a future or continuing retirement benefit for any public employee who is not eligible to receive and qualify for the retirement benefits herein during the applicable time periods.

§ 3. Definitions. As used in this act, unless the context clearly requires otherwise:

(a) "Retirement system" means the New York state and local employees' retirement system and the New York state teachers' retirement system.

(b) "Teachers' retirement system" means the New York state teachers' retirement system.

(c) "Participating employer" means an educational employer, the state-operated institutions of the state university of New York, and a community college operating under a program of the state university of New York, which participates in a retirement system as defined in this section, who employs members who hold positions represented by the recognized collective bargaining units affiliated with the New York state united teachers employee organization.

(d) "Educational employer" means a participating employer which is a school district, a board of cooperative educational services, a vocational 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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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, as amended; who employ members who hold positions represented by the recognized collective bargaining units affiliated with the New York state united teachers employee organization who participate in the New York state teachers' retirement system and the New York state and local employees' retirement system.

(e) "Eligible employee" means a person who is a member of a retirement system, who is an employee of a participating employer and who holds a position represented by the recognized collective bargaining units affiliated with the New York state united teachers employee organization as certified by his or her employer, who makes an election under section five of this act.

(f) "Active service" means service while being paid on the payroll, provided that (i) a leave of absence with pay shall be deemed active service; (ii) other approved leave without pay not to exceed twelve weeks from February 1, 2020 and the commencement of the designated open period; and (iii) the period of time subsequent to the June 2020 school term and on or before August 31, 2020 for a teacher (or other employee as defined in this act, employed on a school-year basis) who is otherwise in active service on the effective date of this act shall be deemed active service.

(g) "Open period" means the period beginning with the commencement date as defined in subdivision (h) of this section; provided, however, for the state-operated institutions of the state university of New York and community colleges, the open period shall be as specified by the appropriate board of trustees, and shall be ninety days in length; provided however that there shall be only one such open period and any such period shall not extend beyond August 31, 2020 for educational employers and shall not extend beyond December 31, 2020 for the state-operated institutions of the state university of New York and community colleges. For the purposes of retirement pursuant to this act, a service retirement application must be filed with the appropriate retirement system not less than fourteen days prior to the effective date of the retirement, unless a shorter time period is permitted under law.

(h) "Commencement date" means the first day the retirement benefit mandated by this act shall be made available, which shall mean a date or dates on or after the effective date of this act to be determined by a participating employer; provided, however, that for an educational employer, the commencement date shall be June 1, 2020.

§ 4. Notwithstanding any other provision of law, any eligible employee serving in an eligible title who (a) has been continuously in the active service of a participating employer from February 1, 2020 to the date immediately prior to the commencement date of the applicable open period, (b) files an application for service retirement that is effective during the open period, and (c) is otherwise eligible for a service retirement as of the effective date of the application for retirement shall be entitled to the retirement benefit provided in section five of this act.

§ 5. Notwithstanding any other provision of law, an eligible employee who is: (a) a member of a retirement system, and (b) entitled to a retirement benefit pursuant to section four of this act may retire during the open period without the reduction of his or her retirement benefit that would otherwise be imposed by article 11 or 15 of the retirement and social security law if he or she has attained the age of 55 and has completed at least 25 or more years of creditable service. An eligible employee who is covered by the provisions of articles 11 and 15 of the retirement and social security law shall retire under the provisions of articles 11 and 15 of the retirement and social security law.

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

§ 7. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 8. This act shall take effect immediately.

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

This bill would provide a temporary retirement incentive during fiscal year 2020-2021. 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 must retire during the designated 90-day open period, beginning on June 1, 2020 for educational employers. In order to be eligible, a member must be an employee of a participating 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. The cost of this incentive will be socialized across all employers.

The annual cost to the employers of members of the New York State Teachers' Retirement System for this benefit is estimated to be $39.6 million or .23% 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 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 2020-8 dated February 26, 2020 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2020 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.