

# STATE OF NEW YORK

10477--A

## IN ASSEMBLY

May 22, 2020

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Abinanti, Epstein) -- 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 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 incentive for certain public  
3 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 quali-  
8 fy 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 and local employees'  
16 retirement system and the New York state teachers' retirement system.

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

19 (c) "Participating employer" means an educational employer, the state-  
20 operated institutions of the state university of New York, and a commu-  
21 nity college operating under a program of the state university of New  
22 York, and which participates in a retirement system as defined in this  
23 section.

24 (d) "Educational employer" means a participating employer which is a  
25 school district, a board of cooperative educational services, a voca-  
26 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; who employ members who participate in  
4 the New York state teachers' retirement system and the New York state  
5 and local employees' retirement system.

6 (e) "Eligible employee" means a person who is a member of the New York  
7 State teachers' retirement system or the New York State and local  
8 employees' retirement system and who is an employee of an educational or  
9 participating employer as defined in subdivision (c) or (d) of this  
10 section.

11 (f) "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 February 1, 2020 and the commencement of the designated open  
15 period; and (iii) the period of time subsequent to the June 2020 school  
16 term and on or before August 31, 2020 for an eligible employee as  
17 defined in this act who is otherwise in active service on the effective  
18 date of this act shall be deemed active service.

19 (g) "Open period" means the period beginning with the commencement  
20 date as defined in subdivision (h) of this section; provided, however,  
21 for the state-operated institutions of the state university of New York  
22 and community colleges, the open period shall be as specified by the  
23 appropriate board of trustees, and shall be ninety days in length;  
24 provided however that there shall be only one such open period and any  
25 such period shall not extend beyond September 11, 2020 for educational  
26 employers and shall not extend beyond December 31, 2020 for the state-  
27 operated institutions of the state university of New York and community  
28 colleges. For the purposes of retirement pursuant to this act, a service  
29 retirement application must be filed with the appropriate retirement  
30 system not less than fourteen days prior to the effective date of the  
31 retirement, unless a shorter time period is permitted under law.

32 (h) "Commencement date" means the first day the retirement benefit  
33 mandated by this act shall be made available, which shall mean a date or  
34 dates on or after the effective date of this act to be determined by a  
35 participating employer; provided, however, that for an educational  
36 employer, the commencement date shall be June 30, 2020.

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

46 § 5. Notwithstanding any other provision of law, an eligible employee  
47 who is: (a) a member of a retirement system, and (b) entitled to a  
48 retirement benefit pursuant to section four of this act may retire  
49 during the open period without the reduction of his or her retirement  
50 benefit that would otherwise be imposed by article 11 or 15 of the  
51 retirement and social security law if he or she has attained the age of  
52 55 and has completed at least 25 or more years of creditable service. An  
53 eligible employee who is covered by the provisions of articles 11 and 15  
54 of the retirement and social security law shall retire under the  
55 provisions of articles 11 and 15 of the retirement and social security  
56 law.

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

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

15 § 8. This act shall take effect immediately.

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

This bill would eliminate the early retirement reductions for Tier 2, 3, 4, 5 and 6 members of the New York State and Local Employees' Retirement System (ERS) and the New York State Teachers Retirement System who have attained age 55 and have accrued 25 years of creditable service, who are employed by educational institutions and who retire within their employer's 90 day open election period, which may not extend beyond December 31, 2020.

If this bill is enacted, insofar as it affects the New York State and Local Employees' Retirement System (ERS), the additional cost for each member who receives these benefits will vary depending on the member's age, years of service, plans and final average salary. We estimate that the per-member cost could average approximately 110% of a member's final average salary.

The exact number of members who would be affected by this cannot be readily determined.

These costs would be borne entirely by the State of New York. A precise cost cannot be determined until each member is approved for retirement under the incentive. After the election deadline, a cost will be calculated (and billed to the State) based on those benefiting from this provision.

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 May 6, 2020, and intended for use only during the 2020 Legislative Session, is Fiscal Note No. 2020-112, prepared by the Actuary for the New York State and Local Retirement System.

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 open period, beginning on June 30, 2020 and not extending beyond September 11, 2020 for educational employers. In order to be eligible, a member must be an employee of a participating 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 \$42.1 million or .24% 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 2020-31 dated June 15, 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.