STATE OF NEW YORK

7449--A

2019-2020 Regular Sessions

IN ASSEMBLY

May 3, 2019

Introduced by M. of A. RAMOS -- read once and referred to the Committee on Governmental Employees -- recommitted to the Committee on Governmental Employees in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to provide a temporary retirement incentive for certain members of the New York state teachers' retirement system

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 retirement 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 teachers' retirement system.

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

(c) "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 of the deaf and of the blind as enumerated in section 4201 of the educa-

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

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tion law, or a school district as enumerated in section 1 of chapter 566 of the laws of 1967, as amended.

(d) "Eligible employee" means a person who is a member of the teachers' retirement system, who is an employee of an educational employer, 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, and who has attained the age of 55 and has at least 25 years of creditable service in the retirement system. For the purposes of this act, the term "eligible employee" shall be deemed to include building level administrators, including, but not limited to, principals and assistant principals.

(e) "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 March 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.

(f) "Open period" means the period beginning with the commencement date as defined in subdivision (g) of this section and shall be 60 days in length. For educational employers who make election after June 30, 2020, the open period shall begin immediately after such election, and shall not extend beyond August 31, 2020. For the purposes of retirement pursuant to this act, a service retirement application must be filed with the appropriate retirement system not less than 14 days prior to the effective date of retirement to become effective, unless a shorter time period is permitted under law.

(g) "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 the educational employer which elects to participate pursuant to section four of this act, but no sooner than June 30, 2020.

§ 4. On or after June 30, 2020 an educational employer may elect to provide its employees the retirement incentive authorized by this act by the adoption of a resolution of its governing body. A copy of such resolution shall be filed with the appropriate retirement system. The resolution shall be accompanied by the affidavit of the school board president or trustee or other comparable official certifying the validity of such resolution.

§ 5. Notwithstanding any other provision of law, any eligible employee serving in an eligible title who (a) has been continuously in the active service of an educational employer who has elected to participate in the retirement incentive provided in section six of this act, pursuant to section four of this act, from March 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 six of this act.

§ 6. Notwithstanding any other provision of law, any eligible employee who is: (a) a member of the teachers' retirement system, and (b) entitled to retirement benefits pursuant to section five 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 article 11 or 15 of the retirement and social security law shall retire under the provisions of article 11 or 15 of the retirement and social security law.

§ 7. The pension benefit costs of section six of this act shall be paid by employers as provided by applicable law for the retirement system covered by this act over a period not to exceed five years commencing in the state fiscal year ending March 31, 2022.

§ 8. 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 an educational employer which were negotiated prior to the effective date of this act.

§ 9. 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.

§ 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 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 for Tiers 2, 3, 4 and 5 members. Currently Tier 6 members are required to attain age 63 in order to retire without reduction regardless of the number of years of service they have. 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, 2020 and not extend beyond August 31, 2020. 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, 2022.

The estimated increase in the present value of benefits due to this temporary retirement incentive is approximately $220 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 $58.8 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 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 2020-25 dated May 19, 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.