STATE OF NEW YORK

4308--A

Cal. No. 316

2019-2020 Regular Sessions

IN SENATE

March 7, 2019

Introduced by Sen. GOUNARDES -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the retirement and social security law, in relation to criminal justice faculty employed by a community college

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

Section 1. Section 211 of the retirement and social security law is amended by adding a new subdivision 9 to read as follows:

9. Any person employed by a community college as a faculty member under a criminal justice program of the state university of New York or city university of New York who retired from public employment while a member of the New York state and local police and fire retirement system, the New York city police pension fund, or the New York city fire department pension fund and who is entitled to receive a retirement allowance from such retirement system prior to the commencement date of such employment by a community college shall automatically be deemed to have been granted a waiver of retirement earnings limitation and such person may be employed by a community college without loss, suspension or diminution of his or her retirement allowance. Any person employed by a community college as a faculty member under a criminal justice program of the state university of New York or city university of New York who has not retired as a member of the New York state and local police and fire retirement system, the New York city police pension fund, or the New York city fire department pension fund shall not automatically be deemed to have been granted a waiver of retirement earnings limitation.

§ 2. This act shall take effect immediately.

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

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

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This bill will allow certain retirees of the New York State and Local Police and Fire Retirement System (NYSLPFRS), the New York City Police Pension Fund (NYCPPF), and the New York City Fire Department Pension Fund (NYCFDPF) to work in a community college as a faculty member of a criminal justice program of the state university of New York or city university of New York to automatically be deemed to have been granted a waiver of retirement earnings limitation without loss, suspension or diminution of his or her retirement allowance. Any such person employed who has not retired from the NYSLPFRS, NYCPPF or NYCFDPF shall not automatically be deemed to have been granted a waiver of retirement earnings limitation.

If this bill is enacted, insofar as it will affect the New York State and Local Police and Fire Retirement System, we expect few retirees to be affected. There would be negligible additional annual costs. However, if large numbers of retirees are hired into such positions, there would be additional annual costs which would be shared by the state of New York and all of the participating employers in the System.

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 March 5, 2019, and intended for use only during the 2019 Legislative Session, is Fiscal Note No. 2019-87, 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 would amend Retirement and Social Security Law (RSSL) Section 211 to permit eligible retirees of the New York City Police Pension Fund (POLICE) or the New York City Fire Pension Fund (FIRE) to serve as faculty members in the criminal justice programs of the State University of New York (SUNY) or City University of New York (CUNY) by way of an automatic post-retirement earnings waiver pursuant to the provisions of RSSL Section 211.

Effective Date: Upon enactment.

IMPACT ON PENSION PAYMENTS: Currently, retirees of public pension funds and retirement systems who return to public service within New York, and do not rejoin the applicable public fund or system, are generally subject to various post-retirement earnings restrictions. Police and Fire retirees are subject to, among other things, post-retirement earnings restrictions as provided in RSSL Sections 211 and 212.

Those who elect to be covered under the provisions of RSSL Section 212 are permitted to earn post-retirement earnings from a public employer in an amount not exceeding a specific dollar limit in each calendar year without loss, suspension, or diminution of their retirement allowances. Once this dollar limit is reached, the retiree's retirement allowance 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 RSSL Section 212 post-retirement earnings limitation in effect for calendar year 2007 and each year thereafter is $30,000.

When certain exigent criteria are met and approval is given to the employer by a specially designated entity, a waiver pursuant to RSSL Section 211 may be granted, for a two-year period. Under RSSL Section 211, there is no salary restriction for reemployment with a public entity that is not the former employer.

Under the proposed legislation, if enacted, the RSSL Section 211 post-retirement public service earnings waiver would be automatically granted, without the need to satisfy the criteria currently required pursuant to RSSL Section 211, to retired Police and Fire members employed as a faculty member in a SUNY or CUNY criminal justice program.

For purposes of this fiscal note, it has been assumed that Police and Fire retirees who are or would be employed as faculty members in a SUNY or CUNY criminal justice program would not be subject to any post-retirement earnings limitation pursuant to RSSL Section 211 since they would not be working for their former employer.

For illustrative purposes only, the table below presents the estimated additional retirement allowances paid if RSSL Section 211 waivers are granted in lieu of applying RSSL Section 212 post-retirement earnings limitation for various sample combinations of post-retirement annual earnings and annual retirement allowance amounts.

Annual Retirement Allowance	Annual Post-Retirement Earnings in Calendar Year $40,000	$50,000	$60,000
$30,000	$ 7,500	$12,000	$15,000
$40,000	$10,000	$16,000	$20,000
$50,000	$12,500	$20,000	$25,000
$60,000	$15,000	$24,000	$30,000
$70,000	$17,500	$28,000	$35,000

FINANCIAL IMPACT - ANNUAL EMPLOYER CONTRIBUTIONS: In accordance with Administrative Code of the City of New York (ACCNY) Section 13-638.2(k-2), new UAL attributable to benefit changes are to be amortized as determined by the Actuary but generally over the remaining working lifetime of those impacted by the benefit changes. However, since changes in the applicable retirement allowances paid to Police and Fire 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 Police and Fire retirees who could potentially be impacted by this proposed legislation cannot be readily determined. However, the Actuary believes the increase in pension payments, if the proposed legislation is enacted, would be approximately $1.5 million to $2.0 million per year for each 100 faculty SUNY and CUNY criminal justice program positions created for eligible Police and Fire service retirees. This would result in an increase in annual employer contributions of $180,000 to $240,000 compounded each year (e.g. $240,000 in the first year, $480,000 in the second year, $720,000 in the third year, etc.) for 14 years and then will remain level thereafter, assuming 100 such faculty members are employed each year. Future years' 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.

OTHER COSTS: Not measured in this Fiscal Note are the following:

* The initial, additional administrative costs of POLICE, FIRE and other New York City agencies to implement the proposed legislation.

* The impact of this proposed legislation on Other Postemployment Benefit (OPEB) costs.

CONTRIBUTION TIMING: For the purposes of this Fiscal Note, it is assumed that the changes in the Present Value of future employer contributions and annual employer contributions would be reflected for the first time in the June 30, 2020 actuarial valuations of POLICE and FIRE. 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 Present Value of future employer contributions and annual employer contributions presented herein have been calculated based on the actuarial assumptions and methods in effect for the June 30, 2018 (Lag) actuarial valuations used to determine the Preliminary Fiscal Year 2020 employer contributions of POLICE and FIRE.

RISK AND UNCERTAINTY: The costs presented in this Fiscal Note depend highly on the actuarial assumptions and methods used and are subject to change based on the realization of potential investment, demographic, 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.

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 2019-06 dated April 11, 2019 was prepared by the Chief Actuary for the New York City Police Pension Fund and the New York City Fire Pension Fund. This estimate is intended for use only during the 2019 Legislative Session.