

STATE OF NEW YORK

9041

IN SENATE

October 9, 2020

Introduced by Sen. GOUNARDES -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to authorize employers to provide a temporary retirement incentive for certain public employees in the city of New York (Part A); and to provide an age 55/25 years temporary retirement incentive for certain public employees in the city of New York (Part B)

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 enable the city of New York to offer a temporary retirement incen-
3 tive to their employees, as well as to provide an age 55/25 years tempo-
4 rary incentive for certain public employees. Each component is wholly
5 contained within a Part identified as Parts A and B. The effective date
6 for each particular provision contained within such Part is set forth in
7 the last section of such Part. Any provision in any section contained
8 within a Part, including the effective date of the Part, which makes
9 reference to a section "of this act", when used in connection with that
10 particular component, shall be deemed to mean and refer to the corre-
11 sponding section of the Part in which it is found, unless noted other-
12 wise.

13 § 2. Legislative findings. The legislature finds and declares that the
14 retirement benefits provided for in this act are designed to achieve
15 cost-savings for public employers and to avoid layoffs of public employ-
16 ees in this time of fiscal need. Therefore, the retirement incentive
17 benefit provided for in Part A of this act and the age 55/25 years
18 retirement benefit provided for in Part B of this act are intended only
19 to be temporary in nature for employees who are eligible to receive and
20 qualify for the applicable benefit during the applicable time periods
21 specified within each Part. Further, nothing in this act shall be
22 construed to create an expectation of a future or continuing retirement
23 benefit for any public employee who is not eligible to receive and qual-
24 ify for the retirement benefits in this act during the applicable time
25 periods.

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

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1

PART A

2 Section 1. Definitions. As used in this act, unless the context clear-
3 ly requires otherwise:

4 a. "Retirement system" means the New York city teachers' retirement
5 system, the New York city board of education retirement system or the
6 New York city employees' retirement system, exclusive of the retirement
7 plans established pursuant to sections 13-156 and 13-157 of the adminis-
8 trative code of the city of New York.

9 b. "Teachers' retirement system" means the New York city teachers'
10 retirement system.

11 c. "Eligible employee" means a person who is a member of a retirement
12 system who is an employee of the city of New York, but such term shall
13 not include the following persons:

14 (a) elected officials, judges or justices appointed to or serving in a
15 court of record;

16 (b) chief administrative officers of employers which participate in a
17 teachers' retirement system;

18 (c) appointed members of boards or commissions any of whose members
19 are appointed by the governor or by another public officer or body;

20 d. "Eligible title" means any title where a certain number of posi-
21 tions in that title, as identified by agency, department, work location
22 or appointing authority of the city of New York, as the case may be,
23 would otherwise be identified for layoff but for this act because of
24 economy, consolidation or abolition of functions, curtailment of activ-
25 ities or otherwise. However, an eligible title can also include a title
26 as identified by an agency, department, work location or appointing
27 authority of the city of New York in which positions would not be elimi-
28 nated but into which employees in titles affected by layoff can be
29 transferred or reassigned pursuant to the civil service law, rule or
30 regulation. The determination of eligible titles shall be made by the
31 chief executive officer of the city of New York.

32 e. "Active service" means service while being paid on the payroll,
33 provided that (a) a leave of absence with pay shall be deemed active
34 service; (b) other approved leave without pay not to exceed twelve weeks
35 prior to the commencement of the designated open period; and (c) the
36 period of time subsequent to a June school term and on or before August
37 31 of the year for which an open period is designated for a teacher (or
38 other employee employed on a school-year basis) who is otherwise in
39 active service on the effective date of this act shall be deemed active
40 service.

41 f. "Open period" means the period beginning with the commencement date
42 as defined in subdivision g of this section and shall not be more than
43 ninety days nor less than thirty days in length, as specified by the
44 city of New York. For the purposes of retirement pursuant to this act, a
45 service retirement application must be filed with the appropriate
46 retirement system not less than fourteen days prior to the effective
47 date of retirement to become effective, unless a shorter period of time
48 is permitted under law.

49 g. "Commencement date" means the first day the retirement incentive
50 authorized by this act shall be made available, which shall mean a date
51 or dates on or after the effective date of this act to be determined by
52 the chief executive officer of the city of New York. The chief executive
53 officer shall notify the heads of the appropriate retirement systems of
54 the dates of each open period prior to the commencement dates of such
55 periods.

1 § 2. The determination of whether a title shall be considered eligible
2 shall consider whether the reduction of a specific number of positions
3 within a title would unacceptably:

4 a. Directly result in a reduction of the level of service required or
5 mandated to protect and care for clients of the city of New York or to
6 assure public health and safety;

7 b. Endanger the health or safety of employees of the city of New York;

8 or

9 c. Clearly result in a loss of significant revenue to the city of New
10 York or result in substantially increased overtime or contractual costs.
11 However, any title may be determined eligible if the vacancies created
12 can be controlled by the use of transfer or reassignment provisions of
13 the civil service law, rules or regulations or other deployment of city
14 employees.

15 § 3. a. Eligibility for inclusion in the retirement incentive provided
16 by section six of this act shall be determined by seniority for employ-
17 ees of the city of New York; seniority shall mean the date of original
18 permanent appointment in the civil service of the city adjusted to
19 include veteran's credits for those entitled to receive such credits
20 pursuant to sections 80, 80-a and 85, if applicable, of the civil
21 service law, as established in the official records of the New York city
22 department of citywide administrative services, regardless of the juris-
23 dictional classification of the position or the status of the incumbent.

24 b. All eligible employees serving in eligible titles desiring to avail
25 themselves of the retirement incentive provided by section six of this
26 act shall provide written notice to his or her employer on or before the
27 twenty-first day preceding the end of the open period. Failure to
28 provide such written notice shall render the employee ineligible for the
29 retirement incentive provided by this act.

30 § 4. a. On or after the effective date of this act, the city of New
31 York may elect to provide its employees the retirement incentive author-
32 ized by this act by the enactment of a local law, provided however, no
33 local law enacted pursuant to this section shall in any manner supersede
34 any local charter. The local law shall specify the commencement date of
35 the program and the length of the open period or periods. A copy of
36 such law shall be filed with the appropriate retirement system or
37 systems, and, if applicable, on forms provided by such system. The local
38 law or resolution shall be accompanied by the affidavit of the chief
39 executive officer certifying to the information contained in subdivision
40 c of this section.

41 b. The commencement date of an open period for eligible employees of a
42 retirement system of the city of New York who elects retirement benefits
43 pursuant to this section may be up to one hundred eighty days after the
44 end of the open period for other eligible employees, if requested by
45 such system.

46 c. Notwithstanding any other provision of law, the benefits provided
47 by this act shall not be made available to any person who (a) has
48 received any retirement incentive authorized by any provision of state
49 law, or (b) who receives, has received or is eligible to receive a
50 payment in a lump sum or in another form from a retirement incentive
51 pursuant to the provisions of a collective bargaining agreement or by
52 other arrangement with his or her employer, unless such person files a
53 written statement with his or her employer, a copy of which shall be
54 forwarded to the appropriate retirement system, that he or she agrees to
55 waive any right to such payment. If the city of New York has offered a
56 retirement incentive pursuant to the provisions of a collective bargain-

1 ing agreement or by other arrangement, such city shall prepare, and file
2 with each retirement system, a list containing the names and social
3 security numbers of all persons described in this subdivision. The city
4 is authorized, however, to exempt persons in its employ from the
5 provisions of paragraph (b) of this subdivision. Such exemption shall be
6 made part of the election made pursuant to this section.

7 § 5. Notwithstanding any other provision of law, any eligible employee
8 serving in an eligible title who:

9 a. has been continuously in the active service of the city of New York
10 prior to the commencement date of the applicable open period;

11 b. files an application for service retirement that is effective
12 during the open period; and

13 c. is otherwise eligible for a service retirement as of the effective
14 date of the application for retirement shall be entitled to the retire-
15 ment incentive provided in section six of this act. If not otherwise
16 eligible for a service retirement, the following person shall be deemed
17 to satisfy the eligibility condition of this section: a person who is at
18 least age fifty with ten or more years service as of the effective date
19 of retirement (other than a member of a retirement plan which provides
20 for half-pay pension upon completion of twenty-five years or less
21 service without regard to age); or a member of a retirement plan which
22 provides for half-pay pension upon completion of twenty-five years of
23 service without regard to age who has not accrued, excluding additional
24 credit granted pursuant to this act, the minimum number of years of
25 service required to retire with an allowance equal to fifty percent of
26 final average salary under such plan, but has, with the inclusion of the
27 additional credit provided under this act, accrued such number of years
28 of credit.

29 § 6. Notwithstanding any other provision of law, an eligible employee
30 serving in an eligible title who is a member of a retirement system of
31 the city of New York and employed by the city of New York and who is
32 entitled to a retirement incentive pursuant to section five of this act
33 shall receive a retirement incentive of one-twelfth of a year of addi-
34 tional retirement credit for each year of pension service credited as of
35 the date of retirement, up to a maximum of three years of retirement
36 service credit at the time of retirement, provided, however, that
37 service credit provided under the provisions of sections 902 and 911 of
38 the retirement and social security law shall not be included when calcu-
39 lating the additional retirement credit awarded pursuant to this act.
40 For the New York city teachers' retirement system, the New York city
41 employees' retirement system and the New York city board of education
42 retirement system such incentive shall be available for all purposes,
43 including fulfilling the qualifying service requirements of plan A and
44 C, if applicable.

45 An eligible employee who is covered by the provisions of article 15 of
46 the retirement and social security law shall retire under the provisions
47 of article 15 of the retirement and social security law. The amount of
48 such benefit for an eligible employee who is covered by article 15 of
49 the retirement and social security law and retires under the provisions
50 of this section (other than a member with thirty or more years of
51 service in the New York city employees' retirement system, the New York
52 city teachers' retirement system, or the New York city board of educa-
53 tion retirement system) shall be reduced by six percent for each of the
54 first two years by which retirement precedes age sixty-two, plus a
55 further reduction of three percent for each year by which retirement
56 precedes age sixty, provided, however, the foregoing reductions shall

1 not apply: (i) in any case where an eligible employee can retire after
2 twenty-five years of service with immediate payability prior to the age
3 of sixty-two pursuant to section 604-b of the retirement and social
4 security law or (ii) to any time period subsequent to the point at which
5 an eligible employee can retire for service without reduction of his or
6 her service retirement allowance pursuant to article 16 of the retire-
7 ment and social security law. Such reduction shall be prorated for
8 partial years. The amount of such benefit for an eligible employee with
9 thirty or more years of service who is a member of the New York city
10 employees' retirement system, the New York city teachers' retirement
11 system, or the New York city board of education retirement system, or an
12 eligible employee who is a participant in the optional twenty-five year
13 early retirement program for certain New York city members governed by
14 section 604-c of the retirement and social security law, as added by
15 chapter 96 of the laws of 1995 or a twenty-five year participant in the
16 age fifty-five retirement program governed by section 604-i of the
17 retirement and social security law, with twenty-five or more years of
18 service and who is covered by article 15 of the retirement and social
19 security law shall be reduced by five percent for each year by which
20 retirement pursuant to this section precedes age fifty-five. The amount
21 of such benefit for an eligible New York city employee with five or more
22 years of service and who is a participant in the age fifty-seven retire-
23 ment program governed by section 604-d of the retirement and social
24 security law shall be reduced by one-thirtieth for the first two years
25 by which retirement precedes age fifty-seven plus a further reduction of
26 one-twentieth for each year by which retirement precedes age fifty-five.
27 Such reduction shall be prorated for partial years. There shall be no
28 reduction for an eligible New York city employee in a physically taxing
29 position with twenty-five or more years of service and who is a partic-
30 ipant (i) in the optional twenty-five year early retirement program for
31 certain members governed by section 604-c of the retirement and social
32 security law, as added by chapter 96 of the laws of 1995, or (ii) in the
33 age fifty-seven retirement program governed by section 604-d of the
34 retirement and social security law.

35 An eligible employee serving in an eligible title who is covered by
36 article 11 of the retirement and social security law shall retire under
37 the provisions of such article. There shall be no reduction in retire-
38 ment benefit provided that such employee retires with thirty or more
39 years of service at age fifty-five or older.

40 An eligible employee serving in an eligible title who is not covered
41 by article 11 or 15 of the retirement and social security law shall
42 retire under the provisions of the plan by which he or she is covered.
43 The amount of such benefit shall be reduced by five percent for each
44 year by which retirement pursuant to this section precedes age fifty-
45 five, provided, however, the foregoing reductions shall not apply: (i)
46 in any case where an eligible employee can retire pursuant to a plan
47 which permits retirement for service with immediate payability, exclu-
48 sive of this act, prior to the age of fifty-five or (ii) to any time
49 period subsequent to the point at which an eligible employee can retire
50 for service without reduction of his or her service retirement allowance
51 pursuant to article 16 of the retirement and social security law. Such
52 reduction shall be prorated for partial years.

53 An eligible employee serving in an eligible title who participates in
54 a retirement plan which provides for a retirement allowance equal to
55 fifty percent of final average salary upon the completion of twenty-five
56 years of service without regard to age and who is otherwise eligible to

1 retire shall retire under the provisions of such plan. Such employee
2 shall, at the time of retirement, be credited with one-twelfth of a year
3 of additional retirement service credit for each year of service credit-
4 ed under such plan as of the date of retirement, up to a maximum of
5 three years of retirement service credit. If such employee has not
6 accrued, excluding additional credit granted pursuant to this act, the
7 minimum number of years of service required to retire with an allowance
8 equal to fifty percent of final average salary under such plan, but has,
9 with the inclusion of the additional credit provided under this act,
10 accrued such number of years of credit, the benefit payable shall be the
11 percentage of final average salary that would ordinarily be applicable
12 to such individual upon retirement with such amount of credit (including
13 incentive credit), reduced by five per centum per year for each year by
14 which the number of years of service otherwise required to retire with
15 an allowance equal to fifty percent of final average salary under such
16 plan exceeds the amount of service credited to such employee under such
17 plan at retirement (excluding the additional retirement incentive
18 service credit provided pursuant to this act). Such reduction shall be
19 prorated for partial years.

20 § 7. a. Notwithstanding any other provision of law, any termination
21 pay or leave arising from accrued sick leave or accrued annual leave for
22 an eligible employee who has elected the retirement incentive provided
23 by this act and who is a member of the New York city teachers' retire-
24 ment system employed by the board of education of the city of New York
25 shall be paid in three equal installments during a twenty-four month
26 period commencing on such eligible employee's effective date of retire-
27 ment.

28 b. An employee of the city of New York who retires under the retire-
29 ment incentive provided by this act, who is eligible for terminal leave
30 pursuant to an applicable collective bargaining agreement or a personnel
31 policy or rule or retirement leave pursuant to section 3107 of the
32 education law or who has an accrued annual leave balance on the effec-
33 tive date of retirement shall be paid in three equal installments two
34 months, fourteen months and twenty-four months following such eligible
35 employee's effective date of retirement.

36 § 8. a. The city of New York, if it elects the retirement incentive
37 provided by this act shall be required to demonstrate the savings of
38 their election by either eliminating positions vacated as a result of an
39 eligible employee in an eligible title receiving the incentive provided
40 by section six of this act or demonstrating a compensation savings such
41 that the total amount of base salary paid for the two-year period subse-
42 quent to the effective date of retirement for such eligible employees in
43 eligible titles to new hires, if any, who otherwise would not have been
44 hired by such employer after the effective date of this act but for the
45 retirement incentive provided herein shall be no more than one-half of
46 the total amount of base salary that would have been paid to such eligi-
47 ble employees from their date of retirement for such two-year period.
48 The city may also demonstrate savings, however, by identifying a vacant
49 position into which another employee can be appointed, transferred, or
50 reassigned pursuant to the civil service law, rules or regulations, in
51 which case the former position of the employee so appointed, trans-
52 ferred, or reassigned shall be eliminated. The city shall make avail-
53 able its plans for achieving the savings described herein.

54 b. The New York city department of citywide administrative services
55 shall prepare a report designating the title, grade level, salary, and
56 classification, according to appointing authority, (i) of each position

1 which is eliminated pursuant to subdivision a of this section, (ii) of
2 each position into which another employee was appointed, transferred, or
3 reassigned and the former position of such employee, and (iii) of each
4 position which is eliminated as a result of an appointment, transfer or
5 reassignment referred to in paragraph (ii) of this subdivision. Such
6 report shall be available no later than ninety days after the last date
7 of the open period related to such positions.

8 § 9. Nothing in this act shall be used to provide benefits that shall
9 exceed the limits contained in section 415 of the internal revenue code.
10 Provided, however, any service retirement benefit which has been reduced
11 because of section 415 of the internal revenue code shall be increased
12 when (and consistent with) the dollar limits in section 415 of the
13 internal revenue code are adjusted by the internal revenue service for
14 cost of living increases. Such increases shall not increase the benefit
15 in excess of the service retirement benefit otherwise payable.

16 § 10. Any eligible employee who retires pursuant to the provisions of
17 this act and enters or reenters public service as defined in subdivision
18 e of section 210 of the retirement and social security law and joins or
19 rejoins any public retirement system of the city of New York shall if
20 the additional benefit was provided pursuant to: (a) section six of this
21 act, forfeit the additional benefit authorized by this act at the time
22 of his or her subsequent retirement; or (b) repay to the city such addi-
23 tional contribution together with the appropriate interest as determined
24 by the appropriate retirement system.

25 § 11. Notwithstanding any other provision of law, if the service
26 retirement benefit of a member of a retirement system is subject to a
27 maximum retirement benefit, the additional benefit authorized by this
28 act will be computed by multiplying the final average salary times the
29 number of years of service credit granted by section six of this act
30 times the benefit fraction of the plan under which such member retires.

31 § 12. The provisions of section 430 of the retirement and social secu-
32 rity law shall not apply to any benefit or benefit improvement provided
33 by this act.

34 § 13. The pension benefit costs of section six of this act shall be
35 paid by the city of New York as provided by applicable law for each
36 retirement system covered by this act over a period not to exceed five
37 years commencing in the fiscal year following the fiscal year in which
38 this act shall have become a law.

39 § 14. Where an employee is eligible to receive the benefit authorized
40 under section six and the retirement benefit provided for under section
41 five of part B of this act, such employee may elect a section under
42 which he or she will participate. In no event shall the benefits
43 provided for in section six of this act be received by any employee in
44 conjunction with the benefits of section five of part B of this act.

45 § 15. This act shall take effect immediately.

46 PART B

47 Section 1. Definitions. As used in this act, unless the context clear-
48 ly requires otherwise:

49 a. "Retirement system" means the New York city teachers' retirement
50 system, the New York city board of education retirement system or the
51 New York city employees' retirement system, exclusive of the retirement
52 plans established pursuant to sections 13-156 and 13-157 of the adminis-
53 trative code of the city of New York.

54 b. "Teachers' retirement system" means the New York city teachers'
55 retirement system.

1 c. "Eligible employee" means a person who is a member of a retirement
2 system of the city of New York who has attained age fifty-five and has
3 at least twenty-five years of creditable service in a retirement system,
4 but such term shall not include the following persons:

5 (a) elected officials, judges or justices appointed to or serving in
6 court of record;

7 (b) chief administrative officers of employers which participate in a
8 teachers' retirement system;

9 (c) appointed members of boards or commissions any of whose members
10 are appointed by the governor or by another public officer or body;

11 d. "Active service" means service while being paid on the payroll,
12 provided that (a) a leave of absence with pay shall be deemed active
13 service; (b) other approved leave without pay not to exceed twelve weeks
14 prior to and the commencement of the designated open period; and (c) the
15 period of time subsequent to a June school term and on or before August
16 31 of the year for which an open period is designated for a teacher (or
17 other employee employed on a school-year basis) who is otherwise in
18 active service on the effective date of this act shall be deemed active
19 service.

20 e. "Open period" means the period beginning with the commencement date
21 as defined in subdivision f of this section and shall be ninety days in
22 length, as specified by the city of New York. For the purposes of
23 retirement pursuant to this act, a service retirement application must
24 be filed with the appropriate retirement system not less than fourteen
25 days prior to the effective date of retirement to become effective,
26 unless a shorter period of time is permitted under law.

27 f. "Commencement date" means the first day the retirement benefit
28 mandated by this act shall be made available, which shall mean a date or
29 dates on or after the effective date of this act to be determined by the
30 chief executive officer of the city of New York. The chief executive
31 officer shall notify the head of the appropriate retirement system of
32 the date of the open periods prior to the commencement dates of such
33 periods.

34 § 2. The city of New York, if it elects to participate pursuant to
35 section three of this act shall establish a commencement date for the
36 retirement benefit established under section five of this act by the
37 chief executive officer issuing an executive order establishing such
38 commencement date, provided, however, no executive order shall in any
39 manner supersede any local charter. A copy of any such executive order
40 establishing a commencement date shall be filed with the appropriate
41 retirement system or systems, and, if applicable, on forms provided by
42 such system. The executive order shall be accompanied by the affidavit
43 of the chief executive officer certifying the commencement date.

44 § 3. a. On or after the effective date of this act, the city of New
45 York may elect to provide its employees the retirement incentive author-
46 ized by this act by the enactment of a local law provided however, no
47 local law enacted pursuant to this section shall in any manner supersede
48 any local charter. A copy of such law or resolution shall be filed with
49 the appropriate retirement system or systems, and, if applicable, on
50 forms provided by such system. The local law shall be accompanied by the
51 affidavit of the chief executive officer certifying the validity of such
52 law.

53 b. The commencement date of an open period for eligible employees of a
54 retirement system of the city of New York who elects retirement benefits
55 pursuant to this section may be up to one hundred eighty days after the

1 end of the open period for other eligible employees, if requested by
2 such system.

3 § 4. Notwithstanding any other provision of law, any eligible employee
4 who (a) has been continuously in the active service of the city of New
5 York prior to the commencement date of the applicable open period, (b)
6 files an application for service retirement that is effective during the
7 open period, and (c) is otherwise eligible for a service retirement as
8 of the effective date of the application for retirement shall be enti-
9 tled to the retirement benefit provided in section five of this act.

10 § 5. a. Notwithstanding any other provision of law, an eligible
11 employee who is: (a) a member of a retirement system of the city of New
12 York and employed by the city of New York and (b) who is entitled to a
13 retirement benefit pursuant to section four of this act may retire
14 during the open period without the reduction of his or her retirement
15 benefit that would otherwise be imposed by article 11 or 15 of the
16 retirement and social security law if he or she has attained the age of
17 fifty-five and has completed at least twenty-five or more years of cred-
18 itable service. An eligible employee who is covered by the provisions of
19 articles 11 and 15 of the retirement and social security law shall
20 retire under the provisions of articles 11 and 15 of the retirement and
21 social security law.

22 b. The chief executive officer of the city of New York may deny
23 participation in the retirement benefit provided by subdivision a of
24 this section if the chief executive officer makes a determination that
25 the employee holds a position that is deemed critical to the maintenance
26 of public health and safety.

27 c. Where an employee is eligible for the retirement benefit under this
28 section and the retirement incentive authorized pursuant to section six
29 of part A of this act, such employee shall elect a section under which
30 he or she will participate. The benefits provided by subdivision a of
31 this section shall not be conditioned upon the city of New York making
32 the benefits of section six of part A of this act available to employees
33 in their employ. Further, the benefits provided by subdivision a of this
34 section shall not be available in conjunction with the benefits of
35 section six of part A of this act.

36 d. The action of the chief executive officer of the city of New York
37 in denying the retirement benefit provided for in subdivision a of this
38 section to any individual shall be subject to review in the manner
39 provided for in article 78 of the civil practice law and rules. Such
40 action for review pursuant to article 78 of the civil practice law and
41 rules shall only be commenced by the individual that was denied the
42 retirement benefit provided by subdivision a of this section.

43 e. After making any such determination under subdivision b of this
44 section the chief executive officer of the city of New York shall notify
45 the appropriate retirement system or teachers' retirement system of its
46 determination.

47 § 6. The pension benefit costs of section five of this act shall be
48 paid by the city of New York as provided by applicable law for each
49 retirement system covered by this act over a period not to exceed five
50 years commencing in the fiscal year following the fiscal year in which
51 this act shall have become a law.

52 § 7. This act shall take effect immediately.

53 § 3. Severability clause. If any clause, sentence, paragraph, subdivi-
54 sion, section or part of this act shall be adjudged by any court of
55 competent jurisdiction to be invalid, such judgment shall not affect,
56 impair, or invalidate the remainder thereof, but shall be confined in

1 its operation to the clause, sentence, paragraph, subdivision, section
2 or part thereof directly involved in the controversy in which such judg-
3 ment shall have been rendered. It is hereby declared to be the intent of
4 the legislature that this act would have been enacted even if such
5 invalid provisions had not been included herein.

6 § 4. This act shall take effect immediately; provided, however, that
7 the applicable effective date of Parts A and B of this act shall be as
8 specifically set forth in the last section of such Parts.

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

SUMMARY OF BILL: This proposed legislation, as it relates to the New York City Retirement Systems (NYCRS), would provide for a temporary Early Retirement Incentive Program (ERI Program) to allow certain members of the New York City Employees' Retirement System (NYCERS), the New York City Teachers' Retirement System (TRS), and the New York City Board of Education Retirement System (BERS), who are employees of the City of New York (City) and meet enumerated criteria, to elect immediate retirement with enhanced benefits.

The ERI Program consists of two parts and is contingent upon the City's election to participate in the Program. Part A would provide to eligible members, determined by title, seniority, and enumerated policy considerations, an additional service credit. Part B would remove the application of early retirement reduction factors for qualifying members. The benefits of the respective Parts cannot be combined.

Eligible NYCRS members would have anywhere from 30 to 90 days in an open period to elect and retire under Part A or within a 90-day open period following the commencement date to retire under Part B of the ERI Program. Multiple open periods, not to exceed 180 days from the end of an open period for other employees, may be requested by the NYCRS. Should the City elect to participate in the ERI Program provided by this Act, it would be required to demonstrate the savings related to the election.

A member is eligible to participate in Part A of the ERI Program if he or she:

- * Is otherwise eligible for service retirement;
- * Is at least age 50 with 10 or more years of service and is not in a plan which permits retirement at half-pay with 25 or fewer years of service without regard to age; or
- * Is in a plan that permits retirement at half-pay at 25 years of service without regard to age and would reach 25 years of service considering the additional service credit provided in Part A.

A member is eligible to participate in Part B of the ERI Program if he or she is age 55 or older and has at least 25 years of service.

In addition to the eligibility conditions above, members must also:

- * Be in continuous active service preceding the commencement date of the open period;
- * For Part A - provide timely written notice of the intent to avail himself or herself of the ERI and file for service retirement that is effective within the open period;
- * For Part B - file for service retirement that is effective within the open period and otherwise be eligible to retire for service as of the effective date of retirement.

Effective Date: Upon enactment and as determined by the respective open periods contained in Parts A and B.

IMPACT ON BENEFITS: Part A would provide one-twelfth of a year of additional retirement service credit for each year of pension service, up to a maximum of three years of additional retirement service credit.

Some benefits provided under Part A could be subject to Early Retirement Factors (ERF) as specified in the proposed legislation.

Part B would allow members to retire with an unreduced benefit if they are at least age 55 with 25 or more years of service.

FINANCIAL IMPACT - OVERVIEW: There is no credible data available to estimate the number of members who will retire under the current ERI Program and potentially benefit from this proposed legislation. Therefore, the estimated financial impact has been calculated on a per event basis equal to the average increase in the Present Value of future employer contributions and in the annual employer contributions for members who would benefit from the proposed legislation.

The Present Value of future employer contributions is the net result of the increase in the Present Value of Future Benefits (PVFB) and the decrease in the Present Value of member contributions.

For the purposes of this Fiscal Note, the increase in Present Value of future employer contributions was amortized over a five-year period (four payments under the One-Year Lag Methodology (OYLM)) using level dollar payments, the maximum allowable period under the proposed legislation. This amortized value is the estimated increase in annual employer contributions.

There will also be future savings in Employer Contributions assuming that these members are not replaced. This additional savings is not included here.

With respect to an individual member, the additional cost of this proposed legislation could vary greatly depending on the member's length of service, age, and salary history.

FINANCIAL IMPACT - SUMMARY: Based on the census data and the actuarial assumptions and methods described herein, the enactment of this proposed legislation would result in an increase in the Present Value of Employer Contributions and annual employer contributions. The estimated pension financial impact has been calculated as the average increase per person. A breakdown of the financial impact by NYCERS is shown in the table below:

NYCERS	Additional Present Value of Future Employer Contributions (\$ Per Person)	Estimated Annual Employer Contributions (\$ Per Person)
Part A Only		
NYCERS	\$78,000	\$23,800
TRS	82,200	25,100
BERS	37,300	11,400
Average	\$75,500	\$23,100
Part B Only		
NYCERS	\$109,800	\$33,500
TRS	65,600	20,000
BERS	95,100	29,000
Average	\$105,500	\$32,200
Both A & B		
NYCERS	\$93,400	\$28,500
TRS	82,400	25,200
BERS	43,200	13,200
Average	\$85,100	\$26,000

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 Final June 30, 2019 actuarial valuations of NYCERS, TRS, and BERS. In accordance with the OYLM used to determine employer contributions, the increase in employer contributions would first be reflected in Fiscal Year 2021.

CENSUS DATA: The estimates presented herein are based on the census data used in the Preliminary June 30, 2019 (Lag) actuarial valuations of NYCERS, TRS, and BERS to determine the Preliminary Fiscal Year 2021 employer contributions.

The table below contains the census data for members who meet the eligibility requirements and would be impacted by the proposed legislation (Potential Elections), and for a subset of those members who would benefit actuarially (Assumed to Elect).

NYCRS		Potential Elections		
Part A Only	Count	Avg Age	Avg Svc	Avg Salary
NYCERS	34,147	58.5	22.3	\$83,900
TRS	31,727	57.7	21.2	101,300
BERS	9,736	60.2	15.8	49,900
Total	75,610	58.4	21.0	\$86,800
Part B Only	Count	Avg Age	Avg Svc	Avg Salary
NYCERS	5,990	58.2	30.2	\$88,600
TRS	569	58.0	26.9	110,100
BERS	430	58.6	29.5	72,700
Total	6,989	58.2	29.9	\$89,400
Both A & B	Count	Avg Age	Avg Svc	Avg Salary
NYCERS	34,147	58.5	22.3	\$83,900
TRS	31,727	57.7	21.2	101,300
BERS	9,736	60.2	15.8	49,900
Total	75,610	58.4	21.0	\$86,800
Assumed to Elect				
	Count	Avg Age	Avg Svc	Avg Salary
	19,077	60.4	26.4	\$87,600
	11,372	61.2	27.1	109,100
	3,218	63.6	21.8	51,900
	33,667	61.0	26.2	\$91,400
	Count	Avg Age	Avg Svc	Avg Salary
	5,941	58.2	30.2	\$88,400
	530	57.9	26.9	109,900
	423	58.6	29.5	71,500
	6,894	58.2	29.9	\$89,000
	Count	Avg Age	Avg Svc	Avg Salary
	20,035	60.2	26.5	\$88,000
	11,525	61.2	27.1	109,200
	3,231	63.5	21.8	52,200
	34,791	60.8	26.3	\$91,700

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, 2019 (Lag) actuarial valuations

used to determine the Preliminary Fiscal Year 2021 employer contributions of NYCERS, TRS, and BERS.

To determine the impact of the elective nature of the proposed legislation, a subgroup based on who could potentially benefit actuarially was used. The Present Value of future employer costs (i.e. the PVFB less the Present Value of future member contributions) of each member's benefit was determined under their current plan and as if retiring immediately under the ERI Program. If the Present Value of future employer cost under the ERI Program was greater than or equal to the Present Value of future employer cost under the member's current plan, then the member was deemed to benefit actuarially.

Based on this analysis, the costs presented in this Fiscal Note are borne only from current NYCERS, TRS, and BERS members who are employed by the City and assumed to benefit from, and thus opt to retire under, the ERI Program.

RISK AND UNCERTAINTY: The costs presented in this Fiscal Note depend highly on the realization of the actuarial assumptions used, as well as certain demographic characteristics of NYCERS, TRS, and BERS, and other exogenous factors such as investment, 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.

Not measured in this Fiscal Note are the following:

- * The offsetting reduction in salary due to retirements earlier than expected.

- * The impact of potential new hires replacing members who retire due to the ERI Program.

- * The initial, additional administrative costs to implement the proposed legislation.

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

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 2020-61 dated September 16, 2020 was prepared by the Chief Actuary for the New York City Employees' Retirement System, the New York City Teachers' Retirement System, and the New York City Board of Education Retirement System. This estimate is intended for use only during the 2020 Legislative Session.