STATE OF NEW YORK

8172--A

2021-2022 Regular Sessions

IN ASSEMBLY

July 7, 2021

Introduced by M. of A. CUSICK -- 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 amend the general municipal law, in relation to allowing certain members of the New York city fire department pension fund to receive a membership date in the New York city fire department pension fund attributable to service in the titles of police cadet program or police cadet program II in the New York city police department cadet program

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

Section 1. Section 209-fff of the general municipal law, as added by chapter 431 of the laws of 2019, is amended to read as follows:

§ 209-fff. Provisions relating to a membership date in the New York city police pension fund **or the fire department pension fund** attributable to service in the titles of police cadet program and police cadet program II in the New York city police department cadet program. 1. Notwithstanding any provision of law to the contrary, upon election, any member of the New York city police pension fund **or the New York city fire department pension fund** who is subject to article fourteen of the retirement and social security law, and who served in the New York city police department cadet program in the title of police cadet program or police cadet program II prior to April first, two thousand twelve, but did not join the New York city employees' retirement system while serving in either such title, may purchase credit for the period of service in such titles in the New York city police department cadet program by paying into the New York city police pension fund **or the New York city fire department pension fund** all member contributions plus interest, at a rate of five percent per annum, which would have been payable to the

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

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New York city employees' retirement system under any provision of law had such member joined the New York city employees' retirement system on the earliest date that he or she was appointed to the title of police cadet program or police cadet program II in the New York city police department cadet program, provided such payment is made within five years after the effective date of this section.

2. Any member of the New York city police pension fund **or the New York city fire department pension fund** who acquires service credit pursuant to this section shall be entitled to all rights, benefits and privileges to which he or she would have been entitled had his or her membership in the New York city police pension fund **or the New York city fire department pension fund** begun upon the earliest date that he or she was appointed to the title of police cadet program or police cadet program II in the New York city police department cadet program, but in no event shall the service credit acquired pursuant to this section be deemed to be**: (a)** service in the police force or any other type of service counted or creditable as service in the police force under section 13-218 of the administrative code of the city of New York[~~.~~]**; (b) service in the fire department of the city of New York or any other type of service counted or credible as service in such fire department under section 13-318 of the administrative code of the city of New York; or (c) service under** section five hundred thirteen of the retirement and social security law or any other provision of law for purposes of eligibility for benefits and to determine the amount of benefits under the New York city police pension fund **or the New York city fire department pension fund**.

§ 2. This act shall take effect immediately.

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

SUMMARY OF BILL: This proposed legislation would amend Section 209-fff of the General Municipal Law (GML) to allow New York City Fire Pension Fund (FIRE) members subject to Article 14 of the Retirement and Social Security Law (RSSL) (Tier 3, Tier 3 Modified, and Tier 3 Enhanced) to purchase prior service as a cadet in the New York Police Department (NYPD) and use the appointment date as a cadet to determine the initial date of FIRE membership for plan or tier eligibility provided such purchase of service is made within five years of October 29, 2019.

Effective Date: Upon enactment.

BACKGROUND: Currently, the purchase of prior NYPD cadet service performed while not a member of the New York City Employees' Retirement System (NYCERS) does not provide a retroactive date of membership in FIRE, nor would it provide additional service retirement benefits for members subject to Article 14 of the RSSL.

IMPACT ON BENEFITS: Under the proposed legislation, if enacted, purchased NYPD cadet service performed while not a member of NYCERS would entitle such member with a cadet service date before July 1, 2009 to be deemed a Tier 2 member with all the rights and privileges of such Tier, and such service would be included in the calculation of benefits as non-qualifying service credit.

Also, under the proposed legislation, if enacted, purchased NYPD cadet service would entitle members with cadet service between July 1, 2009 and April 1, 2012 who joined FIRE after April 1, 2012 as a Tier 3 Modified or Enhanced member to be deemed an original Tier 3 member with all the rights and privileges of a member who joined such Tier prior to April 1, 2012.

IMPACT ON PAYABILITY: Since eligibility for FIRE benefits are based on tier or plan, including cadet service towards tier or plan, eligibility

would increase and/or accelerate the payability date of benefits in accordance with applicable earlier tiers or plans.

ADDITIONAL MEMBER CONTRIBUTIONS: For cadets who did not join NYCERS, the member would have to pay member contributions that would have been payable to NYCERS had they joined on their initial cadet appointment date, plus 5.0% annual interest.

Member contributions for FIRE are determined by tier and plan as follows:

* Tier 2 - contribution rates are based on entry age.
* Tier 3 and Tier 3 Modified - Basic Member Contributions (BMC) of 3.0%.
* Tier 3 Enhanced - BMC of 3.0% plus Additional Member Contributions currently equal to 2.1%. The additional contribution rate of 2.1% can be raised to 3.0% based on a financial analysis performed by the Actuary every three years. At no time can the total contribution rate exceed 6.0%.

FINANCIAL IMPACT - OVERVIEW: There is no data available to estimate the number of FIRE members who have prior service as a cadet and would potentially benefit from this proposed legislation. Therefore, the estimated financial impact has been calculated on a per event basis for an average FIRE member who is either currently a Tier 3 member and could benefit from the enactment of this proposed legislation by being deemed a Tier 2 member, or is currently a Tier 3 Modified or Enhanced member who could benefit by being deemed an original Tier 3 member.

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 - PRESENT VALUES: Based on the census data and the actuarial assumptions and methods described herein, the enactment of this proposed legislation would increase the Present Value of Future Benefits (PVFB) by an amount which would depend on the Tier granted by the purchase of prior cadet service.

For a Tier 3 member who purchases cadet service and is deemed a Tier 2 member, the enactment of this proposed legislation would increase the PVFB by approximately $315,900, on average, for each member. The proposed legislation would also decrease the Present Value of member contributions by approximately $46,500, on average, after taking into account the cost of the buyback, for a net result of an average increase in the Present Value of future employer contributions of approximately $362,400.

Under the Entry Age Normal cost method used to determine the employer contributions to FIRE, there would be an average increase in the Unfunded Accrued Liability (UAL) of approximately $59,800 and an average increase in the Present Value of future employer Normal Cost of $302,600.

For a Tier 3 Modified or Enhanced member who purchases cadet service and is deemed an original Tier 3 member, the enactment of this proposed legislation would increase the PVFB by approximately $12,600, on average, for each member. The proposed legislation would also increase the Present Value of member contributions by approximately $1,500, on average, after taking into account the cost of the buyback, for a net result of an average increase in the Present Value of future employer contributions of approximately $11,100.

Under the Entry Age Normal cost method used to determine the employer contributions to FIRE, there would be an average increase in the UAL of

approximately $700 and an average increase in the Present Value of future employer Normal Cost of $10,400.

FINANCIAL IMPACT - ANNUAL EMPLOYER CONTRIBUTIONS: Enactment of this proposed legislation would increase employer contributions, where such amount would depend on the number of members affected as well as other characteristics including the age, years of service, and salary history of the member.

As there is no data currently available to estimate the number of members who might benefit from the proposed legislation, the financial impact would be recognized at the time of event. Consequently, changes in employer contributions have been estimated assuming that the increase in the UAL will be financed over the same time period used for actuarial losses in accordance with Section 13-638.2(k-2) of the Administrative Code of the City of New York. Using this approach, the additional UAL would be amortized over a closed 15-year period (14 payments under the One-Year Lag Methodology) using level dollar payments.

For the purposes of this Fiscal Note, the UAL payment plus the increase in the Normal Cost results in an increase in annual employer contributions of approximately $25,700, on average, for each member who is deemed a Tier 2 member, and of approximately $700, on average, for each member who is deemed an original Tier 3 member.

With respect to the timing, increases in employer contributions would depend upon when members purchase their prior cadet service but, generally, increased employer contributions will first occur the second fiscal year following the processing of the member's buyback application.

CENSUS DATA: The estimates presented herein are based on the census data used in the June 30, 2021 (Lag) actuarial valuation of FIRE to determine the Preliminary Fiscal Year 2023 employer contributions.

There are 2,849 active FIRE members as of June 30, 2021 who are currently in Tier 3, Tier 3 Modified, or Tier 3 Enhanced and could potentially benefit from the proposed legislation by being deemed a Tier 2 member (i.e., age 30 and older). These active members had an average age of approximately 34.1 years, average service of approximately 5.5 years, and an average salary of approximately $107,000.

There are 3,325 active FIRE members as of June 30, 2021 who are currently in Tier 3 Modified or Tier 3 Enhanced and could potentially benefit from the proposed legislation by being deemed an original Tier 3 member (i.e., age 27 and older). These active members had an average age of approximately 32.7 years, average service of approximately 4.8 years, and an average salary of approximately $99,000.

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 Preliminary June 30, 2021 (Lag) actuarial valuations used to determine the Preliminary Fiscal Year 2023 employer contributions of FIRE. Additionally, 1.2 years of cadet service was assumed based on the amount of cadet service previously purchased by members of the New York City Police Pension Fund.

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 FIRE 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:

* Future purchases of non-qualifying service by members who would be deemed Tier 2 were this bill to pass.

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

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

STATEMENT OF ACTUARIAL OPINION: I, Michael J. Samet, am the Interim Chief Actuary for, and independent of, the New York City Retirement Systems and Pension Funds. I am a Fellow of the Society of Actuaries and a Member of the American Academy of 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 2022-39 dated April 29, 2022 was prepared by the Interim Chief Actuary for the New York City Fire Pension Fund. This estimate is intended for use only during the 2022 Legislative Session.