

STATE OF NEW YORK

4170

2021-2022 Regular Sessions

IN SENATE

February 2, 2021

Introduced by Sens. GOUNARDES, BAILEY, BENJAMIN, JACKSON, PARKER, RAMOS, SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

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

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

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1 benefit for any public employee who is not eligible to receive and qual-
2 ify for the retirement benefits in this act during the applicable time
3 periods.

4 PART A

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

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

12 b. "Teachers' retirement system" means the New York city teachers'
13 retirement system.

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

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

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

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

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

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

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

52 g. "Commencement date" means the first day the retirement incentive
53 authorized by this act shall be made available, which shall mean a date
54 or dates on or after the effective date of this act to be determined by

1 the chief executive officer of the city of New York. The chief executive
2 officer shall notify the heads of the appropriate retirement systems of
3 the dates of each open period prior to the commencement dates of such
4 periods.

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

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

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

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

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

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

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

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

50 c. Notwithstanding any other provision of law, the benefits provided
51 by this act shall not be made available to any person who (a) has
52 received any retirement incentive authorized by any provision of state
53 law, or (b) who receives, has received or is eligible to receive a
54 payment in a lump sum or in another form from a retirement incentive
55 pursuant to the provisions of a collective bargaining agreement or by
56 other arrangement with his or her employer, unless such person files a

1 written statement with his or her employer, a copy of which shall be
2 forwarded to the appropriate retirement system, that he or she agrees to
3 waive any right to such payment. If the city of New York has offered a
4 retirement incentive pursuant to the provisions of a collective bargain-
5 ing agreement or by other arrangement, such city shall prepare, and file
6 with each retirement system, a list containing the names and social
7 security numbers of all persons described in this subdivision. The city
8 is authorized, however, to exempt persons in its employ from the
9 provisions of paragraph (b) of this subdivision. Such exemption shall be
10 made part of the election made pursuant to this section.

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

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

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

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

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

49 An eligible employee who is covered by the provisions of article 15 of
50 the retirement and social security law shall retire under the provisions
51 of article 15 of the retirement and social security law. The amount of
52 such benefit for an eligible employee who is covered by article 15 of
53 the retirement and social security law and retires under the provisions
54 of this section (other than a member with thirty or more years of
55 service in the New York city employees' retirement system, the New York
56 city teachers' retirement system, or the New York city board of educa-

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

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

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

1 An eligible employee serving in an eligible title who participates in
2 a retirement plan which provides for a retirement allowance equal to
3 fifty percent of final average salary upon the completion of twenty-five
4 years of service without regard to age and who is otherwise eligible to
5 retire shall retire under the provisions of such plan. Such employee
6 shall, at the time of retirement, be credited with one-twelfth of a year
7 of additional retirement service credit for each year of service credit-
8 ed under such plan as of the date of retirement, up to a maximum of
9 three years of retirement service credit. If such employee has not
10 accrued, excluding additional credit granted pursuant to this act, the
11 minimum number of years of service required to retire with an allowance
12 equal to fifty percent of final average salary under such plan, but has,
13 with the inclusion of the additional credit provided under this act,
14 accrued such number of years of credit, the benefit payable shall be the
15 percentage of final average salary that would ordinarily be applicable
16 to such individual upon retirement with such amount of credit (including
17 incentive credit), reduced by five per centum per year for each year by
18 which the number of years of service otherwise required to retire with
19 an allowance equal to fifty percent of final average salary under such
20 plan exceeds the amount of service credited to such employee under such
21 plan at retirement (excluding the additional retirement incentive
22 service credit provided pursuant to this act). Such reduction shall be
23 prorated for partial years.

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

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

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

1 ferred, or reassigned shall be eliminated. The city shall make avail-
2 able its plans for achieving the savings described herein.

3 b. The New York city department of citywide administrative services
4 shall prepare a report designating the title, grade level, salary, and
5 classification, according to appointing authority, (i) of each position
6 which is eliminated pursuant to subdivision a of this section, (ii) of
7 each position into which another employee was appointed, transferred, or
8 reassigned and the former position of such employee, and (iii) of each
9 position which is eliminated as a result of an appointment, transfer or
10 reassignment referred to in paragraph (ii) of this subdivision. Such
11 report shall be available no later than ninety days after the last date
12 of the open period related to such positions.

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

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

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

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

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

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

50 § 15. This act shall take effect immediately.

51 PART B

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

54 a. "Retirement system" means the New York city teachers' retirement
55 system, the New York city board of education retirement system or the

1 New York city employees' retirement system, exclusive of the retirement
2 plans established pursuant to sections 13-156 and 13-157 of the adminis-
3 trative code of the city of New York.

4 b. "Teachers' retirement system" means the New York city teachers'
5 retirement system.

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

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

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

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

16 d. "Active service" means service while being paid on the payroll,
17 provided that (a) a leave of absence with pay shall be deemed active
18 service; (b) other approved leave without pay not to exceed twelve weeks
19 prior to and the commencement of the designated open period; and (c) the
20 period of time subsequent to a June school term and on or before August
21 31 of the year for which an open period is designated for a teacher (or
22 other employee employed on a school-year basis) who is otherwise in
23 active service on the effective date of this act shall be deemed active
24 service.

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

32 f. "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 the
35 chief executive officer of the city of New York. The chief executive
36 officer shall notify the head of the appropriate retirement system of
37 the date of the open periods prior to the commencement dates of such
38 periods.

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

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

1 affidavit of the chief executive officer certifying the validity of such
2 law.

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

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

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

27 b. The chief executive officer of the city of New York may deny
28 participation in the retirement benefit provided by subdivision a of
29 this section if the chief executive officer makes a determination that
30 the employee holds a position that is deemed critical to the maintenance
31 of public health and safety.

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

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

48 e. After making any such determination under subdivision b of this
49 section the chief executive officer of the city of New York shall notify
50 the appropriate retirement system or teachers' retirement system of its
51 determination.

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

1 § 7. This act shall take effect immediately.

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

11 § 4. This act shall take effect immediately; provided, however, that
12 the applicable effective date of Parts A and B of this act shall be as
13 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 and Pension Funds (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 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	\$80,700	\$24,600
TRS	84,800	25,900
BERS	37,900	11,600
Average	\$77,900	\$23,800
Part B Only		
NYCERS	\$113,600	\$34,700
TRS	68,000	20,800
BERS	98,400	30,100
Average	\$109,200	\$33,300

Both A & B

NYCERS	\$96,500	\$29,500
TRS	85,000	26,000
BERS	43,700	13,400
Average	\$87,700	\$26,800

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, 2020 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 2022.

CENSUS DATA: For purposes of this Fiscal Note, it was assumed that the census data had the same age, gender, and service characteristics as 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. Active members' salaries have been adjusted to reflect estimated salary increases from June 30, 2019 to June 30, 2020.

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

NYCRS		Assumed to Elect		
Part A Only	Count	Avg Age	Avg Svc	Avg Salary
NYCERS	19,259	60.4	26.3	\$87,600
TRS	11,436	61.3	27.0	109,000
BERS	3,318	63.6	21.6	51,600
Total	34,013	61.0	26.1	\$91,300

Part B Only	Count	Avg Age	Avg Svc	Avg Salary
NYCERS	5,941	58.2	30.2	\$88,400
TRS	530	57.9	26.9	109,900
BERS	423	58.6	29.5	71,500
Total	6,894	58.2	29.9	\$89,000

Both A & B	Count	Avg Age	Avg Svc	Avg Salary
NYCERS	20,204	60.2	26.4	\$88,000
TRS	11,588	61.2	27.0	109,000
BERS	3,331	63.6	21.6	51,900
Total	35,123	60.9	26.2	\$91,500

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.

The Actuary is proposing a set of changes for use in the June 30, 2019 (Lag) actuarial valuations of NYCERS to determine the Final Fiscal Year 2021 Employer Contributions (2021 A&M). If the 2021 A&M is enacted it is estimated that it would produce increases in the Present Value of Employer Contributions and annual employer contributions that are approximately 1% larger than the results shown above.

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 2021-01 dated January 27, 2021 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 2021 Legislative Session.