STATE OF NEW YORK

7080

2021-2022 Regular Sessions

IN ASSEMBLY

April 21, 2021

Introduced by M. of A. MONTESANO -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the retirement and social security law, in relation to calculating the final average salary of justices and judges within the New York state unified court system

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

Section 1. Subdivision 9 of section 2 of the retirement and social security law is amended by adding a new paragraph d to read as follows:

d. In the case of a member who:

(1) served as an elected or appointed justice or judge of the New York state unified court system, and

(2) was paid pursuant to the salary set by the commission of judicial compensation, and

(3) shall have served at least three years of the judicial term to which he or she was appointed or elected, such term shall mean, at the option of such member, the last salary set by the commission on judicial compensation for the year in which said member last served.

§ 2. Section 443 of the retirement and social security law is amended by adding a new subdivision h to read as follows:

h. Notwithstanding the provisions of subdivisions a and b of this section, with respect to a member who served as an elected or appointed justice or judge of the New York state unified court system, who was paid pursuant to the salary set by the commission on judicial compensation, and who shall have served at least three years of the judicial term to which he or she was appointed or elected, the final average salary shall mean, at the option of such member, the last salary set by the commission on judicial compensation for the year in which said member last served.

§ 3. Section 512 of the retirement and social security law is amended by adding a new subdivision e to read as follows:

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

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e. Notwithstanding the provisions of subdivisions a and b of this section, with respect to a member who served as an elected or appointed justice or judge of the New York state unified court system, who was paid pursuant to the salary set by the commission on judicial compensation, and who shall have served at least three years of the judicial term to which he or she was appointed or elected, the final average salary shall mean, at the option of such member, the last salary set by the commission on judicial compensation for the year in which said member last served.

§ 4. Section 608 of the retirement and social security law is amended by adding a new subdivision f to read as follows:

f. Notwithstanding the provisions of subdivisions a and b of this section, with respect to a member who served as an elected or appointed justice or judge of the New York state unified court system, who was paid pursuant to the salary set by the commission on judicial compensation, and who shall have served at least three years of the judicial term to which he or she was appointed or elected, the final average salary shall mean, at the option of such member, the last salary set by the commission on judicial compensation for the year in which said member last served.

§ 5. All past service costs associated with the implementation of this act shall be borne by the state.

§ 6. This act shall take effect immediately.

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

This bill would allow any member who served as an elected or appointed justice or judge of the New York State Unified Court System to have their final average salary determined using the rate of salary set by the Commission on Judicial Compensation for the year in which the member last served.

If this bill is enacted during the 2021 legislative session, we anticipate that there will be an increase of approximately $2.7 million in the annual contributions of the State of New York for the fiscal year ending March 31, 2022. In future years, this cost will vary as the billing rates and salary of the affected members change.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately $60.8 million which will be borne by the State of New York as a one-time payment. This estimate is based on the assumption that payment will be made on March 1, 2022.

These estimated costs are based on 1203 affected members employed by the State of New York, with annual salary of approximately $235 million as of March 31, 2020. The affected members were identified using job title codes provided by the Office of Court Administration.

Summary of relevant resources:

Membership data as of March 31, 2020 was used in measuring the impact of the proposed change, the same data used in the April 1, 2020 actuarial valuation. Distributions and other statistics can be found in the 2020 Report of the Actuary and the 2020 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2020 Annual Report to the Comptroller on Actuarial Assumptions, and the Codes, Rules and Regulations of the State of New York: Audit and Control.

The Market Assets and GASB Disclosures are found in the March 31, 2020 New York State and Local Retirement System Financial Statements and Supplementary Information.

I am a member of the American Academy of Actuaries and meet the Qualification Standards to render the actuarial opinion contained herein.

This fiscal note does not constitute a legal opinion on the viability of the proposed change nor is it intended to serve as a substitute for the professional judgment of an attorney.

This estimate, dated April 6, 2021, and intended for use only during the 2021 Legislative Session, is Fiscal Note No. 2021-117, prepared by the Actuary for the New York State and Local Retirement System.