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:

Section 1. This act enacts into law components of legislation that would enable the city of New York to offer a temporary retirement incentive to their employees, as well as to provide an age 55/25 years temporary incentive for certain public employees. Each component is wholly contained within a Part identified as Parts A and B. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found, unless noted otherwise.

§ 2. Legislative findings. The legislature finds and declares that the retirement benefits provided for in this act are designed to achieve cost-savings for public employers and to avoid layoffs of public employees in this time of fiscal need. Therefore, the retirement incentive benefit provided for in Part A of this act and the age 55/25 years retirement benefit provided for in Part B of this act are intended only to be temporary in nature for employees who are eligible to receive and qualify for the applicable benefit during the applicable time periods specified within each Part. Further, nothing in this act shall be 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.

LBD03567-02-1

benefit for any public employee who is not eligible to receive and qualify for the retirement benefits in this act during the applicable time periods.

PART A

Section 1. Definitions. As used in this act, unless the context clearly requires otherwise:

a. "Retirement system" means the New York city teachers' retirement system, the New York city board of education retirement system or the New York city employees' retirement system, exclusive of the retirement plans established pursuant to sections 13-156 and 13-157 of the administrative code of the city of New York.

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

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

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

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

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

d. "Eligible title" means any title where a certain number of positions in that title, as identified by agency, department, work location or appointing authority of the city of New York, as the case may be, would otherwise be identified for layoff but for this act because of economy, consolidation or abolition of functions, curtailment of activities or otherwise. However, an eligible title can also include a title as identified by an agency, department, work location or appointing authority of the city of New York in which positions would not be eliminated but into which employees in titles affected by layoff can be transferred or reassigned pursuant to the civil service law, rule or regulation. The determination of eligible titles shall be made by the chief executive officer of the city of New York.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

tion retirement system) shall be reduced by six percent for each of the first two years by which retirement precedes age sixty-two, plus a further reduction of three percent for each year by which retirement precedes age sixty, provided, however, the foregoing reductions shall not apply: (i) in any case where an eligible employee can retire after twenty-five years of service with immediate payability prior to the age of sixty-two pursuant to section 604-b of the retirement and social security law or (ii) to any time period subsequent to the point at which an eligible employee can retire for service without reduction of his or her service retirement allowance pursuant to article 16 of the retirement and social security law. Such reduction shall be prorated for partial years. The amount of such benefit for an eligible employee with thirty or more years of service who is a member of the New York city employees' retirement system, the New York city teachers' retirement system, or the New York city board of education retirement system, or an eligible employee who is a participant in the optional twenty-five year early retirement program for certain New York city members governed by section 604-c of the retirement and social security law, as added by chapter 96 of the laws of 1995 or a twenty-five year participant in the age fifty-five retirement program governed by section 604-i of the retirement and social security law, with twenty-five or more years of service and who is covered by article 15 of the retirement and social security law shall be reduced by five percent for each year by which retirement pursuant to this section precedes age fifty-five. The amount of such benefit for an eligible New York city employee with five or more years of service and who is a participant in the age fifty-seven retirement program governed by section 604-d of the retirement and social security law shall be reduced by one-thirtieth for the first two years by which retirement precedes age fifty-seven plus a further reduction of one-twentieth for each year by which retirement precedes age fifty-five. Such reduction shall be prorated for partial years. There shall be no reduction for an eligible New York city employee in a physically taxing position with twenty-five or more years of service and who is a participant (i) in the optional twenty-five year early retirement program for certain members governed by section 604-c of the retirement and social security law, as added by chapter 96 of the laws of 1995, or (ii) in the age fifty-seven retirement program governed by section 604-d of the retirement and social security law.

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

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

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

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

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

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

ferred, or reassigned shall be eliminated. The city shall make available its plans for achieving the savings described herein.

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

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

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

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

§ 12. The provisions of section 430 of the retirement and social security law shall not apply to any benefit or benefit improvement provided by this act.

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

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

§ 15. This act shall take effect immediately.

PART B

Section 1. Definitions. As used in this act, unless the context clearly requires otherwise:

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

New York city employees' retirement system, exclusive of the retirement plans established pursuant to sections 13-156 and 13-157 of the administrative code of the city of New York.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 7. This act shall take effect immediately.

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

§ 4. This act shall take effect immediately; provided, however, that the applicable effective date of Parts A and B of this act shall be as 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 NYCRS is shown in the table below:

NYCRS	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
NYCRS	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 NYCRS 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.