STATE OF NEW YORK

5557--A

2021-2022 Regular Sessions

IN SENATE

March 11, 2021

Introduced by Sens. MAYER, ADDABBO, BROOKS, HARCKHAM, JACKSON, KAMINSKY, SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- recommitted to the Committee on Civil Service and Pensions in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the retirement and social security law, in relation to the calculation of past service credit for police officers employed by the division of law enforcement in the department of environmental protection in the city of New York transferring between the New York city employees' retirement system to the New York state and local police and fire retirement system

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

Section 1. Section 343 of the retirement and social security law is amended by adding a new subdivision i to read as follows:

i. 1. Notwithstanding any other law, rule or regulation to the contrary, for any police officer employed by the division of law enforcement in the department of environmental protection in the city of New York transferring from the New York city employees' retirement system to the New York state and local police and fire retirement system after the effective date of this subdivision and any police officer formerly employed by the division of law enforcement in the department of environmental protection in the city of New York having made such transfer, such police officer's division of law enforcement in the department of environmental protection in the city of New York service credit shall be deemed creditable service, in such police officer's twenty year or twenty-five year retirement plan, if such police officer has served for at least two years in such employment and if, within one year of the date on which he or she first became a member of the New York state and local

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

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police and fire retirement system or within one year of the effective date of this subdivision, such member elects to do so.

2. The amount of such service credited to the member in the New York state and local police and fire retirement system plan shall not exceed the amount of service credited to the member in the New York city employees' retirement system plan.

3. If the member subsequently retires on an age-based retirement plan in the New York state and local police and fire retirement system instead of a twenty year or twenty-five year plan, the full amount of service credit earned, as a police officer employed by the division of law enforcement in the department of environmental protection in the city of New York shall be granted.

4. In no event shall the division of law enforcement in the department of environmental protection in the city of New York service credited to a member of the New York state and local police and fire retirement system pursuant to this subdivision exceed a total of ten years.

5. Notwithstanding any other provision of law in this section to the contrary, the reserve on such member's benefits shall be transferred from the New York city employees' retirement system to the New York state and local police and fire retirement system in accordance with subdivisions c and d of this section.

6. No member who receives service credit pursuant to this subdivision shall be eligible to receive additional service credit pursuant to subdivision b of section three hundred eighty-four-e of this article if his or her employer has elected to provide such service credit.

§ 2. This act shall take effect on the sixtieth day after it shall have become a law.

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

This bill would expand the definition of service creditable under 20-year and 25-year plans in the New York State and Local Police and Fire Retirement System (PFRS) to include service transferred by any police officer employed or formerly employed by the Division of Law Enforcement in the Department of Environmental Protection in the City of New York, provided that such police officer has at least two years of such employment. The member must elect to obtain the service credit within one year of the date on which he or she first became a member of the PFRS or within one year of the effective date of this bill, whichever occurs later. The amount of service credit received in PFRS shall not exceed the minimum of the amount of service credited to the member in the New York City Employees' Retirement System (NYCERS) plan or 10 years.

If this bill is enacted during the 2022 legislative session, insofar as this proposal affects the PFRS, it is estimated that the past service cost will average approximately 25% of an affected member's salary for each year of additional service that is credited on a 20-year or 25-year plan. This cost will be offset by any reserves transferred from the NYCERS. The remaining cost will be shared by the State of New York and the participating employers of the PFRS.

The exact number of current members as well as future members who could be affected by this legislation cannot be readily determined.

Summary of relevant resources:

Membership data as of March 31, 2021 was used in measuring the impact of the proposed change, the same data used in the April 1, 2021 actuarial valuation. Distributions and other statistics can be found in the 2021 Report of the Actuary and the 2021 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2020 and 2021 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, 2021 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 December 22, 2021, and intended for use only during the 2022 Legislative Session, is Fiscal Note No. 2022-9, prepared by the Actuary for the New York State and Local Retirement System.

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

SUMMARY OF BILL: This proposed legislation would amend Section 343 of the Retirement and Social Security Law (RSSL) to allow New York City Employees' Retirement System (NYCERS) members currently or formerly employed as New York City Department of Environmental Protection (DEP) police officers to transfer, within specified timeframes, to the New York State and Local Police and Fire Retirement System (PFRS) and receive up to 10 years of credit in the 20-year and 25-year Plans for such equal DEP service. Employer paid pension reserves would also be transferred from NYCERS to PFRS for each such transfer.

Effective Date: Sixty days after enactment.

BACKGROUND: Currently, NYCERS members employed as DEP police officers who subsequently become employed by the State are eligible to transfer their NYCERS membership to PFRS but generally do not receive service credit in the 20-year and 25-year PFRS Plans. Upon successful application for transfers between NYCERS and PFRS, member accumulated contributions (with accrued interest) are generally transferred but additional employer paid reserves are not.

Under the proposed legislation, if enacted, DEP police officers who served in such title for a minimum of two years and then transfer their NYCERS membership to PFRS within one year of becoming a PFRS member (or one year of the effective date, if later) would receive up to 10 years of credit in the 20-year and 25-year PFRS Plans for such equal DEP service. This service would be included in the benefit calculation payable by PFRS.

Additionally, NYCERS would be required to calculate and pay such member's pension reserve, net of any accumulated salary deductions otherwise transferred, to PFRS. It should be noted that the proposed legislation does not provide a reciprocal transfer of reserves should a member transfer from PFRS to NYCERS.

FINANCIAL IMPACT - OVERVIEW: There is no data available to estimate the number of NYCERS members who would potentially take advantage of this proposed legislation. Therefore, the estimated financial impact has been calculated on a per event basis equal to the increase in Unfunded Accrued Liability (UAL) for an average NYCERS member who is employed as a DEP police officer and transfers to PFRS. This increase in UAL consists of the required amount to be transferred to PFRS, plus Additional Member Contributions (AMC) to be refunded to the member, if any, offset by the reduction in Accrued Liability since the member, assuming all service credit is transferred, would no longer be entitled to future NYCERS benefits.

For purposes of this Fiscal Note, it has been assumed that the impacted NYCERS members would generally not have transferred their membership to PFRS absent this proposed legislation. It has been further assumed that members with more than 15 years of service would not transfer their membership even under the proposed legislation.

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

FINANCIAL IMPACT - PRESENT VALUES: Based on the census data and the actuarial assumptions and methods described herein, the enactment of this proposed legislation would increase the UAL by approximately $50,400, on average, for each eligible member who transfers to PFRS.

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

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

Based on the actuarial assumptions and methods described below, the enactment of this proposed legislation is estimated to increase annual employer contributions by approximately $6,000, on average, for each eligible member who transfers to PFRS.

With respect to the timing, increases in employer contributions would depend upon when eligible members file their application to transfer their NYCERS membership to PFRS but, generally, increased employer contributions will first occur the second fiscal year following the transfer of reserves to PFRS.

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

There are 190 active DEP police officers who participate in NYCERS and have at least two years of service as of June 30, 2021. Of these, 98 active members have 15 or fewer years of service and are therefore assumed to potentially benefit from the proposed legislation. These 98 active members have an average age of approximately 35.9 years, average service of approximately 9.3 years, and an average salary of approximately $74,200. There are also 42 former DEP police officers who have separated from service with between two and 15 years of service.

ACTUARIAL ASSUMPTIONS AND METHODS: The changes in the UAL and annual employer contributions presented herein have been calculated based on the actuarial assumptions and methods in effect for the June 30, 2021 (Lag) actuarial valuations used to determine the Preliminary Fiscal Year 2023 employer contributions of NYCERS.

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

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

STATEMENT OF ACTUARIAL OPINION: I, Michael J. Samet, am the Interim Chief Actuary for, and independent of, the New York City Retirement Systems and Pension Funds. I am a Fellow of the Society of Actuaries and a Member of the American Academy of Actuaries. I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein. To the best of my knowledge, the results contained herein have been prepared in accordance with generally accepted actuarial principles and procedures and with the Actuarial Standards of Practice issued by the Actuarial Standards Board.

FISCAL NOTE IDENTIFICATION: This Fiscal Note 2022-26 dated April 19, 2022 was prepared by the Interim Chief Actuary for the New York City Employees' Retirement System. This estimate is intended for use only during the 2022 Legislative Session.