STATE OF NEW YORK

10529

IN ASSEMBLY

June 2, 2024

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Burke) -- (at request of the New York State Teachers' Retirement System) -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the education law, in relation to allowing retirees of the New York state teachers' retirement system who suspend their retirement the option of a benefit recalculation after two years of service

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

Section 1. Subdivision 11 of section 503 of the education law, as added by chapter 507 of the laws of 1972 and as renumbered by chapter 512 of the laws of 1976, is amended to read as follows:

11. a. If a retired member, receiving a retirement allowance for other than disability, returns to active public service, except as otherwise provided in sections two hundred eleven or two [~~hyndred~~] hundred twelve of the retirement and social security law, and is eligible for membership in the retirement system, [~~he thereupon~~] such employee shall become a member and [~~his~~] their retirement allowance shall be suspended in the same manner as provided in subdivision five of this section [~~five hundred three of this article. In such event, he shall contribute to the retirement system as if he were a new member~~]. Upon [~~his~~] subsequent retirement [~~after at least two years of service he~~] such employee shall:

1. Be credited with all member service earned [~~by him~~] since [~~he~~] they last became a member of the retirement system, and

2. Receive a retirement allowance which shall consist of[~~:~~

~~(a) An annuity as provided in subdivision five of section five hundred three of this article plus an annuity which is the actuarial equivalent of any contributions made by him since he last became a member, and~~

~~(b) The~~] the pension which [~~he~~] such employee was receiving immediately prior to [~~his~~] the last restoration to membership as provided in subdivision five of this section [~~five hundred three of this article~~], plus a pension based upon the [~~member~~] service credit earned [~~by him~~] since [~~he~~] such employee last became a member. Such latter pension shall

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

be computed as if [~~he~~] they were a new member when [~~he~~] they rejoined the system pursuant to the provisions of this subdivision.

b. Where such member shall have earned at least [~~five~~] two years of [~~member~~] service credit after restoration to active service, the total service credit to which [~~he~~] such member was entitled at the time of [~~his~~] the earlier retirement may, at [~~his~~] their option, again be credited to [~~him~~] them and upon [~~his~~] subsequent retirement [~~he~~] such member shall be credited in addition for purposes of computation of the pension portion of the retirement allowance with all [~~member~~] service credit earned [~~by him~~] subsequent to [~~his~~] the last restoration to membership. Such total service credit to which [~~he~~] such member was entitled at the time of [~~his~~] the earlier retirement shall be so credited only in the event that such member returns to the retirement system with regular interest the actuarial equivalent of the amount of the pension [~~he~~] received, or in the event that such amount is not so repaid the actuarial equivalent thereof shall be deducted from [~~his~~] such member's subsequent retirement allowance.

c. Notwithstanding the foregoing provisions of this subdivision, a retired member who is receiving a retirement allowance for other than physical disability, and who returns to active public service, may elect not to be restored to membership in the retirement system until [~~he~~] such retired member has rendered one year of service following [~~his~~] their return to public service. In such event [~~his~~] the retirement allowance shall be suspended during such year of service in the same manner as provided in subdivision five of this section [~~five hundred three of this article~~]. Upon restoration to membership following completion of such year of service, [~~his~~] service in such year shall be deemed to be service while a member for purposes of subdivision b of section five hundred twelve of this article. [~~He~~] Such retired member may purchase [~~member~~] service credit for such year, which shall be deemed earned [~~member~~] service credit. If a retired member receiving a retirement benefit allowance for other than physical disability, returns to active public service, and is then ineligible for membership in the retirement system, the retirement allowance shall be suspended in the same manner as provided in this section.

d. Notwithstanding any other provision of this article, a retired member who rejoins the system under the provisions of [~~paragraphs a or c of~~] this subdivision shall only be entitled to a death benefit according to the provisions of paragraph two of subdivision b of section five hundred twelve of this article and of no other subdivision thereof and for the purposes of [~~said~~] such paragraph two of subdivision b of section five hundred twelve the credited service as a teacher shall be service as a teacher credited since last joining the system.

§ 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 amend subdivision 11 of Section 503 of the Education Law to allow a retired member of the New York State Teachers' Retirement System (NYSTRS), who returns to active service and suspends their pension benefit, to elect to combine their service credit earned prior to their retirement with the service credit earned after their restoration to active service, provided they have earned at least two years of service credit since restoration and they pay back their prior pension received or have the new benefit reduced for life based upon the actuarial equivalent of the prior pension received. Current law requires five years of service credit since restoration to combine all service credit

into one pension benefit. State employees and other members of the New York State and Local Retirement System (NYS&LRS) are eligible to combine their service credit after earning two years of service credit after restoration. This bill would make this eligibility the same for teachers as it is for state employees. This bill would take effect on the sixtieth day after it shall become a law.

The annual cost to the employers of members of the New York State Teachers' Retirement System would be negligible if this bill is enacted.

Member data is from the System's most recent actuarial valuation files, consisting of data provided by the employers to the Retirement System. Data distributions and statistics can be found in the System's Annual Report. System assets are as reported in the System's financial statements and can also be found in the System's Annual Report. Actuarial assumptions and methods are provided in the System's Actuarial Valuation Report.

The source of this estimate is Fiscal Note 2024-2 dated October 16, 2023 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2024 Legislation Session. I, Richard A. Young, am the Chief Actuary for the New York State Teacher's Retirement System. I am a member of the American Academy of Actuaries and I met the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.