STATE OF NEW YORK

5487

2023-2024 Regular Sessions

IN ASSEMBLY

March 13, 2023

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

AN ACT to amend the retirement and social security law and the education law, in relation to providing reforms to employee pension contributions; and repealing certain provisions of the retirement and social security law relating thereto

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

Section 1. Subdivision a of section 613 of the retirement and social security law, as amended by chapter 10 of the laws of 2000, paragraphs 1 and 2 as amended by chapter 510 of the laws of 2015, the second undesignated paragraphs of paragraphs 1 and 2 as amended by section 2 of part SS of chapter 56 of the laws of 2022, is amended to read as follows:

a. 1. [~~Except as provided by paragraph two of this subdivision, members~~] Members shall contribute three percent of annual wages to the retirement system in which they have membership[~~, except that beginning April first, two thousand thirteen for members who first become members of a public retirement system of the state on or after April first, two thousand twelve, the rate at which each such member shall contribute in any current plan year (April first to March thirty-first, except for members of the New York city employees' retirement system, New York city teachers' retirement system and New York city board of education retirement system, plan year shall mean January first through December thirty-first commencing with the January first next succeeding the effective date of the chapter of the laws of two thousand fifteen that amended this paragraph) shall be determined by reference to the wages of such member in the second plan year (April first to March thirty-first, except for members of the New York city employees' retirement system, New York city teachers' retirement system and New York city board of education retirement system, plan year shall mean January first through December thirty-first commencing with the January first next succeeding~~

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

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~~the effective date of the chapter of the laws of two thousand fifteen that amended this paragraph) preceding such current plan year as follows:~~

~~(i) members with wages of forty-five thousand dollars per annum or less shall contribute three per centum of annual wages;~~

~~(ii) members with wages greater than forty-five thousand per annum, but not more than fifty-five thousand per annum shall contribute three and one-half per centum of annual wages;~~

~~(iii) members with wages greater than fifty-five thousand per annum, but not more than seventy-five thousand per annum shall contribute four and one-half per centum of annual wages;~~

~~(iv) members with wages greater than seventy-five thousand per annum but not more than one hundred thousand per annum shall contribute five and three-quarters per centum of annual wages; and~~

~~(v) members with wages greater than one hundred thousand per annum shall contribute six per centum of annual wages~~].

Notwithstanding the foregoing, during each of the first three plan years (April first to March thirty-first, except for members of New York city employees' retirement system, New York city teachers' retirement system and New York city board of education retirement system, plan year shall mean January first through December thirty-first commencing with the January first next succeeding the effective date of chapter five hundred ten of the laws of two thousand fifteen) in which such member has established membership in a public retirement system of the state, such member shall contribute a percentage of annual wages in accordance with the preceding schedule based upon a projection of annual wages provided by the employer. Notwithstanding the foregoing, when determining the rate at which each such member who became a member of the New York state and local employees' retirement system, New York city employees' retirement system, New York city teachers' retirement system and New York city board of education retirement system, on or after April first, two thousand twelve shall contribute for any plan year (April first to March thirty-first, except for members of the New York city employees' retirement system, New York city teachers' retirement system and New York city board of education retirement system, plan year shall mean January first through December thirty-first commencing with January first next succeeding the effective date of chapter five hundred ten of the laws of two thousand fifteen) between April first, two thousand twenty-two and April first, two thousand twenty-four, such rate shall be determined by reference to employees annual base wages of such member in the second plan year (April first to March thirty-first) preceding such current plan year. Base wages shall include regular pay, shift differential pay, location pay, and any increased hiring rate pay, but shall not include any overtime payments or compensation earned for extracurricular programs or any other pensionable earnings paid in addition to the annual base wages.

The head of each retirement system shall promulgate such regulations as may be necessary and appropriate with respect to the deduction of such contribution from members' wages and for the maintenance of any special fund or funds with respect to amounts so contributed.

2. A member of the New York city employees' retirement system who is eligible to be a participant in the twenty-five-year and age fifty-five retirement program, as defined by paragraph five of subdivision a of section six hundred four-b of this article shall contribute two percent of annual wages to such system effective on the starting date of the elimination of additional member contributions, as defined in an

election made pursuant to paragraph ten of subdivision e of section six hundred four-b of this article[~~, except that beginning April first, two thousand thirteen for members who first become members of the New York city employees' retirement system on or after April first, two thousand twelve, the rate at which each such member shall contribute in any current plan year (April first to March thirty-first, provided, however, that plan year shall mean January first through December thirty-first commencing with the January first next succeeding the effective date of the chapter of the laws of two thousand fifteen that amended this paragraph) shall be determined by reference to the wages of such member in the second plan year (April first to March thirty-first, provided, however, that plan year shall mean January first through December thirty-first commencing with the January first next succeeding the effective date of the chapter of the laws of two thousand fifteen that amended this paragraph) preceding such current plan year as follows:~~

~~(i) members with wages of forty-five thousand dollars per annum or less shall contribute three per centum of annual wages;~~

~~(ii) members with wages greater than forty-five thousand per annum, but not more than fifty-five thousand per annum shall contribute three and one-half per centum of annual wages;~~

~~(iii) members with wages greater than fifty-five thousand per annum, but not more than seventy-five thousand per annum shall contribute four and one-half per centum of annual wages;~~

~~(iv) members with wages greater than seventy-five thousand per annum but not more than one hundred thousand per annum shall contribute five and three-quarters per centum of annual wages; and~~

~~(v) members with wages greater than one hundred thousand per annum shall contribute six per centum of annual wages~~].

Notwithstanding the foregoing, during each of the first three plan years (April first to March thirty-first, provided, however, that plan year shall mean January first through December thirty-first commencing with the January first next succeeding the effective date of chapter five hundred ten of the laws of two thousand fifteen) in which such member has established membership in the New York city employees' retirement system, such member shall contribute a percentage of annual wages in accordance with the preceding schedule based upon a projection of annual wages provided by the employer. Notwithstanding the foregoing, when determining the rate at which each such member who became a member of, New York city employees' retirement system, on or after April first, two thousand twelve shall contribute for any plan year (April first to March thirty-first, provided, however, that plan year shall mean January first through December thirty-first commencing with the January first next succeeding the effective date of chapter five hundred ten of the laws of two thousand fifteen) between April first, two thousand twenty-two and April first, two thousand twenty-four, such rate shall be determined by reference to employees annual base wages of such member in the second plan year (April first to March thirty-first) preceding such current plan year. Base wages shall include regular pay, shift differential pay, location pay, and any increased hiring rate pay, but shall not include any overtime payments.

§ 2. Subdivision g of section 613 of the retirement and social security law is REPEALED.

§ 3. Subdivision t of section 603 of the retirement and social security law, as amended by chapter 18 of the laws of 2012, is amended to read as follows:

t. Members who join the New York state teachers' retirement system on or after January first, two thousand ten, shall be eligible to retire without reduction of his or her retirement benefit upon attainment of at least fifty-seven years of age and completion of thirty or more years of service. [~~Members who retire pursuant to the provisions of this subdivision shall be required to make the member contributions required by subdivision g of section six hundred thirteen of this article for all years of credited and creditable service.~~] The provisions of this subdivision shall not apply to members who first become a member of the New York state teachers' retirement system on or after April first, two thousand twelve.

§ 4. Subdivision a of section 517 of the retirement and social security law, as amended by chapter 18 of the laws of 2012, the second undesignated paragraph as amended by section 1 of part SS of chapter 56 of the laws of 2022, is amended to read as follows:

a. Members shall contribute three percent of annual wages to the retirement system in which they have membership, provided that such contributions shall not be required for more than thirty years, for general members, or twenty-five years, for police/fire members[~~, except that beginning April first, two thousand thirteen for members who first become members of the New York state and local employees' retirement system on or after April first, two thousand twelve, the rate at which each such member shall contribute in any current plan year (April first to March thirty-first) shall be determined by reference to the wages of such member in the second plan year (April first to March thirty-first) preceding such current plan year as follows:~~

~~1. members with wages of forty-five thousand dollars per annum or less shall contribute three per centum of annual wages;~~

~~2. members with wages greater than forty-five thousand per annum, but not more than fifty-five thousand per annum shall contribute three and one-half per centum of annual wages;~~

~~3. members with wages greater than fifty-five thousand per annum, but not more than seventy-five thousand per annum shall contribute four and one-half per centum of annual wages;~~

~~4. members with wages greater than seventy-five thousand per annum but not more than one hundred thousand per annum shall contribute five and three-quarters per centum of annual wages; and~~

~~5. members with wages greater than one hundred thousand per annum shall contribute six per centum of annual wages~~].

Notwithstanding the foregoing, during each of the first three plan years (April first to March thirty-first) in which such member has established membership in the New York state and local employees' retirement system, such member shall contribute a percentage of annual wages in accordance with the preceding schedule based upon a projection of annual wages provided by the employer. Notwithstanding the foregoing, when determining the rate at which each such member who became a member of the New York state and local employees' retirement system on or after April first, two thousand twelve shall contribute for any plan year (April first to March thirty-first) between April first, two thousand twenty-two and April first, two thousand twenty-four, such rate shall be determined by reference to employees annual base wages of such member in the second plan year (April first to March thirty-first) preceding such current plan year. Base wages shall include regular pay, shift differential pay, location pay, and any increased hiring rate pay, but shall not include any overtime payments.

The head of each retirement system shall promulgate such regulations as may be necessary and appropriate with respect to the deduction of such contribution from members' wages and for the maintenance of any special fund or funds with respect to amounts so contributed.

§ 5. Section 1204 of the retirement and social security law, as amended by chapter 18 of the laws of 2012, the second undesignated paragraph as amended by section 3 of part SS of chapter 56 of the laws of 2022, is amended to read as follows:

§ 1204. Member contributions. Members who are subject to the provisions of this article shall contribute three percent of annual wages to the retirement system in which they have membership[~~, except that beginning April first, two thousand thirteen for members who first become members of the New York state and local police and fire retirement system on or after April first, two thousand twelve, the rate at which each such member shall contribute in any current plan year (April first to March thirty-first) shall be determined by reference to the wages of such member in the second plan year (April first to March thirty-first) preceding such current plan year as follows:~~

~~a. members with wages of forty-five thousand dollars per annum or less shall contribute three per centum of annual wages;~~

~~b. members with wages greater than forty-five thousand per annum, but not more than fifty-five thousand per annum shall contribute three and one-half per centum of annual wages;~~

~~c. members with wages greater than fifty-five thousand per annum, but not more than seventy-five thousand per annum shall contribute four and one-half per centum of annual wages;~~

~~d. members with wages greater than seventy-five thousand per annum but not more than one hundred thousand per annum shall contribute five and three-quarters per centum of annual wages; and~~

~~e. members with wages greater than one hundred thousand per annum shall contribute six per centum of annual wages~~].

Notwithstanding the foregoing, during each of the first three plan years (April first to March thirty-first) in which such member has established membership in the New York state and local police and fire retirement system, such member shall contribute a percentage of annual wages in accordance with the preceding schedule based upon a projection of annual wages provided by the employer. Notwithstanding the foregoing, when determining the rate at which each such member who became a member of the New York state and local police and fire retirement system on or after April first, two thousand twelve shall contribute for any plan year (April first to March thirty-first) between April first, two thousand twenty-two and April first, two thousand twenty-four, such rate shall be determined by reference to employees annual base wages of such member in the second plan year (April first to March thirty-first) preceding such current plan year. Base wages shall include regular pay, shift differential pay, location pay, and any increased hiring rate pay, but shall not include any overtime payments. Effective April first, two thousand twelve, all members subject to the provisions of this article shall not be required to make member contributions on annual wages excluded from the calculation of final average salary pursuant to section twelve hundred three of this article. Nothing in this section, however, shall be construed or deemed to allow members to receive a refund of any member contributions on such wages paid prior to April first, two thousand twelve.

Members who are enrolled in a retirement plan that limits the amount of creditable service a member can accrue shall not be required to make

contributions pursuant to this section after accruing the maximum amount of service credit allowed by the retirement plan in which they are enrolled. The state comptroller shall promulgate such regulations as may be necessary and appropriate with respect to the deduction of such contribution from members' wages and for the maintenance of any special fund or funds with respect to amounts so contributed. In no way shall the member contributions made pursuant to this section be used to provide for pension increases or annuities of any kind.

§ 6. Subdivision 2 of section 182 of the education law, as amended by chapter 18 of the laws of 2012, is amended to read as follows:

2. Employee contributions. In the case of any electing employee, contributions at the rate of three per centum of his state salary shall be deducted by the state comptroller as the employee contribution, provided however, that such employee contribution shall be made by the state in accordance with subdivision one of this section during such period as (a) either section seventy-a of the retirement and social security law or section five hundred twenty-eight of this title provides that the contribution of each member of the New York state employees' retirement system or the New York state teachers' retirement system in the employ of the state shall be reduced by at least eight per centum of his compensation, or (b) employee contributions to either such system are no longer required by reason of such system becoming noncontributory for state employees.

[~~Notwithstanding any other law to the contrary, beginning April first, two thousand thirteen any electing employee appointed on or after April first, two thousand twelve, the rate at which each such employee shall contribute in any current plan year (January first to December thirty-first) shall be determined by reference to the wages of such member in the second plan year (January first to December thirty-first) preceding such current plan year as follows:~~

~~(a) members with wages of forty-five thousand dollars per annum or less shall contribute three per centum of annual wages;~~

~~(b) members with wages greater than forty-five thousand per annum, but not more than fifty-five thousand per annum shall contribute three and one-half per centum of annual wages;~~

~~(c) members with wages greater than fifty-five thousand per annum, but not more than seventy-five thousand per annum shall contribute four and one-half per centum of annual wages;~~

~~(d) members with wages greater than seventy-five thousand per annum but not more than one hundred thousand per annum shall contribute five and three-quarters per centum of annual wages; and~~

~~(e) members with wages greater than one hundred thousand per annum shall contribute six per centum of annual wages.~~

~~Notwithstanding the foregoing, during each of the first three plan years (January first to December thirty-first) in which such member has established membership in the Education Department Optional Retirement Program, such employee shall contribute a percent of annual wages in accordance with the preceding schedule based upon a projection of annual wages provided by the employer.~~]

§ 7. Subdivision f of section 613 of the retirement and social security law, as amended by chapter 18 of the laws of 2012, the second undesignated paragraph as amended by section 2 of part SS of chapter 56 of the laws of 2022, is amended to read as follows:

f. Anything in subdivision a of this section to the contrary notwithstanding a member employed as a uniformed court officer or peace officer in the unified court system who first joins the New York state and local

employees' retirement system on or after January first, two thousand ten shall contribute four percent of annual wages to the New York state and local employees' retirement system[~~, except that beginning April first, two thousand thirteen for members who first become members of the New York state and local employees' retirement system on or after April first, two thousand twelve, the rate at which each such member shall contribute in any current plan year (April first to March thirty-first) shall be determined by reference to the wages of such member in the second plan year (April first to March thirty-first) preceding such current plan year as follows:~~

~~1. members with wages of forty-five thousand dollars per annum or less shall contribute three per centum of annual wages;~~

~~2. members with wages greater than forty-five thousand per annum, but not more than fifty-five thousand per annum shall contribute three and one-half per centum of annual wages;~~

~~3. members with wages greater than fifty-five thousand per annum, but not more than seventy-five thousand per annum shall contribute four and one-half per centum of annual wages;~~

~~4. members with wages greater than seventy-five thousand per annum but not more than one hundred thousand per annum shall contribute five and three-quarters per centum of annual wages; and~~

~~5. members with wages greater than one hundred thousand per annum shall contribute six per centum of annual wages~~].

Notwithstanding the foregoing, during each of the first three plan years (April first to March thirty-first) in which such member has established membership in the New York state and local employees' retirement system, such member shall contribute a percentage of annual wages in accordance with the preceding schedule based upon a projection of annual wages provided by the employer. Notwithstanding the foregoing, when determining the rate at which each such member who became a member of the New York state and local employees' retirement system on or after April first, two thousand twelve shall contribute for any plan year (April first to March thirty-first) between April first, two thousand twenty-two and April first, two thousand twenty-four, such rate shall be determined by reference to employees annual base wages of such member in the second plan year (April first to March thirty-first) preceding such current plan year. Base wages shall include regular pay, shift differential pay, location pay, and any increased hiring rate pay, but shall not include any overtime payments.

The head of the New York state and local employees' retirement system shall promulgate such regulations as may be necessary and appropriate with respect to the deduction of such contribution from members' wages and for the maintenance of any special fund or funds with respect to amounts so contributed.

§ 8. Nothing in this act shall be construed or deemed to allow members to receive a refund of any member contributions made or collected prior to the effective date of this act.

§ 9. Notwithstanding any other provision of law to the contrary, none of the provisions of this act shall be subject to section 25 of the retirement and social security law.

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

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

As it relates to the New York State Teachers' Retirement System, this bill would amend Section 613 of the Retirement and Social Security Law to reduce the required employee contribution rate for Tier 5 and 6

members to a flat 3.0% of salary, payable over their career. Currently, Tier 5 members are required to contribute at a rate of 3.5% of salary, and Tier 6 members are required to contribute between 3.0% and 6.0% of salary, according to a salary-based schedule. No contributions made or collected before the effective date of this bill would be refunded.

The annual cost to the employers of members of the New York State Teachers' Retirement System for this benefit is estimated to be $136.5 million or 0.74% of payroll if this bill is enacted.

The System's "new entrant rate", a hypothetical employer contribution rate that would occur if we started a new Retirement System without any assets, is equal to 5.15% of pay under the current Tier 6 benefit structure. This can be thought of as the long-term expected employer cost of Tier 6, based on current actuarial assumptions. For the reduction to the Tier 6 employee contribution rate proposed under this bill, this new entrant rate would increase to 6.72% of pay, an increase of 1.57% of pay.

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 2023-03 dated February 22, 2023 prepared by the Office of the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2023 Legislative Session. I, Richard A. Young, am the Chief Actuary for the New York State Teachers' Retirement System. I am a member of the American Academy of Actuaries and I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.