STATE OF NEW YORK

3144--D

2023-2024 Regular Sessions

IN SENATE

January 27, 2023

Introduced by Sens. MANNION, BORRELLO, COMRIE, HARCKHAM, HINCHEY, LANZA, MAYER, PALUMBO, ROLISON -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- 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 increasing the earning limitations for retired persons in positions of public service

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

Section 1. Section 212 of the retirement and social security law is amended by adding a new subdivision 2-a to read as follows:

2-a. Notwithstanding the provisions of subdivision two of this section, the earnings limitation for for retired persons in a position of public service shall be increased to fifty thousand dollars from the year two thousand twenty-three and thereafter.

§ 2. This act shall take effect immediately.

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

This bill would amend Section 212 of the Retirement and Social Security Law (RSSL) to set the salary a retired person may earn in public employment without reduction in retirement allowance to $50,000 during the calendar year 2023 and thereafter. Currently, the salary limit is $35,000.

Insofar as this bill affects the New York State and Local Retirement System (NYSLRS), if enacted during the 2023 legislative session, the direct cost incurred would be the retiree's post-retirement earnings more than $35,000 each calendar year, not to exceed the full pension benefit paid by the NYSLRS during the calendar year. Annually, NYSLRS

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

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will determine which retirees earned post-retirement income with a public employer.

In the New York State and Local Employees' Retirement System (NYSLERS), pursuant to Section 25 of the RSSL, these direct costs would be borne entirely by the State of New York and would require an itemized appropriation sufficient to pay the cost of the provision. The benefit improvement will be funded by including a separate itemized charge on the annual invoice of the State of New York, beginning March 1, 2025, equal to the cost quoted above, plus interest.

In the New York State and Local Police and Fire Retirement System (NYSLPFRS), those participating employers that elect to hire a retired person pursuant to this legislation will incur annual costs equal to the additional pension payments quoted above, plus interest.

In addition to the direct costs quoted above, insofar as this proposal disrupts the usual pattern and timing of employee turnover (that is, if members retire earlier than assumed and participating employers hire a retiree instead of a new billable member), shifts in member behavior could generate losses that increase the average billing rates.

* In the 20-year and 25-year service-based plans, average billing rates could increase from 27.8% to 37.7%.

* In the age-based plans, average billing rates could increase from 13.7% to 17.2%.

The actual increase in billing rates will depend upon member and employer utilization, with the rates above representing an upper limit.

Further, we anticipate additional administrative costs to implement the provisions of this legislation.

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, 2022 was used in measuring the impact of the proposed change, the same data used in the April 1, 2022 actuarial valuation. Distributions and other statistics can be found in the 2022 Report of the Actuary and the 2022 Annual Comprehensive Financial Report.

The actuarial assumptions and methods used are described in the 2020, 2021, and 2022 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, 2022 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 March 13, 2023, and intended for use only during the 2023 Legislative Session, is Fiscal Note No. 2023-121, prepared by the Actuary for the New York State and Local Retirement System.

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

This bill would add a new subdivision 2-a to Section 212 of the Retirement and Social Security Law to increase the earnings limitation for retired members in positions of public employment to $50,000 for calendar year 2023 and thereafter. Currently, the earnings limitation for each calendar year is $35,000.

This significant increase in the earnings-after-retirement limit could have an impact on the Retirement System's patterns of retirement by inducing some members to retire earlier than they otherwise would have. As a general rule of thumb, earlier retirement represents an increase in plan costs since members will be receiving their benefits for a longer period of time.

The annual cost to the employers of members of the New York State Teachers' Retirement System for this benefit is estimated to be $81.9 million or 0.44% of payroll 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 2023-36 dated June 2, 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.