STATE OF NEW YORK

4905--C

2023-2024 Regular Sessions

IN SENATE

February 16, 2023

Introduced by Sen. MAYER -- 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 -- 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 -- 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 calculating the earnings limitations for retired police officers employed part-time by certain municipalities

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 4 to read as follows:

4. Notwithstanding the provisions of subdivisions one and two of this section, such earnings limitations shall not apply to a retired police officer, who has retired after having twenty-five years of vested service in a police pension system that fully vests at twenty years, who is employed part-time as a police officer in a village or town with a population of less than twenty-five thousand as determined by the most recent federal decennial census, where at least seventy percent of such village or town's active-duty police force, not including civilian staff, consists of part-time officers. Such part-time police officer shall be permitted to work up to five hundred twenty hours in any consecutive six-month period in a calendar year based on hours worked as reported by the village or town on a monthly basis, with no suspension or diminution of retirement allowance. Any village or town that hires a retired police officer pursuant to this subdivision shall report such officer's days worked and salary earned to the New York state and local police and fire retirement system on a monthly basis.

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

LBD09569-11-4

§ 2. This act shall take effect immediately.

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

Insofar as it would affect the New York State and Local Police and Fire Retirement System (NYSLPFRS), this bill would allow retired police officers to continue to receive their full retirement benefit when reemployed as a police officer on a part-time basis for up to 520 hours in any consecutive six-month period. Provided, however, that such employment is by a village or town where (1) the municipal population is less than 25,000, and (2) at least 70% of the police force is employed on a part-time basis. Such retired police officers must also have retired with at least twenty-five years of service credit on a twenty-year retirement plan to be eligible for this benefit. Currently, the post-retirement earnings limit is $35,000.

If this bill were enacted during the 2024 Legislative Session, the direct cost incurred would be the retiree's pension benefit paid while post-retirement earnings are greater than $35,000 each calendar year. The pension benefit expected to be paid by the NYSLPFRS during that 7-month period is estimated to be $46,500 per person.

In addition to the direct cost quoted above, there would be additional costs in the form of lost employer contributions due to non-billable post-retirement earnings, which is estimated to be $14,000 per person.

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

All costs will be shared by the State of New York and all participating employers in the NYSLPFRS and spread over future billing cycles.

The number of members and retirees who could be affected by this legislation cannot be readily determined. For each retiree rehired pursuant to this proposal, an annual cost of $60,500 is expected. If large numbers of retirees are rehired into such positions, significant annual costs would result.

Based on the 2020 census, approximately 95% of towns and villages in New York State would satisfy the population requirement associated with this proposal. These employers represent approximately 20% of the total NYSLPFRS membership.

Summary of relevant resources:

Membership data as of March 31, 2023 was used in measuring the impact of the proposed change, the same data used in the April 1, 2023 actuarial valuation. Distributions and other statistics can be found in the 2023 Report of the Actuary and the 2023 Annual Comprehensive Financial Report.

The actuarial assumptions and methods used are described in the 2023 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, 2023 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 8, 2024, and intended for use only during the 2024 Legislative Session, is Fiscal Note No. 2024-113, prepared by the Actuary for the New York State and Local Retirement System.

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

SUMMARY: This proposed legislation would remove the $35,000 Retirement and Social Security Law (RSSL) Section 212 post-retirement public employment earnings limit for retired police officers who retired with at least 25 years of service and are reemployed on a part-time basis as a police officer with certain villages or towns.

ILLUSTRATION - ADDITIONAL RETIREMENT ALLOWANCE TO BE PAID

Annual Retirement Allowance	Annual Post-Retirement Earnings in Calendar Year $70,000	$80,000	$90,000	$100,000
$80,000	$40,000	$45,000	$48,889	$52,000
$90,000	$45,000	$50,625	$55,000	$58,500
$100,000	$50,000	$56,250	$61,111	$65,000
$110,000	$55,000	$61,875	$67,222	$71,500
$120,000	$60,000	$67,500	$73,333	$78,000
$130,000	$65,000	$73,125	$79,444	$84,500

The entire resulting increase in employer contributions will be allocated to New York City.

CENSUS DATA: The number of retirees who will return to public service in the future is unknown and the portion of the pension allowance currently suspended is highly dependent on salary earned. The results above illustrate the pension amount that would be suspended without this legislation given a retirees post-retirement earnings and pension allowance.

IMPACT ON PENSION PAYMENTS: Retirees who return to public service and elect to be covered under the provisions of RSSL Section 212 are permitted to earn an amount not exceeding a specific dollar limit in each calendar year without loss, suspension, or diminution of their retirement allowances. Once this dollar limit is reached, the retiree's retirement allowance is suspended for the remainder of that calendar year. The total amount of RSSL Section 212 retirement allowance suspensions is contingent upon both individual post-retirement earnings and individual annual retirement allowances.

The proposed legislation would remove the post-retirement earnings limit for police retirees who work part-time for (1) a town or village with a population less than 25,000; (2) where at least 70% of such village or town's uniformed police force is part-time; and (3) the part-time work does not exceed 520 hours in a consecutive six-month period in a calendar year.

ASSUMPTIONS AND METHODS: For illustrative purposes only, the table above presents the estimated additional retirement allowances paid (i.e., those benefits that would not be subject to suspension) for various sample combinations of post-retirement annual earnings and annual retirement allowance amounts.

RISK AND UNCERTAINTY: The costs presented in this Fiscal Note depend highly on the actuarial assumptions, methods, and models used, demographics of the impacted population, and other factors such as investment, contribution, and other risks. If actual experience deviates from actuarial assumptions, the actual costs could differ from those presented herein. Quantifying these risks is beyond the scope of this Fiscal Note.

This Fiscal Note is intended to measure pension-related impacts and does not include other potential costs (e.g., administrative and Other Postemployment Benefits).

STATEMENT OF ACTUARIAL OPINION: Marek Tyszkiewicz and Gregory Zelikovsky are members of the Society of Actuaries and the American Academy of Actuaries. We are members of NYCERS but do not believe it impairs our objectivity and we meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein. To the best of our 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 2024-53 dated May 10, 2024 was prepared by the Chief Actuary for the New York City Retirement Systems and Pension Funds. This estimate is intended for use only during the 2024 Legislative Session.