STATE OF NEW YORK

5846--A

2023-2024 Regular Sessions

IN ASSEMBLY

March 23, 2023

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

§ 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 even when reemployed as a police officer on a part-time basis for up to 520 hours in any consecutive six-month period, provided that such employment is by

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

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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. Currently, the post-retirement earnings limit is $35,000.

If this bill were 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 NYSLPFRS during that period.

The number of members and retirees who could be affected by this legislation cannot be readily determined. For an average retiree hired pursuant to this proposal, an annual cost of $40,000 is expected.

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 rate in 20-year and 25-year service-based plans from 27.8% to 30.8%. The actual increase in billing rates will depend upon member and employer utilization, with the rate above representing an upper limit.

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

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.

All costs will be shared by the State of New York and all participating employers in the NYSLPFRS and spread over future billing cycles. Since this proposal exclusively benefits retirees, the increased costs are primarily attributable to retirees from Tiers 1 through 3. Approximately half the contributions required to fund this proposal will be collected on salary reported for current members of Tier 6.

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 April 17, 2023, and intended for use only during the 2023 Legislative Session, is Fiscal Note No. 2023-89, prepared by the Actuary for the New York State and Local Retirement System.