

STATE OF NEW YORK

7311

2023-2024 Regular Sessions

IN ASSEMBLY

May 17, 2023

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

AN ACT to amend the administrative code of the city of New York, in relation to dual retirement system membership in the New York city teachers' retirement system, the New York city employees' retirement system, and the New York city board of education retirement system

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

1 Section 1. The administrative code of the city of New York is amended
2 by adding a new section 13-638.7 to read as follows:

3 § 13-638.7 Dual memberships. a. Notwithstanding any inconsistent
4 provision of this chapter, including section 13-184, or any other law,
5 any person who is otherwise a member of the New York city teachers'
6 retirement system, the New York city employees' retirement system, or
7 the New York city board of education retirement system, but who is
8 eligible to join any other retirement system maintained by the city due
9 to a separate, concurrent eligible employment with a participating
10 employer may become a member of the subsequent city funded retirement
11 system provided such benefits in the first system of membership are
12 suspended during their active membership in the subsequent retirement
13 system, including any period of retroactive membership pursuant to
14 subdivision b of this section.

15 b. Any such membership in the subsequent retirement system shall be
16 elected in writing and filed with both retirement systems. Such
17 election shall be effective on the earlier of the date the member is
18 mandated into membership or the date the system receives an application
19 for membership, as applicable, and shall be subject to the rights, bene-
20 fits, privileges, and obligations of such membership, including payment
21 of all required member contributions. Such election shall be irrev-
22 ocable so long as the member is employed in the position eligible for
23 membership in the subsequent system.

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

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1 c. Suspension of membership shall result in suspension of all rights,
2 benefits, privileges, and obligations in the suspended system, including
3 loan eligibility and the accrual or ability to purchase service credit
4 relating to the suspension period. Loan payments on outstanding loans
5 shall remain in effect. Concurrent employment shall not provide eligi-
6 bility for multiple death benefits from multiple retirement systems.
7 Any applicable death benefits shall be from the system in which the
8 member is active. The previous system shall return contributions plus
9 interest as applicable.

10 d. Members in the New York city teachers' retirement system, the New
11 York city employees' retirement system, and the New York city board of
12 education retirement system may only accrue service credit in one system
13 for any period of concurrent employment.

14 e. Nothing in this section shall be deemed to modify the requirements
15 of section forty-three or six hundred forty-five of the retirement and
16 social security law regarding transfer or reinstatement of membership or
17 the requirements of any applicable transferred contributor laws.

18 § 2. This act shall take effect immediately.

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

SUMMARY OF BILL: This proposed legislation would amend the Administrative Code of the City of New York (ACCNY) to add a new Section 13-638.7 allowing certain employees who have concurrent eligible employment for participation in two New York City funded retirement systems (City System) a one-time chance to suspend their current membership in their first City System and elect to participate in the other City System as of the earlier of the date of election, or the date on which the member would have been mandated into the subsequent system absent the prior membership.

Currently, members of the New York City Employees Retirement System (NYCERS), the New York City Teachers Retirement System (TRS), and the New York City Board of Education Retirement System (BERS) may not join another system if they already have an active membership in one of the other systems without terminating the employment for which the initial membership was created.

Under the proposed legislation, a City retirement system member who is eligible to join a second City retirement system based on dual employment would be eligible to elect membership in the other eligible City retirement system without the cessation of employment, and would forfeit applicable rights, benefits, and privileges of the initial prior membership resulting in a return of applicable contributions with interest. A member may only accrue service credit in one system for any period of concurrent employment.

This change in legislation would not modify the current transfer or reinstatement provisions available to members and therefore the changes would be primarily administrative.

Effective Date: Upon enactment.

FINANCIAL IMPACT: There is no data available to estimate the number of members who might be eligible to participate in more than one retirement system, and potentially benefit from this proposed legislation.

With respect to an individual member, the financial impact of this proposed legislation could vary greatly depending on the member's length of service, age, and salary history.

Based on the relatively small population anticipated to be impacted by this proposed legislation and that these changes are more administrative in nature, the cost associated with this proposed legislation is expected to be de minimis.

RISK AND UNCERTAINTY: The costs for this proposed legislation will depend on the number and demographics of the impacted population.

Not measured in this Fiscal Note are the following:

- * The initial additional administrative costs to implement the proposed legislation.

- * The impact of this proposed legislation on Other Postemployment Benefit costs.

STATEMENT OF ACTUARIAL OPINION: I, Marek Tyszkiewicz, am the Chief Actuary for, and independent of, the New York City Retirement Systems and Pension Funds. I am an Associate of the Society of Actuaries and a Member of the American Academy of Actuaries. I am a member of NYCERS but do not believe it impairs my objectivity and I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein. To the best of my 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 2023-43 dated May 5, 2023 was prepared by the Chief Actuary for the New York City Employees' Retirement System, the New York City Teachers' Retirement System, and the New York City Board of Education Retirement System. This estimate is intended for use only during the 2023 Legislative Session.