STATE OF NEW YORK

7416

2023-2024 Regular Sessions

IN ASSEMBLY

May 19, 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, in relation to eligibility of uniformed personnel of the New York city department of correction for ordinary disability benefits

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

Section 1. Section 507-a of the retirement and social security law is amended by adding a new subdivision f to read as follows:

f. Notwithstanding any other provision of law, there shall be no restrictions on the earnings from employment not in public service permitted to a member of the uniformed personnel of the New York city department of correction who:

1. has retired pursuant to the provisions of this section; and

2. was subject to the provisions of (i) subdivision d of section five hundred four of this article, (ii) subdivision c of section five hundred four-a of this article, or (iii) subdivision c of section five hundred four-b of this article prior to his or her retirement, subsequent to the date as of which he or she would have been eligible for service retirement.

§ 2. This act shall take effect immediately.

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

SUMMARY OF BILL: This proposed legislation would amend Section 507-a of the Retirement and Social Security Law (RSSL) by adding a new subdivision f to remove post-retirement earnings restrictions from private sector employment for periods after the applicable service retirement eligibility date for certain retired uniformed personnel of the New York City Department of Correction who are receiving certain disability benefits from the New York City Employees' Retirement System (NYCERS).

Effective Date: Upon enactment.

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

LBD08666-02-3

BACKGROUND: Currently, NYCERS restricts the total calendar year Personal Service Income (PSI) resulting from all public and private employment for certain retirees, including certain Tier 3 correction officers who receive disability retirement benefits under RSSL Section 507-a (Correction Disability Retiree).

If a Correction Disability Retiree's PSI from all public and private employment exceeds the NYCERS PSI limitation for the calendar year, then such retiree's disability pension is suspended for 12 months. The NYCERS PSI limitation for 2022 was $34,200 and increases each year with the Consumer Price Index. As of the date this Fiscal Note was released, the 2023 limit had not been published.

IMPACT ON BENEFITS: Under the proposed legislation, if enacted, Correction Disability Retirees, who were Tier 3 correction members in the Early Service Retirement Benefit Plan for General Members, the Correction Officer 20-Year Plan, or the Correction Captain 20-Year Plan, would no longer be subject to the PSI limitation for private employment earnings after the date they would have been eligible to receive a service retirement in their respective plan.

For the purposes of this Fiscal Note, it was assumed that Correction Disability Retirees would continue to be limited by other post-retirement earnings restrictions such as New York City Charter (NYCC) Section 1117 and RSSL Section 212.

NYCC Section 1117 limits the PSI for any NYCERS retiree to $1,800 per year from most public employment within New York State (including New York City). PSI from those sources that exceeds $1,800 per year will result in a suspension of the retiree's pension. However, NYCC Section 1117 places no limits on the amounts of PSI that may be earned from private employment. RSSL Section 212 permits a retiree to earn up to $35,000 per year from post-retirement public employment, notwithstanding NYCC Section 1117, if certain conditions are met.

FINANCIAL IMPACT - ANNUAL EMPLOYER CONTRIBUTIONS: Based on the actuarial assumptions and methods described below, the enactment of this proposed legislation is estimated to increase annual employer contributions by approximately $15,100.

The change in employer costs would depend upon the amount and timing of pension payments that would no longer be suspended due to this legislation.

To the extent the NYCERS earnings limitation would have applied in Calendar Years 2023 and later, Correction Disability Retirees whose post-retirement earnings exceeded the PSI limitation would have had their pension suspended for 12 months in years after the date on which they would have become eligible for service retirement.

Enactment of the legislation would eliminate the suspension of benefits for those Correction Disability Retirees whose PSI exceeds the NYCERS earnings limitation after the date on which they would have become eligible for service retirement.

Suspended pensions due to earnings that exceed the NYCERS PSI limitation, are currently treated as an actuarial gain, and the financial impact is recognized at the time of the event. Consequently, changes in employer contributions have been estimated assuming that the increase in the pension payment of approximately $128,000 will be financed over a closed 15-year period (14 payments under the One-Year Lag Methodology) using level dollar payments.

CENSUS DATA: Data for the eight Correction Disability Retirees whose post-retirement earnings exceeded the PSI limitation for suspensions in

effect during fiscal year 2022 was provided by NYCERS. These members had an average suspended pension amount of approximately $16,000 per year.

ACTUARIAL ASSUMPTIONS AND METHODS: The estimates presented herein have been calculated based on the actuarial assumptions and methods used for the Preliminary Fiscal Year 2024 employer contributions of NYCERS.

RISK AND UNCERTAINTY: The costs presented in this Fiscal Note depend highly on the realization of the actuarial assumptions 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.

Costs are also dependent on the actuarial methods used, and therefore different actuarial methods could produce different results. Quantifying these risks is beyond the scope of this Fiscal Note.

Not measured in this Fiscal Note are the following:

* The possible increased administrative costs attributable to enactment of 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 2023-49 dated May 16, 2023 was prepared by the Chief Actuary for the New York City Employees' Retirement System. This estimate is intended for use only during the 2023 Legislative Session.