STATE OF NEW YORK

9606

IN ASSEMBLY

March 26, 2024

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

AN ACT to amend the retirement and social security law, in relation to increasing the retiree public earnings cap

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

Section 1. Subdivision 2 of section 212 of the retirement and social security law, as amended by chapter 589 of the laws of 2019, is amended to read as follows:

2. The earning limitations for retired persons in positions of public service under this section shall be in accordance with the following table:

For the year	Earnings limitation
1996	$12,500
1997	$13,500
1998	$14,500
1999	$15,500
2000	$17,000
2001	$18,500
2002	$20,000
2003	$25,000
2004	$27,500
2005 and 2006	$27,500
2007 through 2019	$30,000
2020 [~~and thereafter~~] **through 2023**	$35,000
2024 and thereafter	**$100,000**

§ 2. This act shall take effect immediately.

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

This bill would allow a retired person of the New York State and Local Retirement System who returns to public employment with an annual salary of $100,000 or less to continue to receive their full retirement benefit. Currently, the salary limit is $35,000.

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

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Additionally, pursuant to Section 5-b of the Legislative Law, this proposal would increase the outside earnings permitted by members of the New York State Legislature.

Insofar as this bill affects the New York State and Local Employees' Retirement System (NYSLERS), 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 between $35,000 and $100,000 each calendar year. The pension benefit expected to be paid by the NYSLERS during that 6-month period is estimated to be $22,250 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 $9,750 per person.

In the NYSLERS, pursuant to Section 25 of the Retirement and Social Security Law, the increased 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. For each retiree rehired pursuant to this proposal, an annual cost of $32,000 is expected.

Insofar as this bill affects the New York State and Local Police and Fire Retirement System (NYSLPFRS), 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 between $35,000 and $100,000 each calendar year. The pension benefit expected to be paid by the NYSLPFRS during that 5-month period is estimated to be $32,500 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 $19,500 per person.

In the NYSLPFRS, all costs will be shared by the State of New York and all participating employers in the NYSLPFRS and spread over future billing cycles. For each retiree rehired pursuant to this proposal, an annual cost of $52,000 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 31.2% to 50.5%. In age-based plans, average billing rates could increase from 15.2% to 20.2%. The actual increase in billing rates will depend upon member and employer utilization, with the rates above representing an upper maximum.

Since this proposal exclusively benefits retirees, the increased costs are primarily attributable to retirees from Tiers 1 - 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, 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 15, 2024, and intended for use only during the 2024 Legislative Session, is Fiscal Note No. 2024-122, prepared by the Actuary for the New York State and Local Retirement System.