

STATE OF NEW YORK

7427

2011-2012 Regular Sessions

IN ASSEMBLY

May 4, 2011

Introduced by M. of A. SWEENEY, WEISENBERG, PHEFFER, ABBATE, GALEF, HOOPER, BOYLAND, SCHROEDER, ZEBROWSKI, WEPRIN -- Multi-Sponsored by -- M. of A. BOYLE, CAHILL, CLARK, COLTON, COOK, CYMBROWITZ, DESTITO, GUNTHER, JAFFEE, LENTOL, LUPARDO, MAGEE, McENENY, MILLMAN, ORTIZ, PERRY, J. RIVERA, ROBINSON, WRIGHT -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the retirement and social security law, in relation to the employment of retired persons

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

1 Section 1. Subdivision 2 of section 212 of the retirement and social
2 security law, as amended by chapter 74 of the laws of 2006, is amended
3 to read as follows:

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

7	For the year	Earnings limitation
8	1996	\$12,500
9	1997	\$13,500
10	1998	\$14,500
11	1999	\$15,500
12	2000	\$17,000
13	2001	\$18,500
14	2002	\$20,000
15	2003	\$25,000
16	2004	\$27,500
17	2005 and 2006	\$27,500
18	2007 [and thereafter],	\$30,000
19	<u>2008, 2009 and 2010</u>	
20	<u>2011 and thereafter</u>	<u>\$32,500</u>

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

LBD02914-04-1

A. 7427

2

1 § 2. This act shall take effect immediately and shall be deemed to
2 have been in full force and effect on and after January 1, 2011.

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

This bill would amend Section 212 of the Retirement and Social Security Law to set the amount a retired person may earn in public employment without reduction in retirement allowance during the year 2011 and thereafter, to \$32,500.

If this bill is enacted, insofar as it would affect the New York State and Local Employees' Retirement System, we expect that a number of members will retire earlier than they otherwise would have due to the expectation of collecting both a pension and the salary they were receiving before they retired. A significant number of members changing their retirement dates will result in a shorter funding period and greater annual employer contributions. The extent of the increase in employer contributions will be determined by the number of members retiring early to collect both salary and pension.

Insofar as this bill would affect the New York State and Local Police and Fire Retirement System, there would be negligible additional annual costs.

This estimate, dated November 24, 2010 and intended for use only during the 2011 Legislative Session, is Fiscal Note No. 2011-51, prepared by the Actuary for the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System.

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

This bill would amend subdivision 2 of section 212 of the Retirement and Social Security Law to increase the earnings limitation for retired members in positions of public employment to \$32,500 for the calendar year 2011 and thereafter. The earnings limitation for the calendar year 2010 was \$30,000.

The annual cost to the employers of members of the New York State Teachers' Retirement System is estimated to be negligible if this bill is enacted.

The source of this estimate is Fiscal Note 2011-15 dated March 9, 2011 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2011 Legislative Session.

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

PROVISIONS OF PROPOSED LEGISLATION: With respect to the New York City Retirement Systems ("NYCRS"), this proposed legislation would amend Retirement and Social Security Law ("RSSL") Section 212 to increase the earnings limit of certain members who have returned to employment in Public Service.

The Effective Date of the proposed legislation would be the date of enactment retroactive to January 1, 2011.

IMPACT ON BENEFITS: Retired members of the NYCRS are permitted to return to employment in "Public Service" where such term means employment in the service of New York State ("NYS") or any of its political divisions including:

- o A special district,
- o District corporation,
- o School district,
- o Board of cooperative educational services,
- o County vocational education and extension board,
- o Public benefit corporation,
- o Public authority created by or pursuant to NYS laws, or

A. 7427

3

o An agency or organization which contributes as a participating employer in a retirement system or a pension plan administered by NYS or any of its political subdivisions.

Retirees who return to Public Service and elect to be covered under the provisions of RSSL Section 212 are permitted to earn in a calendar year an amount not exceeding a specific dollar limit without loss, suspension or diminution of their retirement allowances. Once a retiree attains age 65 in a calendar year, there are no earnings limitations in that calendar year or thereafter. Currently, the dollar limitation in effect for Calendar Year 2007 and thereafter is \$30,000.

Under the proposed legislation, the dollar limitation would be increased to \$32,500 for Calendar Year 2011 and thereafter.

FINANCIAL IMPACT - EMPLOYER COST: The ultimate cost of a pension plan is the benefits it pays.

To the extent the current RSSL Section 212 earnings limitation applies in Calendar Years 2011 and later, certain retirees would have their retirement allowances temporarily suspended in years where their earnings in Public Service exceed that earnings limitation.

Enactment of the proposed legislation would raise the amount that could be earned in Public Service. This would result in a slight increase in benefits paid to retirees where their Public Service earnings exceed the current RSSL Section 212 earnings limitation.

If a definite amount of change to the expected retirement allowances to be paid in a calendar year were known, it would be reflected in the fiscal year the legislation is enacted.

However, a change in the applicable retirement allowances paid to NYCERS retired members in a calendar year under this proposed legislation are not known in advance. These changes would be treated as actuarial experience gains/losses recognized in the assets of the respective NYCERS at the end of that fiscal year (i.e., a change in retirement allowances paid during Calendar Year 2011 would be reflected in the NYCERS assets as of June 30, 2012).

Under the Lag actuarial valuation methodology, adjustments in the June 30, 2012 asset values would first impact employer contributions to the respective NYCERS for Fiscal Year 2014.

For those NYCERS reemployed retirees who have elected to become subject to RSSL Section 212 and who have exceeded the limit, the Actuary estimates that the theoretical maximum annual potential impact of the proposed legislation would be to increase payouts from the NYCERS by less than \$150,000.

However, recent experience of all reemployed retirees shows that the majority choose to limit their post-retirement earnings in Public Service to be less than the maximum amount permissible before retirement benefits would be suspended.

Consequently, the Actuary believes that the increase in the dollar limit from \$30,000 to \$32,500 would increase payouts from the NYCERS by significantly less than \$150,000 and, overall, there would be a de minimis impact on the retirement allowances otherwise payable.

FINANCIAL IMPACT: EMPLOYER CONTRIBUTIONS: If enacted during the 2011 Legislative Session, the impact on employer costs to the NYCERS would begin Fiscal Year 2014.

Any changes in NYCERS assets that result in changes in the Actuarial Present Values of Future Normal Costs would be financed through future employer normal contributions.

A. 7427

4

Overall, the Actuary believes the changes in employer costs and employer contributions to the NYCERS as a result of enactment of the proposed legislation would be de minimis.

FINANCIAL IMPACT - POTENTIAL CHANGES IN ACTUARIAL ASSUMPTIONS AND METHODS: The impact of enactment of the proposed legislation provided in this Fiscal Note has been based on the continued use of the current actuarial assumptions and methods.

However, this set of actuarial assumptions and methods do not represent the only possible approach for funding the NYCERS.

Historically, actuarial assumptions and methods have been reviewed on average every five years in connection with an actuarial experience study mandated by New York City Charter Section 96.

Following this review, the Actuary generally proposes changes in actuarial assumptions and methods that he believes are appropriate and reasonably related to such experience period and future expectations.

The next such review is anticipated during Fiscal Year 2012 at which time the Actuary is likely to propose new packages of actuarial assumptions and methods to be effective for use in determining employer contributions beginning Fiscal Year 2012.

It is anticipated that whatever new actuarial assumptions are recommended by the Actuary are likely to result in increased APVB and employer costs as the current actuarial assumptions no longer represent the Actuary's best estimates.

Note: The Actuary has not yet committed to any particular actuarial assumptions or methodology for determining employer costs and employer contributions in connection with the upcoming, experience review of actuarial assumptions and methods.

OTHER COSTS: Not measured in this Fiscal Note are any possible increased administrative costs attributable to enactment of the proposed legislation.

CENSUS DATA: For purposes of analyzing the impact of the proposed legislation, data on retirees reemployed in Public Service were furnished by the staffs of the NYCERS. This data was reviewed and considered illustrative of those who could potentially be impacted by this proposed legislation. Where data was not final, a percentage of those retirees employed in Public Service under age 65 were assumed to exceed the RSSL Section 212 limit.

Table 1

NYCERS Retirees Reemployed in Public Service
Who Elected to Be Subject to
RSSL Section 212

(Based on the Latest Information Furnished to the OA)

Retirement System{1}	Number Reemployed All Ages Any Earnings	Number Reemployed Under Age 65 Earnings in Excess of \$30,000
NYCERS{2}	444	33
TRS{2}	3,323	26
BERS{3}	40{4}	2
POLICE{2}	209	17
FIRE{3}	9	2{4}
Total	4,025	80

A. 7427

5

- {1} New York City Employees' Retirement System ("NYCERS")
New York City Teachers' Retirement System ("TRS")
New York City Board of Education Retirement System ("BERS")
New York City Police Pension Fund ("POLICE")
New York City Fire Department Pension Fund ("FIRE")
- {2} The reemployment period is Calendar Year 2010.
- {3} The reemployment period is Calendar Year 2008.
- {4} Estimated from information furnished.

ACTUARIAL ASSUMPTIONS AND METHODS: Any changes in Actuarial Present Values of Benefits and employer contributions have been estimated based on the actuarial assumptions and methods used in the June 30, 2010 (Lag) actuarial valuations of the NYCERS.

For purposes of analyzing the impact of the proposed legislation, it was assumed that the current number of reemployed NYCERS retirees in Public Service under age 65 earning in excess of the RSSL Section 212 dollar limit would remain constant over time.

It was also assumed that the earnings in Public Service of such reemployed retirees would also exceed the proposed new RSSL Section 212 dollar limit by amounts comparable to those being earned in excess of the current dollar limit.

As stated earlier, the Actuary is likely to propose new packages of actuarial assumptions and methods to be effective for use in determining employer contributions beginning Fiscal Year 2012. As such, not all assumptions employed in determining the results contained in this letter for Fiscal Years 2012 and later represent the Actuary's current best estimate of future experience. However, most of the assumptions and methods used to determine the results contained herein are generally those adopted by the NYCERS Boards of Trustees and enacted by the State Legislature and Governor, and provide consistency with the employer contributions currently being presented.

Finally, the actuarial assumptions currently employed for determining employer contributions do not represent risk-adjusted, economic evaluations. Such risk-adjusted, economic evaluations could, for certain components of the proposed legislation, produce results that differ significantly from the results shown herein.

STATEMENT OF ACTUARIAL OPINION: I, Robert C. North, Jr., am the Chief Actuary for the New York City Retirement Systems. I am a Fellow of the Society of Actuaries and a Member of the American Academy of Actuaries. I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

This estimate is intended for use only during the 2011 Legislative Session. It is Fiscal Note 2011-13, dated April 15, 2011 prepared by the Chief Actuary for the New York City Retirement Systems.

**NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(f)**

BILL NUMBER: A7427

SPONSOR: Sweeney (MS)

TITLE OF BILL: An act to amend the retirement and social security law, in relation to the employment of retired persons

PURPOSE OR GENERAL IDEA OF BILL: This will be the first increase in the post-retirement earnings limit since 2007. The increase is tied to inflation over the period from 2007-2011. This bill would increase the sum that public retirees can earn without diminution of retirement benefits.

SUMMARY OF SPECIFIC PROVISIONS: This bill would amend subdivision 2 of section 212 of the retirement and social security law. Specifically, this legislation would authorize a retired person to earn up to \$32,500 (starting in 2011) without loss, suspension or diminution of their retirement allowance.

JUSTIFICATION: Under current law, retirees may earn up to \$30,000 without diminution of retirement earnings. This legislation would continue a yearly pattern of granting retirees an increase in what they can earn. As a result, it would extend a program which has seen significant cost savings to states and localities, whereby they can hire back experienced employees at a dramatically reduced cost and without benefits. This will be the first increase in the post-retirement earnings limit since 2007. The increase is tied to inflation over the period from 2007-2011.

Additionally, it should be noted that the dollar limitations expressed in this section of the retirement and social security law have traditionally tracked earning limitation amounts in federal law for social security recipients. Congress, however, in a series of reform measures passed in the late 1990's, has completely removed such limitation amounts.

Additionally, pursuant to subdivision one of this section 212, there are also no earning-limitations on or after the calendar year in which any retired person attains age sixty-five.

PRIOR LEGISLATIVE HISTORY: 2009-10: Ways and Means, 2007-08: Ways and Means

FISCAL IMPLICATIONS: De Minimis, see fiscal notes.

EFFECTIVE DATE: This Act shall take effect immediately and shall be deemed to have been in full force and effect on and after January 1, 2011.
