GOVERNOR'S PROGRAM BILL

2010

PROGRAM BILL #249

MEMORANDUM

AN ACT to provide a temporary retirement incentive for certain public employees (Part A); and to provide an age 55/25 years temporary retirement incentive for certain public employees (Part B)

Purpose:

This bill would establish a temporary retirement incentive program for certain State employees and other public employees to assist in streamlining the workforce while also achieving cost savings.

This bill would apply to members of the New York State and Local Employees Retirement System; New York City Employees Retirement System; New York State Teachers Retirement System; New York City Teachers Retirement System; and New York City Board of Education Retirement System. The members of the Police and Fire Retirement Systems are not included because of the existing 20-year retirement option.

Summary of Provisions:

Part A

Section 1 of Part A of the bill would define terms and establish eligibility requirements for participation in the retirement incentive program. Eligibility would be determined at employer discretion and excludes agency heads and elected officials. An employer who elects to participate in the retirement incentive program would be required to provide a 30 to 90 day open period to allow eligible employees adequate time to consider the incentive. Eligibility is targeted to positions that can be eliminated for reasons of economy, consolidation, abolition or curtailment of governmental activities. An eligible position can also include a title into which an employee could be transferred to avoid a layoff.

Section 2 of Part A of the bill would establish the criteria to be considered in determining whether positions should be eligible for participation in the retirement incentive program. This determination would consider whether the abolition of positions within a title would unacceptably reduce the level of patient care, pose health and safety risks, or result in adverse budgetary implications.

Section 3 of Part A of the bill would provide that eligibility for the retirement incentive would be first determined on the basis of seniority and require eligible employees who intend to participate in the incentive program to provide written notice to their employer 21 days prior to the end of the program's open period.

Section 4 of Part A of the bill would require certain employers to enact a local law or resolution, as appropriate on or before August 31, 2010, to take advantage of the program. School districts would need to enact such law or resolution by July 30, 2010. This section would also provide that the retirement incentive would not be available to persons otherwise eligible to receive benefits under any other retirement incentive or severance program, including Chapter 45 of the Laws of 2010, unless such person agrees to waive payment under the other program. In addition, this section would authorize the Mayor of the City of New York to declare employees of the community colleges of the City University of New York ineligible for the program by filing a notice with the University Chancellor within 30 days of the effective date of this act.

Section 5 of Part A of the bill would require eligible employees to be in active service on the effective date of this act and continue in active service up to the date immediately preceding commencement of the program open period. Eligible employees would need either to be currently eligible to retire or be at least 50 years of age with ten or more years of service. Employees who participate in a pension plan that allows for retirement after 25 years of service without regard to age would be eligible for the program as long as they meet the 25-year requirement, which could be achieved with the service credit provided by the incentive.

Section 6 of Part A of the bill would establish the retirement incentive benefit as one-twelfth of a year of additional retirement service credit for each year of pension service, up to a maximum of 3 years of additional retirement service credit. The benefit would be subject to reduction for early retirement based on the employee's tier, age and years of service. Eligible employees who participate in an optional retirement program would receive a retirement incentive of one-twelfth for each year of service multiplied by 15 percent multiplied by the employee's annual salary, up to a maximum benefit equal to 45 percent of salary.

Section 7 of Part A of the bill would provide that State employees who participate in the program may defer participation in the health insurance program as well as the calculation of the value of available sick leave credits to offset the retiree's share of health insurance premiums. This section would also authorize the payment of certain leave compensation in 3 installments over a 2-year period to New York City employees.

Section 8 of Part A of the bill would require the elimination of any position vacated by a State employee receiving the retirement incentive, other than a position supported by Special Revenue Funds. An exception to this rule is made where another State employee could be appointed, transferred or reassigned to the vacated position to avoid a layoff. This section would also authorize the Director of State Operations to direct the Department of Civil Service to prepare a report designating the title, grade level, salary, and classification of each position eliminated, each position into which another employee was appointed, transferred, or reassigned and the former position of such employee, and each position eliminated as a result of an appointment, transfer, or reassignment.

Section 9 of Part A of the bill would provide that local government employers and the State University of New York would not be required to eliminate positions vacated as a result of the retirement incentive if they can demonstrate savings of at least one-half of the total amount of the base salary of employees who receive the incentive for the 2-year period subsequent to the program.

Section 10 of Part A of the bill would provide that the incentive cannot result in an employee's pension exceeding the limits of Internal Revenue Code (IRC) 415. However, if the IRC 415 limit is increased in subsequent years, the retirement benefit which would otherwise have been paid to any employees originally affected by the limit would be paid to the extent permitted by the new IRC 415 limit.

Section 11 of Part A of the bill would require an employee receiving the retirement incentive to forfeit the benefit of such incentive if that employee reenters public service and joins or rejoins any public retirement system in the State.

Section 12 of Part A of the bill would provide that the retirement incentive is not subject to any maximum retirement benefit limitation pursuant to Retirement and Social Security Law (R&SSL).

Section 13 of Part A of the bill would make R&SSL 430, which requires an employer to pay for any benefit or benefit improvement in the fiscal year it becomes effective, inapplicable to any benefit or benefit improvement provided by this bill.

Section 14 of Part A of the bill would require employers to pay the pension costs of offering a retirement incentive program over a period not to exceed 5 years commencing in the State fiscal year ending March 31, 2012.

Section 15 of Part A of the bill would prevent employees from receiving either the benefits of Part B of this incentive program or the benefits of Chapter 45 of the Laws of 2010 (the Teachers' 55/25 Incentive Program) in conjunction with the benefits provided by this part of the bill.

Section 16 of Part A of the bill would provide for an immediate effective date.

Part B

Section 1 of Part B of the bill would define terms used in the bill and establishes eligibility requirements for participation in the retirement incentive program. Eligibility is determined at employer discretion and excludes agency heads and elected officials. An employer who elects to participate in the retirement incentive program is required to provide a 30 to 90 day open period to allow eligible employees adequate time to consider the incentive. Employees of the executive branch or participating employers who have attained age fifty-five and have at least twenty-five years of creditable service in an eligible retirement system may participate in this part of the incentive.

Section 2 of Part B of the bill would require State employers, participating employers not empowered to act by local law which elect to participate in Part B of the incentive, and New York City to establish a commencement date. In the event State employers fail to establish a commencement date, the default commencement date would be July 1, 2010. The default commencement date for other participating employers and New York City would be September 1, 2010.

Section 3 of Part B of the bill would provide that State employers and participating employers may elect to provide employees the benefits of Part B on or before September 1, 2010, provided that educational employers make such election by June 1, 2010.

Section 4 of Part B of the bill would provide that any eligible employee serving in an eligible title that has been continuously in active service from February 1, 2010 to the commencement date and who files an application for retirement during the open period would be entitled to the benefits provided by this part of the bill.

Section 5 of Part B of the bill would provide that an eligible employee in an eligible retirement system who is entitled to the benefits provided by this part of the bill who has attained the age of fifty-five and has completed at least twenty-five years or more of service may retire during the open period without a reduction of his or her retirement benefit that would otherwise be imposed. This section also would provide that the Director of State Operations, the chief executive officer of the City of New York, or the chief executive officer or governing board of a participating employer may deny participation in the benefits provided by this part of the bill if they determine an employee holds a position that is deemed critical to the maintenance of public health and safety.

Section 6 of Part B of the bill would require employers to pay the pension costs of offering a retirement incentive program over a period not to exceed 5 years commencing in the State fiscal year ending March 31, 2012.

Section 7 of Part B of the bill would provide for an immediate effective date.

Section 3 of the bill would provide a severability clause.

Section 4 of the bill would provide for an immediate effective date.

Statement in Support and Budgetary Implications:

The 2010-11 Executive Budget calls for workforce reductions through organizational restructuring, streamlining and shared services efficiencies. This bill would streamline the public sector workforce and result in long-term savings to the State and local governments through the elimination of specific positions determined to be less critical to governmental operations.

The long-term savings of this bill, however, would be partially offset by near-term costs. The New York State and Local Retirement System estimates that the per member cost of the Part A incentive would average approximately 60 percent of an employee's final average salary, and 110 percent of final average salary for Part B. The Teachers' Retirement System estimates the per member cost of the Part A of incentive would range between 50 to 75 percent of final average salary, with a similar range expected for Part B. These costs would be paid over a five-year period, commencing with a payment in the 2011-12 State fiscal year.

This program is very similar to the two part retirement incentive offered by this State in 2002. Under Part A of this program, employees would have the option to either receive one month of credit for every year of their service, up to a total of three years or 36 months. Under Part B, early retirement penalties would be waived for employees that have reached 55 years of age and achieved at least 25 years of service. In no way would employees be able to combine the benefits of Part A and Part B, or the benefits of Part A and Chapter 45 of the Laws of 2010. Local governments would have the option to participate in the bill.

Effective Date:

This bill would take effect immediately.