

A 11805 Rules (Abbate) Same as S 8408
ROBACH

Retirement

TITLE....Establishes a two year temporary
early retirement incentive program for certain
public employees

Currently on Assembly Committee

Agenda

Governmental Employees (ABBATE)

11:45 AM, Tuesday, June 20, 2006

Room 840 LOB

Currently on Assembly Committee

Agenda

Rules (SILVER)

11:15 AM, Wednesday, June 21, 2006

ROOM 342 CAP

Currently on Assembly Committee

Agenda

Ways and Means (FARRELL)

9:30 AM, Wednesday, June 21, 2006

Room 342 CAP

06/09/06referred to governmental employees

06/20/06reported referred to ways and
means

06/21/06reported referred to rules

06/21/06reported

06/21/06rules report cal.1273

06/21/06ordered to third reading rules
cal.1273

06/21/06passed assembly

06/21/06delivered to senate

06/21/06REFERRED TO RULES

06/23/06SUBSTITUTED FOR S8408

06/23/063RD READING CAL.2265

06/23/06PASSED SENATE

06/23/06RETURNED TO ASSEMBLY

07/07/06delivered to governor

07/19/06vetoed memo.226

07/19/06tabled

S8408 ROBACH Same as A 11805 Rules
(Abbate)

ON FILE: 06/19/06 Retirement

TITLE....Establishes a two year temporary early
retirement incentive program for certain public
employees

06/19/06 REFERRED TO RULES

06/23/06 ORDERED TO THIRD READING
CAL.2265

06/23/06 SUBSTITUTED BY A11805

A11805 Rules (Abbate)

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

BILL NUMBER: A11805

SPONSOR: Rules (Abbate)

TITLE OF BILL: An act to provide a temporary early retirement incentive program for certain public employees in New York state; and to provide an age 55/25 temporary incentive for certain public employees

SUMMARY OF PROVISIONS: This legislation establishes a two-year temporary early retirement incentive program for certain public employees.

JUSTIFICATION: This legislation would establish a two-year age 55/25 year temporary early retirement incentive that is intended and designed to coordinate current and future workforce planning issues between public employers and public employees.

This legislation, if enacted, will allow public employers to plan in advance for impending demographic shifts caused by an aging public workforce, while also achieving workplace efficiencies and financial savings by reducing overall payroll costs without negatively impacting the continuity or quality of public service delivery. This legislation, if enacted, will also enable senior public employees who already meet the minimum eligibility requirements for retirement in the Tier II, III and IV plans (age 55 with 25 or more years of service) to retire at their own option and without the imposition of arbitrary penalties on their retirement benefits.

It is anticipated that this legislation will increase the ability of public employers to attract younger, lower salaried public servants in the near term as the current public workforce nears retirement eligibility. This will be achieved by enabling senior, higher salaried public employees who have already met the minimum age and service requirements for retirement from the Tier II, III and IV retirement plans to do so without penalty. This cost effective early retirement incentive will instantaneously reduce payrolls and encourage an influx of younger public servants without impacting the delivery of public services.

FISCAL IMPLICATIONS: See Fiscal Note.

EFFECTIVE DATE: Immediately.

VETO MESSAGE - No. 226

TO THE ASSEMBLY:

I am returning herewith, without my approval, the following bill:

Assembly Bill Number 11805, entitled:

"AN ACT to provide a temporary early retirement incentive program for certain public employees in New York state; and to provide an age 55/25 temporary incentive for certain public employees"

NOT APPROVED

This bill would establish three temporary early retirement incentive programs for certain public employees. Part A would provide for a program that would be available as of right to eligible members of the New York State and Local Employees' Retirement System, the State Teachers' Retirement System, the New York City Employees' Retirement System (NYCERS), the NYC Teachers' Retirement System (TRS) and the NYC Board of Education Retirement System (BERS). To be eligible for the Part A incentive, a member would have to be at least 55 years of age, have at least 25 years of service and retire during the 90-day open period, which shall not extend beyond March 31, 2007. The retirement incentive program provided by Part B of the bill is nearly identical to the Part A retirement incentive, except that the 90-day open period shall not extend beyond March 31, 2008. Thus, the bill, in effect, would provide for identical retirement incentive programs for both 2006 and 2007. In addition, Part C of the bill would establish a retirement incentive program for eligible members of the Optional Retirement Program maintained by the Teachers Insurance and Annuity Association (TIAA) for certain employees of the City University of New York and the State University of New York.

Under the bill, a member who is eligible for the Part A or B incentive program may be denied participation in the program only when the chief executive officer or governing board of a participating employer determines that the employee holds a position that is deemed critical to the maintenance of public health and safety. Such determination would be subject to judicial review under Article 78 of the Civil Practice Law and Rules. In contrast, the Part C retirement incentive program would allow employers to elect to offer the program and to target eligible titles. Eligible members who are at least age 55, have 25 or more years of service and who retire during the open period would receive an additional employer contribution equal to one-twelfth times years of service times 15% of the employee's earnable salary, capped at 45% of earnable salary.

In my 2006-07 Executive Budget, I proposed a targeted retirement incentive to allow State and local governments to reduce the public workforce by focusing on positions that could be eliminated through organizational restructuring, streamlining and shared services efficiencies. Consistent with prior retirement incentive bills (see, e.g., Chap-

ter 69 of the Laws of 2002), my proposal was a targeted, one-year incentive program that would assist the State and local governments in managing their workforces while also producing out-year budget savings. Unfortunately, this bill would fail to include many of the important safeguards included in prior retirement incentive bills and in my Execu-

tive Budget proposal. Accordingly, for the reasons set forth below, I am constrained to disapprove the bill.

First, I am concerned that the bill would fail to provide State and local governments with the authority to appropriately target the retirement incentive. As noted above, the bill would only allow exclusions if an employee's position is "critical to the maintenance of public health and safety." In contrast, past retirement incentives have authorized

public employers to also exclude employees from the incentive if the loss of the employee would result in: a reduction of the level of service required or mandated to protect and care for clients of the State or to assure public health and safety; the endangerment of the health or safety of employees of the State; or the clear loss of significant revenue to the State or result in substantially increased overtime or contractual costs. These targeted safeguards are necessary to manage the public workforce and ensure that experienced and highly trained public employees will be available to provide vital services for the benefit of all New Yorkers.

Second, I am concerned that the bill would impose significant unbudgeted cost on State and local governments. The Division of the Budget ("DOB") advises me that the cost of Parts A and B of this bill to the State would be \$11 million per year for the next 17 years (a total of \$187 million), plus an additional \$8 million for Part C in 2007-08. Local governments and school districts would also face substantial increases in their pension costs. At a time when New Yorkers continue to bear the tax burden associated with ever-increasing pension costs, I am unwilling to approve this costly new benefit.

Finally, I am concerned that the bill would mandate the State and local governments to provide an unprecedented multi-year retirement incentive. Under the bill, the State would be required to establish one "open period" during the 2006-07 fiscal year and a second one during the 2007-08 fiscal year. In contrast, prior bills have been temporary programs limited to a single "open period." If this type of retirement incentive were to be made permanent -- or if the actuaries for the State's public retirement systems were to determine that this type of retirement benefit had been offered so frequently as to become tantamount to a permanent benefit, as they indicated that they may do -- the annual costs to State and local governments would be staggering. Under these circumstances, DOB estimates that the annual cost to State and local governments would be \$150 million and the cost to school districts outside of New York City would be \$118 million.

New York State has one of the largest, most sophisticated and talented work forces in the Nation. Each day, public employees maintain the safety of our roads, care for our sick and elderly, teach our children and protect the quality of our environment. Contrary to sound public policy, this bill would permit virtually all public employees who meet certain basic requirements to leave public service quickly and in large numbers, without any mechanism to allow public employers to manage such loss and maintain critical services. Taken together with the significant increase in pension costs that would result from the bill, I am constrained to disapprove the bill.

The bill is disapproved.

(signed) GEORGE E. PATAKI