



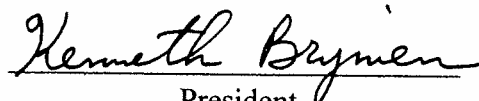
Memo

TO: Executive Board and Council Leaders
DATE: June 4, 2010
RE: Early Retirement Incentive Questions and Answers

Attached for your reference is a copy of general questions we have received regarding the 2010-11 Early Retirement Incentive (ERI) as well as a copy the Division of the Budget Bulletin regarding implementation of the incentive.

PEF will be closely monitoring the implementation of the incentive to insure that it is as broadly applied as possible. As with last year's Voluntary Severance Package (VSP) we will be keeping track of members who have applied for the incentive and have been denied. Once the ERI window is open members who have been denied can provide this information through the PEF website. This information will be used to determine whether our members are being unfairly denied participation in the incentive.

If you have additional questions that you feel should be added to the Questions and Answers list please contact PEF at pefonline@pef.org.


President

Attachments: 2010-11 Early Retirement Incentive Questions and Answers
Budget Bulletin b-1190



2010-11 Early Retirement Incentive Q&A

The Governor has signed the early retirement incentive (ERI) for NYS employees. The ERI has two parts. Part A is a traditional ERI. It is targeted and provides the same benefits and penalties as all other ERIs have. Part B is a limited 25/55 provision. PEF has received a number of questions about the ERI legislation and have put together the following Q&A to assist in answering them.

PART A – Early Retirement Incentive

PART A applies to members in Tiers 1-4. With regards to executive branch employees, it will be targeted to apply only in agencies and positions designated by the Director of State Operations due to budget or workforce reductions. State University of New York (SUNY) eligible titles must be approved by the Trustees. Employees who are targeted will receive one month of additional pension credit for each year of service up to a maximum of 36 months added credit. In order to be eligible employees must have attained the age of 50 and have at least 10 years of service. Penalties are as follows: Tier 2, 3, and 4 members between ages 55 and 62 with less than 30 years of service will be subject to normal penalties that apply under current law; members in Tiers 1-4 who are between the ages of 50 and 55 will have an additional penalty of 5% for each year below age 55. The ERI will be authorized during a window period from July 1st to September 28, 2010. Unlike the 2002 legislation, positions vacated by employees taking advantage of PART A will be eliminated, unless the position is one in which another employee can be appointed, transferred or reassigned in which case the former position of the successor employee will be eliminated.

PART B – 55/25 Window

PART B provides a temporary opportunity for members in Tiers 2, 3, and 4 including executive branch employees who are at least 55 years old and have 25 years of service to retire without penalties. SUNY must opt-in through an action by the Trustees. Tier 1 employees are not eligible for PART B because they can already retire at age 55 with no penalties regardless of their years of service. For Tiers 2, 3, and 4 members this elimination of penalties can be quite significant because under present law a member in those tiers who retires at age 55 may face significant penalties of up to 27%. Key provisions of the 55/25 are as follows:

- The 55/25 will only be available for a 90 day window. For executive branch employees the window runs from July 1st to September 28, 2010;
- The 55/25 is not targeted; it will be available to all members who qualify by age and years of service at the member's option; except that
- The Director of State Operations may exclude executive branch titles deemed critical to the maintenance of public health and safety. An employee excluded from the 55/25 may challenge that determination under Article 78 of Civil Procedure Law and Rules.

Overall

Q: Is it official yet? When will the State announce the window?

A: The window has been announced. Both parts will run concurrently from July 1, 2010 to September 28, 2010.

Q: Should I notify management that I am interested in the ERI now or is that premature?

A: It may be useful to communicate your interest to management now, but you should also do it again once the window period begins on July 1, 2010.

Part A (Traditional Early Retirement Incentive)

Q: Is the ERI available for the entire fiscal year?

A: No. The ERI bill requires that it take effect on July 1st and will run until September 28, 2010.

Q: Will the Part A ERI be targeted again?

A: Yes it will be targeted. The language regarding targeting is exactly the same as previous enacted ERI bills.

Q: What do you mean by “targeted”?

A: "Targeted" means that the ERI will only be offered to employees serving in titles and work locations that, “would otherwise be identified for layoff” but for this incentive.

Q: Will people in non-targeted titles be eligible?

A: It is possible that people in non-targeted titles will be eligible. If a title is targeted in another agency or work location and no one there is eligible for the ERI, it is possible via §78 of the *Civil Service Law* that the ERI could be offered to someone who is not targeted. The state would offer the incentive elsewhere to create a vacancy for someone in the targeted title. The targeted employee would then be transferred into the vacancy. This can only work if the person is willing to make the transfer in the first place, and if management approves the ERI and the transfer.

Q: How can my agency participate?

A: Agencies have been told that participation in the ERI is necessary to achieve recurring savings. This would seem to mean that most if not all agencies will participate, but that remains to be seen. Agencies must submit a request to participate no later than June 21st so we will have a better idea about participation then.

Q: Can my agency refuse to participate?

A: It appears that agencies must participate, but in the past agencies have been directed to participate in programs and have chosen not to participate.

- Q: Does the legislation mandate the elimination of positions if someone takes the ERI?**
A: In most cases yes. The language does not require that positions funded by special revenue funds, meaning other than the general fund, be eliminated. However, the Division of Budget has stated to agencies that, as a general rule, positions will be abolished.
- Q: How much service credit would an ERI eligible employee be offered?**
A: This law is the same as previous ones - one month of service credit for each year of service credit with a maximum of 36 months additional credit.
- Q: Under the ERI, could I retire prior to age 55?**
A: Yes, you can retire anytime after age 50, but there are significant penalties.
- Q: What are the penalties?**
A: There is a five percent penalty for each year prior to age 55. (This is prorated for partial years.)
- Q: Would the existing penalties for retiring before age 62 for Tiers II, III and IV also be in effect?**
A: Yes, they are still in effect for members with less than 30 years of service credit who retire before age 62. These penalties; six percent a year for each year between 60 and 62 (12 percent) and three percent a year for each year between 55 and 60 (15 percent) remain. This means that a Tier II, III and/or IV member retiring at age 50 would incur a 52% reduction in their pension allowance. However, you can use the service credit from the ERI to get you to 30 years of service credit so you can avoid paying the early retirement penalties if you are 55 and would then have 30 years of service.
- Q: If I put in for the ERI and don't get it will I still be retired?**
A: If you are otherwise eligible for retirement the retirement system will handle your retirement as a normal retirement without any of the incentives. Therefore, you should be in constant contact with your agency Human Resources department to know whether or not you will be offered the ERI. If your agency does not tell you that you have been approved by the Task Force and you do not want to retire you should **withdraw** your papers from the Retirement System.
- Q: Can I withdraw my retirement papers any time prior to the date of retirement?**
A: Yes. You can withdraw your papers right up until the day of your retirement.
- Q: Is there a cash payout up to 45 percent of my final average salary in the ERI bill?**
A: Not for members of the New York State Employees Retirement System. The provision that calls for the cash payment is for members of TIAA-CREF. TIAA-CREF is a defined contribution plan available to certain employees in SUNY. Since these members cannot receive additional "time" in the system they receive cash instead.
- Q: Do you know if my agency will be participating in the traditional ERI?**
A: No. We do know that the only way the incentive can be offered is to avoid the need for layoffs.

Q: Could there be a broader offering at some later time?

A: We do not anticipate any broader offering of an ERI. The Division of Budget claims the only way to save significant money is by keeping the positions vacant after offering the ERI. This is why they target and we believe why they will continue to target.

Q: I have service credit from prior county, municipal or school district employment. Will that time be counted in addition to my State time for PART A additional service credit?

A: Yes. Part A Section 6 allows one month of additional service credit for each year of pension serviced credited as of the date of retirement. So any prior service that has been credited to you by the retirement system will count.

Q: Can I get PART A additional service credit which takes me above the total service credit cap?

A: Yes. Part A Section 12 allows for the ERI additional service credit to be added on above the maximum credit allowed. So for example if you have reached the maximum of 75% (37.5 years of service) you could get up to 3 years of credit above that limit.

Part B

Q: Is the 25/55 a permanent change to the retirement system?

A: No. The 25/55 is only available for a window commencing no later than July 1, 2010 and lasting between 30 and 90 days.

Q: Is it available to eligible employees during the entire year?

A: No, it will only be open for a 30 - 90 day "window." This "window" will run from July 1st to September 28, 2010.

Q: Is the 25/55 targeted too?

A: No. However, the Director of State Operations can deny participation to employees in exempted positions that are deemed to be "critical" to public health or safety.

Q: Can I get both the ERI and the 25/55?

A: No. Employees can only avail themselves to one part of the incentive package.

Q: I will be 55 and have 25 years of service October 15. Do I actually have to retire by September 28 or just have my papers filed?

A: Yes. you have to retire by Sept. 28th. Part B section 4 says the retirement must be effective during the open period.

The budget bulletin regarding the implementation of the ERI can be found on the Division of the Budget website at <http://www.budget.state.ny.us/guide/bprm/bulletins/b-1190.html>.