



# School Districts Practice Information Memo

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## Bond, Schoeneck & King, PLLC

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## GOVERNOR PATERSON SIGNS 55-25 PENSION LEGISLATION FOR NYSUT MEMBERS

On April 14, 2010, Governor David A. Paterson signed into law Senate Bill S-6972/Assembly Bill 10065 (the “55/25 legislation”) which provides an early retirement incentive for New York State United Teachers (“NYSUT”) members only who belong to either the New York State and Local Employees’ Retirement System (“ERS”) or the New York State Teachers’ Retirement System (“TRS”). The 55/25 legislation was first announced as part of the Tier V Pension legislation which was signed into law on December 10, 2009. The 55/25 legislation allows NYSUT members who are members of ERS or TRS, are at least 55 years of age, and have attained at least 25 years of creditable service, to retire without the normal reduction in retirement benefits that would normally apply to Tier 2, 3, and 4 members who have not met the 55/30 threshold, pursuant to Articles 11 and 15 of the Retirement and Social Security Law. NYSUT has estimated that State-wide, more than 6,000 educators and staff meet the eligibility criteria for this early retirement incentive.

To be eligible for the 55/25 retirement incentive, an employee must meet the following criteria:

- Must be a member of the ERS or TRS;
- Must be a member of NYSUT;
- Must be an employee of an educational employer (School District, BOCES, vocational education and extension board, institution for instruction of the deaf and of the blind, SUNY, and Community Colleges) who employ members of NYSUT;
- Must be at least 55 years of age and have 25 years or more of creditable service;
- Must be on active service, which is defined as being on continuous service and on the payroll from February 1, 2010 until June 1, 2010, provided, however, that the following classes of employees are deemed to be on “active service” by the legislation and thus eligible for the early retirement benefit:
  - Those employees on a paid leave of absence; and

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- Those employees on an unpaid leave of absence without pay that does not exceed 12 weeks from February 1, 2010 and the commencement of the “open period” (which is June 1, 2010 for School Districts).

The 55/25 legislation sets forth a specific time period in which those individuals who wish to take advantage of the retirement incentive must elect to do so. Specifically, the legislation sets forth an “open period” within which an individual who qualifies for the incentive must retire. The open period for employees of school districts begins on June 1, 2010 and ends on August 31, 2010. For the SUNY system and community colleges, while the open period is capped at 90 days, and must end on or before December 31, 2010, the legislation does not mandate a certain date for the commencement of the open period. Those individuals who wish to apply for early retirement without penalty under the 55/25 legislation must fill out the appropriate retirement application not less than fourteen (14) days prior to the effective date of his/her retirement.

For those employers who have previously negotiated and agreed to a retirement incentive with a NYSUT union, the legislation explicitly states that it does not impact or affect in any way other retirement incentives provided by collective bargaining agreement that were negotiated prior to the effective date of the legislation.

The per member cost for each employee who receives this early retirement benefit is estimated to be approximately 110% of the employee’s Final Average Salary (“FAS”). Unfortunately for employers, regardless of whether or not they have employees who take advantage of the early retirement incentive, the 55-25 legislation indicates that “the cost of this incentive will be socialized across all employers.” Therefore, even if an employer has no one that retires under this incentive, it will have to help fund it. The legislature has estimated that the total cost of the 55-25 Legislation will be \$13.2 million or .09% of payroll. For every 100 employees that retire under this legislation, there will be an increase of approximately \$260,000 to the State and \$360,000 to participating employers. The legislation estimates the number of people who will retire under this legislation will be under 1000.

If you have any questions regarding this information memo please contact:

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