S T A T E O F N E W Y O R K

7326

I N S E N A T E

May 12, 2014

Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Cities

AN ACT to amend the administrative code of the city of New York and the retirement and social security law, in relation to the disability benefits of members of the New York city police pension fund

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivisions a and b of section 13-254 of the administrative code of the city of New York, subdivision a as amended by chapter 438 of the laws of 1986, are amended to read as follows:

a. Once each year the board may, and upon his or her application shall, require any disability pensioner, under the minimum age or period for service retirement elected by him or her, OR ANY DISABILITY PENSIONER RETIRED PURSUANT TO SECTION FIVE HUNDRED SIX OR FIVE HUNDRED SEVEN OF THE RETIREMENT AND SOCIAL SECURITY LAW, AND WHO IS UNDER EARLY RETIREMENT AGE AS DEFINED IN SECTION FIVE HUNDRED ONE OF THE RETIREMENT AND SOCIAL SECURITY LAW FOR POLICE/FIRE MEMBERS to undergo medical examination. Such examination shall be made at the place of residence of such beneficiary or other place mutually agreed upon. Upon the completion of such examination the medical board shall report and certify to the board whether such beneficiary is or is not totally or partially incapacitated physically or mentally and whether he or she is or is not engaged in or able to engage in a gainful occupation. If the board concurs in a report by the medical board that such beneficiary is able to engage in a gainful occupation, he or she shall certify the name of such beneficiary to the appropriate civil service commission, state or municipal, and such commission shall place his or her name as a preferred eligible on such appropriate lists of candidates as are prepared for appointment to positions for which he or she is stated to be qualified. Should such beneficiary be engaged in a gainful occupation, or should he or she be offered city-service as a result of the placing of his or her name on a civil service list, such board shall reduce the amount of his or her disability pension and his or her pension-for-increased-take-home-pay, if any, to an amount which, when added to that then earned by him or her, or

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

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earnable by him or her in city-service so offered him or her, shall not exceed the current maximum salary for the title next higher than that held by him or her when he or she was retired. Should the earning capacity of such beneficiary be further altered, such board may further alter his or her pension and his or her pension-for-increased-take-home-pay, if any, to an amount which shall not exceed the rate of pension and his or her pension-for-increased-take-home-pay, if any, upon which he or she was originally retired but which, subject to such limitation, shall equal, when added to that earnable by him or her, the current maximum salary for the title next higher than that held by him or her when he or she was retired. The provisions of this section shall be executed, any provision of the charter or the code to the contrary notwithstanding.

b. Should any disability pensioner, under the minimum age or period for service retirement elected by him or her, OR ANY DISABILITY PENSIONER RETIRED PURSUANT TO SECTION FIVE HUNDRED SIX OR FIVE HUNDRED SEVEN OF THE RETIREMENT AND SOCIAL SECURITY LAW, AND WHO IS UNDER EARLY RETIREMENT AGE AS DEFINED IN SECTION FIVE HUNDRED ONE OF THE RETIREMENT AND SOCIAL SECURITY LAW FOR POLICE/FIRE MEMBERS, refuse to submit to one medical examination in any year by a physician or physicians designated by the medical board, his or her pension and his or her pension-for-increased-take-home-pay, if any, may be discontinued until his or her withdrawal of such refusal. Should such refusal continue for one year, all his or her rights in and to such pension and his or her pension-for-increased-take-home-pay, if any, may be revoked by such board.

S 2. Section 506 of the retirement and social security law is amended by adding a new subdivision e to read as follows:

E. 1. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER OR OF ANY GENERAL, SPECIAL OR LOCAL LAW, CHARTER, ADMINISTRATIVE CODE OR RULE OR REGULATION TO THE CONTRARY, SUBDIVISIONS A, B, C AND D OF THIS SECTION SHALL NOT APPLY TO MEMBERS OF THE NEW YORK CITY POLICE PENSION FUND WHO ARE SUBJECT TO THIS ARTICLE. A MEMBER OF THE NEW YORK CITY POLICE PENSION FUND WHO IS SUBJECT TO THIS ARTICLE SHALL INSTEAD BE ELIGIBLE FOR ORDINARY DISABILITY RETIREMENT PURSUANT TO SECTIONS 13-216, 13-251 AND 13-254 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK, AND SHALL RECEIVE A RETIREMENT ALLOWANCE WHICH SHALL CONSIST OF:

(I) AN ANNUITY, WHICH SHALL BE THE ACTUARIAL EQUIVALENT OF HIS OR HER ACCUMULATED CONTRIBUTIONS, IF ANY, AT THE TIME OF HIS OR HER RETIREMENT;

(II) A PENSION WHICH IS THE ACTUARIAL EQUIVALENT OF THE RESERVE-FOR-INCREASED-TAKE-HOME-PAY TO WHICH HE OR SHE MAY THEN BE ENTITLED, IF ANY; AND

(III) A PENSION, WHICH, TOGETHER WITH HIS OR HER ANNUITY AND THE PENSION-PROVIDING-FOR-INCREASED-TAKE-HOME-PAY, IF ANY, SHALL BE EQUAL TO A RETIREMENT ALLOWANCE EQUAL TO ONE-FORTIETH OF HIS OR HER FINAL AVERAGE SALARY MULTIPLIED BY THE NUMBER OF YEARS OF CITY-SERVICE CREDITED TO HIM OR HER, BUT NOT LESS THAN (1) ONE-HALF OF HIS OR HER FINAL AVERAGE SALARY, IF THE YEARS OF CITY-SERVICE CREDITED TO HIM OR HER ARE TEN OR MORE, OR (2) ONE-THIRD OF HIS OR HER FINAL AVERAGE SALARY, IF THE YEARS OF CITY-SERVICE CREDITED TO HIM OR HER ARE LESS THAN TEN.

2. THE PROVISIONS OF SUBDIVISIONS G, H AND I OF SECTION FIVE HUNDRED SEVEN OF THIS ARTICLE SHALL APPLY TO DISABILITY BENEFITS UNDER THIS SUBDIVISION.

S 3. Clause 1 of subparagraph (a) of paragraph 2 of subdivision g of section 507 of the retirement and social security law, as amended by chapter 489 of the laws of 2008, is amended to read as follows:

[(1)] Notwithstanding the provisions of this chapter or of any general, special or local law, charter, administrative code or rule or regu-

lation to the contrary, if a member who participated in World Trade Center rescue, recovery or cleanup operations, as defined in section two of this chapter, and subsequently retired on a service retirement, an ordinary disability retirement, AN ACCIDENTAL DISABILITY RETIREMENT, A VESTED RETIREMENT or a performance of duty disability retirement and subsequent to such retirement is determined by the comptroller or applicable retirement system board of trustees to have a qualifying World Trade Center condition, as defined in section two of this chapter, upon such determination by the comptroller OR APPLICABLE RETIREMENT SYSTEM BOARD OF TRUSTEES it shall be presumed that such disability was incurred in the performance and discharge of duty as the natural and proximate result of an accident not caused by such member's own willful negligence, and that the member would have been physically or mentally incapacitated for the performance and discharge of duty of the position from which he or she retired had the condition been known and fully developed at the time of the member's retirement, unless the contrary is proven by competent evidence.

S 4. Section 507 of the retirement and social security law is amended by adding a new subdivision j to read as follows:

J. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER OR OF ANY GENERAL, SPECIAL OR LOCAL LAW, CHARTER, ADMINISTRATIVE CODE OR RULE OR REGULATION TO THE CONTRARY, SUBDIVISIONS A, B, C, D, E AND F OF THIS SECTION SHALL NOT APPLY TO MEMBERS OF THE NEW YORK CITY POLICE PENSION FUND WHO ARE SUBJECT TO THIS ARTICLE. A MEMBER OF THE NEW YORK CITY POLICE PENSION FUND WHO IS SUBJECT TO THIS ARTICLE SHALL INSTEAD BE ELIGIBLE FOR ACCIDENTAL DISABILITY RETIREMENT PURSUANT TO SECTIONS 13-215, 13-252 AND 13-254 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK, AND SHALL RECEIVE A RETIREMENT ALLOWANCE WHICH SHALL CONSIST OF:

1. AN ANNUITY, WHICH SHALL BE THE ACTUARIAL EQUIVALENT OF HIS OR HER ACCUMULATED CONTRIBUTIONS, IF ANY, AT THE TIME OF HIS OR HER RETIREMENT;

2. A PENSION WHICH IS THE ACTUARIAL EQUIVALENT OF THE RESERVE-FOR-INCREASED-TAKE-HOME-PAY TO WHICH HE OR SHE MAY THEN BE ENTITLED, IF ANY; AND

3. A PENSION, OF THREE-QUARTERS OF HIS OR HER FINAL AVERAGE SALARY, IN ADDITION TO THE ANNUITY AND PENSION PROVIDED FOR BY PARAGRAPHS ONE AND TWO OF THIS SUBDIVISION.

S 5. Section 510 of the retirement and social security law is amended by adding a new subdivision i to read as follows:

I. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE OR THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK, THE ANNUAL ESCALATION PROVIDED IN THIS SECTION SHALL NOT APPLY TO THE ORDINARY OR ACCIDENTAL DISABILITY RETIREMENT BENEFIT OF MEMBERS OF THE NEW YORK CITY POLICE PENSION FUND WHO RETIRE PURSUANT TO SECTION FIVE HUNDRED SIX OR FIVE HUNDRED SEVEN OF THIS ARTICLE. THE ORDINARY OR ACCIDENTAL DISABILITY RETIREMENT BENEFIT OF MEMBERS OF THE NEW YORK CITY POLICE PENSION FUND WHO RETIRE PURSUANT TO SECTION FIVE HUNDRED SIX OR FIVE HUNDRED SEVEN OF THIS ARTICLE SHALL BE ADJUSTED FOR COST-OF-LIVING PURSUANT TO THE PROVISIONS OF SECTION 13-696 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK.

S 6. Subdivision f of section 511 of the retirement and social security law, as amended by chapter 18 of the laws of 2012, is amended to read as follows:

f. This section shall not apply to general members in the uniformed correction force of the New York city department of correction or to uniformed personnel in institutions under the jurisdiction of the department of corrections and community supervision and security hospital treatment assistants, as those terms are defined in subdivision i of

section eighty-nine of this chapter, provided, however, that the provisions of this section shall apply to a New York city uniformed correction/sanitation revised plan member, AND THIS SECTION SHALL ALSO NOT APPLY TO MEMBERS OF THE NEW YORK CITY POLICE PENSION FUND WHO ARE SUBJECT TO THIS ARTICLE WHO RETIRE ON ORDINARY OR ACCIDENTAL DISABILITY RETIREMENT PURSUANT TO SECTION FIVE HUNDRED SIX OR FIVE HUNDRED SEVEN OF THIS ARTICLE.

S 7. Section 512 of the retirement and social security law is amended by adding a new subdivision e to read as follows:

E. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION A OF THIS SECTION, OR ANY OTHER GENERAL SPECIAL OR LOCAL LAW, WITH RESPECT TO MEMBERS OF THE NEW YORK CITY POLICE PENSION FUND WHO RETIRE PURSUANT TO SECTION FIVE HUNDRED SIX AND FIVE HUNDRED SEVEN OF THIS ARTICLE A MEMBER'S FINAL AVERAGE SALARY SHALL MEAN THE SALARY EARNED BY SUCH MEMBER DURING THE ONE-YEAR PERIOD IMMEDIATELY PRIOR TO RETIREMENT, EXCLUSIVE OF ANY FORM OF TERMINATION PAY (WHICH SHALL INCLUDE ANY COMPENSATION IN ANTICIPATION OF RETIREMENT) OR ANY LUMP SUM PAYMENT FOR DEFERRED COMPENSATION, SICK LEAVE, OR ACCUMULATED VACATION CREDIT, OR ANY OTHER PAYMENT FOR TIME NOT WORKED (OTHER THAN COMPENSATION RECEIVED WHILE ON SICK LEAVE OR AUTHORIZED LEAVE OF ABSENCE); PROVIDED, HOWEVER, IF THE SALARY OR WAGES EARNED DURING THE ONE-YEAR PERIOD IMMEDIATELY PRIOR TO RETIREMENT EXCEEDS THAT OF THE PREVIOUS ONE-YEAR PERIOD BY MORE THAN TWENTY PER CENTUM, THE AMOUNT IN EXCESS OF TWENTY PER CENTUM SHALL BE EXCLUDED FROM THE COMPUTATION OF FINAL AVERAGE SALARY. IN DETERMINING FINAL AVERAGE SALARY, ANY MONTH OR MONTHS (NOT IN EXCESS OF THREE) WHICH WOULD OTHERWISE BE INCLUDED IN COMPUTING FINAL AVERAGE SALARY BUT DURING WHICH THE MEMBER WAS ON AUTHORIZED LEAVE OF ABSENCE WITHOUT PAY SHALL BE EXCLUDED FROM THE COMPUTATION OF FINAL AVERAGE SALARY AND THE MONTH OR AN EQUAL NUMBER OF MONTHS IMMEDIATELY PRECEDING SUCH PERIOD SHALL BE SUBSTITUTED IN LIEU THEREOF.

S 8. This act shall take effect on the sixtieth day after it shall have become a law.

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

BACKGROUND - DESIGN OF PROPOSED LEGISLATION

In general, the OA believes that proposed legislation should:

* Be technically accurate,
* Be clear in its intent,
* Be administrable, and
* Meet desired policy objectives.

While the OA cannot provide any legal analysis, the OA has done a review of the proposed legislation and has some concerns. These concerns that follow represent the best understanding of the Actuary and staff of the OA and should not be considered legal interpretations. All of these concerns and suggestions should be reviewed by Counsel.

For purposes of this letter, all members of the New York City Police Pension Fund ("POLICE") subject to Article 14 of the RSSL will be referred to as "Tier III POLICE Members." Of those Tier III Police Members who have a date of membership prior to April 1, 2012, they will be referred to as an "Original Tier III POLICE Members." Of those Tier III POLICE Members who have a date of membership on or after April 1, 2012, they will be referred to as "Revised Tier III POLICE Members."

CONCERNS WITH PROPOSED LEGISLATION WITH RESPECT TO ORDINARY DISABILITY RETIREMENT ("ODR") AND ACCIDENTAL DISABILITY RETIREMENT ("ADR")

* Benefits Compared to Tier I and Tier II

The proposed legislation, if enacted, would revise the ODR and ADR benefit formulas for Tier III POLICE Members.

It appears that the proposed Tier III ODR benefit formula is intended to be the same as the ODR benefit available to Tier I and Tier II POLICE Members (i.e., 1/40 of Final Average Salary ("FAS") multiplied by the years of service, but not less than (1) one-half of FAS if the years of service are 10 or more or (2) one-third of FAS if the years of service are less than 10) where the FAS for Tier III POLICE Members would be based on a one-year FAS, the same as for Tier II and similar to the rate of pay for Tier I.

Similarly, it also appears that the proposed ADR benefit formula for Tier III POLICE Members is intended to be the same as the ADR benefit available to Tier I and Tier II POLICE Members (i.e., 75% of Final Average Salary ("FAS")), where the FAS for Tier III POLICE Members would be based on a one-year FAS, the same as for Tier II and similar to the rate of pay for Tier I.

Note: Tier I and Tier II POLICE Members are also entitled to an additional 1/60 of total earnings after their 20th anniversary. It is the understanding of the Actuary that the Tier III POLICE Members impacted by the proposed legislation would not receive this additional 1/60 of total earnings after 20 years of service.

POLICE Tier I and Tier II ODR and ADR benefits are subject to Cost-of-Living Adjustments ("COLA") under Chapter 125 of the Laws of 2000 on the first $18,000 of benefit after five years of Disability Retirement.

Given the proposed statutory references, it is the understanding of the Actuary that the proposed ODR and ADR benefits for Tier III POLICE Members would be entitled to the COLA described in the preceding paragraph, but would NOT be subject to an annual Tier III Escalation increase on the full benefit immediately from the date of Disability Retirement.

* Reference to ITHP

The proposed legislation, in defining the revised ODR and ADR benefits, uses the term Increased-Take-Home-Pay ("ITHP").

ITHP is a special benefit provided to Tier I and Tier II members and is not defined for Tier III members.

Given the history that no Tier III Members have ever received ITHP benefits, the Actuary has assumed that if the proposed legislation were enacted, Tier III POLICE Members would not be entitled to ITHP.

* Annuitization of Member Contributions

The proposed legislation would include in the ODR and ADR benefit formulas for Tier III POLICE Members, a benefit in the form of an annuity equal to the actuarial equivalent of the accumulated Tier III member contributions at retirement.

Annuitized benefits based directly on member contributions are available to Tier I and Tier II POLICE Members. However, it is the understanding of the Actuary that no current Tier III Member has any benefit which is defined as an annuitization of accumulated member contributions.

* Presumptive Conditions for ADR

It is the understanding of the Actuary that the proposed legislation, if enacted, would provide Tier III POLICE Members the ability to be eligible for and to utilize the presumptive conditions that qualify for ADR that are available to Tier I and Tier II POLICE Members.

The reasoning behind this understanding is that in the proposed legislation, eligibility conditions for Tier III POLICE Members for ODR would be determined pursuant to the Administrative Code of the City of New York ("ACNY") Sections 13-216, 13-251 and 13-254 (i.e., those that apply

to Tier I and Tier II POLICE Members), notwithstanding anything to the contrary.

Similarly, in the proposed legislation, eligibility conditions for Tier III POLICE Members for ADR would be determined pursuant to the Administrative Code of the City of New York ("ACNY") Sections 13-216, 13-252 and 13-254 (i.e., those that apply to Tier I and Tier II POLICE Members), notwithstanding anything to the contrary.

It is the understanding of the Actuary that in the proposed legislation, eligibility for ODR and ADR would not be pursuant to Retirement and Social Security Law ("RSSL") Section 507.e. RSSL Section 507.e provides that a member shall not be eligible for ODR or ADR unless the member waives the benefits of any statutory presumptions. Accordingly, it is the understanding of the Actuary that since under the proposed legislation RSSL 507.e would no longer apply to Tier III POLICE Members, Tier III POLICE Members would not be required to waive RSSL Section 507.e in order to be eligible for ODR or ADR benefits. Consequently, the statutory presumptions would apply since they have not been waived.

In accordance with the above reasoning, since current Tier III POLICE Members are required to waive the presumptions pursuant to RSSL Section 507.e, it is the understanding of the Actuary that Tier III POLICE Members are currently not entitled to presumptive conditions for ADR.

FISCAL NOTE: PROVISIONS OF PROPOSED LEGISLATION: This proposed legislation would amend Retirement and Social Security Law ("RSSL") Sections 506, 507, 510, 511 and 512 and amend Administrative Code of the City of New York ("ACNY") Section 13-254 to change, for members of the New York City Police Pension Fund ("POLICE") subject to Article 14 of the RSSL, the eligibility for and the calculation of Ordinary Disability Retirement ("ODR") benefits and Accidental Disability Retirement ("ADR") benefits.

For purposes of this Fiscal Note, all POLICE members subject to Article 14 of the RSSL will be referred to as "Tier III POLICE Members." Of those Tier III POLICE Members who have a date of membership prior to April 1, 2012, they will be referred to as "Original Tier III POLICE Members." Of those Tier II POLICE Members who have a date of membership on or after April 1, 2012, they will be referred to as "Revised Tier III POLICE Members."

The Effective Date of the proposed legislation would be the 60th day after the date of enactment.

IMPACT ON ODR BENEFITS PAYABLE: The current eligibility provisions for ODR benefits for Tier III POLICE Members are based on:

* Completing five or more years of service, and
* Becoming eligible for Primary Social Security Disability retirement benefits.

Such ODR benefits are equal to the greater of:

* 33 1/3% of Three-Year Final Average Salary ("FAS3") for Original Tier III POLICE Members or Five-Year Final Average Salary ("FAS5") for Revised Tier III POLICE Members, or
* 2% of FAS3 (FAS5 for Revised Tier III POLICE Members) multiplied by years of credited service (not in excess of 22 years),
* Reduced by 50% of the Primary Social Security Disability benefits (determined under RSSL Section 511), and
* Reduced by 100% of Workers' Compensation benefits (if any).

It is the understanding of the Actuary that POLICE are not covered by Workers' Compensation.

Under the proposed legislation the eligibility requirements for ODR benefits for Tier III POLICE Members would be revised to be the same as

those provided in ACNY Sections 13-216, 13-251 and 13-254 (i.e., the provisions applicable to Tier I and Tier II POLICE members).

In particular, completing five or more years of service would not be required in order to be eligible for ODR benefits. In other words, there would not any requirement for any minimum length of service to be completed in order to be eligible for ODR benefits.

Under the proposed legislation, if enacted, the ODR benefit for Tier III POLICE Members would be an allowance consisting of:

* An actuarial equivalent annuity of accumulated member contributions, plus

* A pension, which together with the annuity, equal to 1/40 of One-Year Final Average Salary ("FAS1") multiplied by years of credited service, but not less than:

* 1/2 of FAS1, if years of credited service are greater than or equal to 10 years, or

* 1/3 of FAS1, if years of credited service are less than 10 years.

Note: The proposed legislation also states that one component of the ODR benefit would be the actuarial equivalent annuity of an increased-Take-Home-Pay ("ITHP") reserve. This theoretical benefit is not included in this Fiscal Note analysis since it is the understanding of the Actuary that ITHP is not available to Tier III members generally and is not specifically defined in the proposed legislation.

In addition, the proposed legislation would NOT apply the Escalation available under RSSL Section 510 to ODR benefits for Tier III POLICE Members. However, such ODR benefits would still be eligible for Cost-of-Living Adjustments ("COLA") under Chapter 125 of the Laws of 2000.

IMPACT ON ADR BENEFITS PAYABLE: The current eligibility provisions for ADR benefits for Tier III POLICE Members are based on satisfying either:

* Being eligible for Social Security Disability retirement benefits and having become disabled due to an accident sustained in the line of duty, or

* Being physically or mentally incapacitated as a result of an accident sustained in the line of duty as determined by the appropriate administrative authority assigned by POLICE.

As a consequence of RSSL Section 507.e, a Tier III POLICE Member would not be eligible for ADR unless the member waived the benefits of any statutory presumptions (e.g., certain heart diseases).

Such ADR benefits are calculated using a formula of 50% multiplied by FAS3 for Original Tier III Police Members or FAS5 for Revised Tier III POLICE Members less 50% of Primary Social Security disability benefit (determined under RSSL Section 511) and less 100% of Workers' Compensation benefits (if any).

Note: It is the understanding of the Actuary that POLICE are not covered by Workers' Compensation.

Under the proposed legislation the eligibility requirements for ADR benefits for Tier III POLICE Members would be revised to be the same as those provided in ACNY Sections 13-216, 13-252 and 13-254 (i.e., the provisions applicable to Tier I and Tier II POLICE Members).

In addition, it is the understanding of the Actuary that the proposed legislation, if enacted, would provide Tier III POLICE Members the ability to be eligible for and to utilize the statutory presumptions (e.g., certain heart diseases) that qualify certain Tier I and Tier II POLICE Members for ADR.

Under the proposed legislation, if enacted, the ADR benefit for Tier III POLICE Members would be revised to equal a retirement allowance equal to the sum of:

* An actuarial equivalent annuity of accumulated member contributions, plus
* 75% multiplied by FAS1.

Note: The proposed legislation also states that one component of the ADR benefit would be the actuarial equivalent annuity of an Increased-Take-Home-Pay ("ITHP") reserve. This theoretical benefit is not included in this Fiscal Note analysis since it is the understanding of the Actuary that ITHP is not available to Tier III members generally and is not specifically defined in the proposed legislation.

Also not, it is the understanding of the Actuary that the Tier III POLICE Members impacted by the proposed legislation would not receive any additional 1/60 of annual earnings after 20 years of service.

In addition, the proposed legislation would NOT apply the Escalation available under RSSL Section 510 to ADR benefits for Tier III POLICE Members. However, such ADR benefits would still be eligible for Cost-of-Living Adjustments ("COLA") under Chapter 125 of the Laws of 2000.

FINANCIAL IMPACT - CHANGES IN BENEFITS - ACTUARIAL PRESENT VALUES. Based on the census data and the actuarial assumptions and methods noted herein, if the Effective Date is on or before June 30, 2015, then this would change the Actuarial Present Value ("APV") of benefits ("APBV"), APY of members contributions, the Unfunded Actuarial Accrued Liability ("UAAL") and APV of future employer contributions as of June 30, 2013 for Tier III POLICE Members.

FINANCIAL IMPACT - CHANGES IN PROJECTED APV OF FUTURE EMPLOYER CONTRIBUTIONS AND PROJECTED EMPLOYER CONTRIBUTIONS: For purposes of this Fiscal Note, it is assumed that the changes in APBV, APV of member contributions, UAAL and APV of future employer contributions would be reflected for the first time in the June 30, 2013 actuarial valuation of POLICE.

Under the One-Year Lag Methodology ("OYLM"), the first year that changes in benefits for Tier III POLICE Members could impact employer contributions to POLICE would be Fiscal Year 2015.

In accordance with ACNY Section 13.638.2(k-2), new UAAL attributable to benefit changes are to be amortized as determined by the Actuary but generally over the remaining working lifetime of those impacted by the benefit changes. As of June 30, 2013, the remaining working lifetime of the Tier III POLICE Members is approximately 18 years. Recognizing that this period will decrease over time as the group of Tier III Members matures, the Actuary would likely choose to amortize the new UAAL attributable to this proposed legislation over a 15-year period (14 payments under the OYLM Methodology).

The following Table 1A presents an estimate of the increases due to the changes in ODR and ADR provisions for Tier III POLICE Members in the APV of future employer contributions and in employer contributions to POLICE for Fiscal Years 2015 through 2019 that would occur based on the applicable actuarial assumptions and methods noted herein:

Table 1A

Estimated Financial Impact on POLICE
If Certain Revisions are Made to
Provisions for ODR and ADR Benefits
for Tier III POLICE Members*

($ Millions)

Fiscal Year	Increase in APV of Future Employer Contributions	Increase in Employer Contributions
2015	$266.4	$34.9
2016	372.2	46.4
2017	463.0	56.0
2018	545.0	64.5
2019	617.9	71.5

* Based on actuarial assumptions and methods set forth in the Actuarial Assumptions and Method Section. Also, based on the projection assumptions as described herein.

ODR and ADR benefits are NOT subject to Tier III Escalation (RSSL Section 510).

The following Table 1B presents the estimate of the increases due to the changes in the ODR and ADR provisions from Table 1A and splits those results between Original Tier III Police Members and Revised Tier III POLICE Members.

Table 1B

Estimated Financial Impact on POLICE
If Certain Revisions are Made to
Provisions for ODR and ADR Benefits
For Original Tier III POLICE Members
And Revised Tier III POLICE Members*

($ Millions)

Fiscal Year	Increase in APV of Future Employment Contributions		Increase in Employer Contributions	
	Original Tier III POLICE Members	Revised Tier III POLICE Members	Original Tier III POLICE Members	Revised Tier III POLICE Members
2015	$170.3	$96.1	$22.3	$12.6
2016	158.4	213.8	19.8	26.6
2017	145.8	317.2	17.9	38.1
2018	137.3	407.7	16.6	47.9
2019	129.8	488.1	15.4	56.1

* Based on Actuarial Assumptions and Methods set forth in the Actuarial Assumptions and Method Section. Also, based on the projection assumptions as described herein.

ODR and ADR benefits are NOT subject to Tier III Escalation (RSSL Section 510).

Note that the split of the results show above are calculated assuming the proposed legislation would be enacted (I.e., it would cover both Original and Revised Tier II POLICE Members). If similar legislation would be enacted for Revised Tier II POLICE Members only, the results would differ from those shown above for these Members.

The estimated increases in employer contributions shown in Tables 1A and 1B are based upon the following projection assumptions:

* Level workforce (i.e. new employees are hired to replace those who leave active status).

* Projected salary increases consistent with those used in projections presented to the New York City Office of Management and Budget ("NYCOMB") for use in the February 2014 Financial Plan ("Preliminary Projections").

* New entrant salaries consistent with those used in the Preliminary Projections.

These "open group" projections include future new entrants introduced into the census data models to project the future workforces.

As of each future actuarial valuation date, the current "closed group" actuarial assumptions and valuation methodology are used.

Under this methodology only Plan participants as of each actuarial valuation date are utilized to determine APVs, employer costs and employer contributions.

FINANCIAL IMPACT - ENTRY AGE NORMAL COSTS: Entry Age Normal Costs can provide a useful basis to compare the value of alternative benefit programs.

For each member who enters POLICE, there is a theoretical net annual employer cost to be paid for such member while such member remains actively employed (i.e., the Entry Age Normal Cost ("EANC")).

In addition, such EANC may be expressed as a percentage of salary earned over a working lifetime and referred to as the Entry Age Normal Rate ("EANR").

Under the proposed legislation and based on the actuarial assumptions noted herein, the EANC and EANR of Tier III POLICE Members would be greater than the EANC and EANR for comparable Tier III POLICE Members entering at the same attained age and gender under the current POLICE provisions.

Table 2A shows a summary of the change in EANC for Original Tier III POLICE Members for entry ages 25, 30 and 35 determined as of the most recent date of published EANR calculations:

Table 2A

Comparison of Entry Age Normal Rates
Determined as of June 30, 2012*

To implement Certain ODR and ADR Provisions for
Original Tier III POLICE Members

Under Proposed Legislation
and Under Current Law

EANR Under Proposed Legislation**

Retirement System	Entry Age 25		Entry Age 30		Entry Age 35	
	Male	Female	Male	Female	Male	Female
POLICE	23.91%	24.74%	25.15%	26.14%	27.27%	28.46%
EANR Under Current Law						
POLICE	20.92%	21.75%	20.73%	21.71%	20.50%	21.63%
Increase in EANR Due to Proposed Legislation						
POLICE	2.99%	2.99%	4.42%	4.43%	6.77%	6.83%

* Based on salaries paid over entire working lifetime. EANR do not vary significantly over time, absent benefit and/or actuarial assumption changes.

** EANR determined under the terms of the revised ODR and ADR benefit provisions based on the Actuarial Assumptions and Methods as noted herein including changes in assumptions for ADR. ODR and ADR benefits are NOT subject to Tier III Escalation (RSSL Section 510).

Table 2B shows a summary of the change in EANC for Revised Tier III POLICE Members for entry ages 25, 30 and 35 determined as of the most recent date of published EANR calculations:

Table 2B

Comparison of Entry Age Normal Rates
Determined as of June 30, 2010*

To implement Certain ODR and ADR Provisions for
Revised Tier III POLICE Members

Under Proposed Legislation
and Under Current Law

EANR Under Proposed Legislation**

Retirement System	Entry Age 25		Entry Age 30		Entry Age 35	
	Male	Female	Male	Female	Male	Female
POLICE	23.36%	24.17%	24.68%	25.64%	26.90%	28.07%
EANR Under Current Law						
POLICE	19.91%	20.71%	19.66%	20.59%	19.38%	20.46%
Increase in EANR Due to Proposed Legislation						
POLICE	3.45%	3.46%	5.02%	5.05%	7.52%	7.61%

* Based on salaries paid over entire working lifetime. EANR do not vary significantly over time, absent benefit and/or actuarial assumption changes.

** EANR determined under the terms of the revised ODR and ADR benefit provisions based on the Actuarial Assumptions and Methods as noted herein including changes in assumptions for ADR. ODR and ADR benefits are NOT subject to Teir III Escalation (RSSL Section 510).

OTHER COSTS: Not measured in this Fiscal Note are the following:

* Any potential impact should ITHP Reserves be deemed to apply to Tier III POLICE members.

* The initial, additional administrative costs of POLICE and other New York City agencies to implement the proposed legislation.

* The potential impact if this proposed legislation were to be extended to other public safety employees (e.g., firefighters).

* The impact of this proposed legislation on Other Postemployment Benefit ("OPEB") costs.

CENSUS DATA: The starting census data used for the calculations presented herein are the census data used in the Preliminary June 30, 2013 (Lag) actuarial valuation of POLICE used under the OYLM to determine the Preliminary Fiscal Year 2015 employer contributions.

The census data used for the estimates of additional employer contributions presented herein are based on average salaries of new entrants utilized in the Preliminary June 30, 2013 (Lag) actuarial valuations used to determine Preliminary Fiscal Year 2015 employer contributions of POLICE.

Original Tier III POLICE Members as of June 30, 2013 had an average age of approximately 28, average service of approximately 2.2 years and an average salary of approximately $61,000. Revised Tier III POLICE Members as of June 30, 2013 had an average age of approximately 27, average service of approximately 0.6 years and an average salary of approximately $53,000.

Overall, Tier III POLICE Members as of June 30, 2013 had an average age of approximately 28, average service of approximately 1.7 years, and an average salary of approximately $59,000.

ACTUARIAL ASSUMPTIONS AND METHODS: The additional employer contributions presented herein have been calculated based on the actuarial assumptions and methods in effect for the June 30, 2013 (Lag) actuarial valuations used to determine Preliminary Fiscal Year 2015 employer contributions of POLICE and adjusted for revised ADR eligibility provisions.

The probabilities of accidental disability used for Tier III POLICE Members in the event statutory presumptions were to apply equal those currently used for Tier I and Tier II POLICE Members.

The actuarial valuation methodology does not include a calculation of the value of an offset for Workers' Compensation benefits as it is the understanding of the Actuary that POLICE Members are not covered by such benefits.

To the extent that the enactment of this proposed legislation would cause a greater (lesser) number of Tier III POLICE Members to be reclassified from Ordinary Disability to Accidental Disability Retirement, or to the extent that Tier III POLICE Members who would not otherwise ever choose to apply and then receive an Ordinary Disability Retirement benefit or an Accidental Disability Retirement benefit, then the additional APVB and employer contributions shown herein would be greater (lesser).

Employer contributions under current methodology have been estimated assuming the additional APVB would be financed through future normal contributions including an amortization of the new UAAL attributable to this proposed legislation over a 15-year period (14 payments under the OYLM Methodology).

New entrants into Tier III POLICE Members were projected to replace the POLICE members expected to leave the active population to maintain a steady-state population.

The following Table 3 presents the total number of active employees of POLICE used in the projections, assuming a level work force, and the cumulative number (i.e., net of withdrawals) of Revised Tier III Members as of each June 30 from 2013 through 2017.

Table 3
Surviving Actives from Census on June 30, 2013
and
Cumulative New Revised Tier III POLICE Members from 2013
Used in the Projections*

June 30	Tier I&II	Original Tier III	Revised Tier III	Total
2013	29,258	3,601	1,916	34,775
2014	26,784	3,500	4,491	34,775
2015	24,565	3,406	6,804	34,775
2016	22,571	3,314	8,890	34,775
2017	20,937	3,225	10,613	34,775

* Total active members including in the projections assume a level work force based on the June 30, 2013 (Lag) actuarial valuation census data. Assumes presumptions apply to Tier III POLICE members.

For purposes of estimating the impact of the Tier III Escalation for retired Tier III POLICE Members, consistent with an underlying Consumer Price Inflation ("CPI") assumption of 2.5% per year, Tier III Escalation of 2.5% per year has been assumed.

This compares with the current Chapter 125 of the Laws of 2000 COLA assumption of 1.5% per year (i.e., 50% of CPI adjusted to recognize 1.0% minimum and 3.0% maximum) on the first $18,000 of benefit.

For Variable Supplements Fund ("VSF") benefits, it has been assumed that retroactive lump sum payments of VSF ("DROP payments") would be payable from the completion of 20 years of service.

ECONOMIC VALUES OF BENEFITS: The actuarial assumptions used to determine the financial impact of the proposed legislation discussed in this Fiscal Note are those appropriate for budgetary models and determining annual employer contributions to POLICE.

However, the economic assumptions (current and proposed) that are used for determining employer contributions do not develop risk-adjusted, economic values of benefits. Such risk-adjusted, economic values of benefits would likely differ significantly from those developed by the budgetary models.

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.

FISCAL NOTE IDENTIFICATION: This estimate is intended for use only during the 2014 Legislative Session. It is Fiscal Note 2014-19, dated May 2, 2014 prepared by the Chief Actuary of the New York City Retirement Systems.