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

7105

I N S E N A T E

March 28, 2016

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

AN ACT to amend the retirement and social security law, in relation to disability benefits for certain members of the New York city fire department pension fund or the New York city employees' retirement system

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

Section 1. Subdivision 24 of section 501 of the retirement and social security law, as amended by chapter 18 of the laws of 2012, is amended to read as follows:

24. "Wages" shall mean regular compensation earned by and paid to a member by a public employer, except that for members who first join the state and local employees' retirement system on or after January first, two thousand ten, overtime compensation paid in any year in excess of the overtime ceiling, as defined by this subdivision, shall not be included in the definition of wages. "Overtime compensation" shall mean, for purposes of this section, compensation paid under any law or policy under which employees are paid at a rate greater than their standard rate for additional hours worked beyond those required, including compensation paid under section one hundred thirty-four of the civil service law and section ninety of the general municipal law. The "overtime ceiling" shall mean fifteen thousand dollars per annum on January first, two thousand ten, and shall be increased by three percent each year thereafter, provided, however, that for members who first become members of the New York state and local employees' retirement system on or after April first, two thousand twelve, "overtime ceiling" shall mean fifteen thousand dollars per annum on April first, two thousand twelve, and shall be increased each year thereafter by a percentage to be determined annually by reference to the consumer price index (all urban consumers, CPI-U, U.S. city average, all items, 1982-84=100), published by the United States bureau of labor statistics, for each applicable calendar year. Said percentage shall equal the annual inflation as determined from the increase in the consumer price index in the one year

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

LBD14853-01-6

period ending on the December thirty-first prior to the cost-of-living adjustment effective on the ensuing April first. For the purpose of calculation a member's primary federal social security retirement or disability benefit, wages shall, in any calendar year, be limited to the portion of the member's wages which would be subject to tax under section three thousand one hundred twenty-one of the internal revenue code of nineteen hundred fifty-four, or any predecessor or successor provision relating thereto, if such member was employed by a private employer. For members who first become members of the New York state and local employees' retirement system on or after the effective date of the chapter of the laws of two thousand twelve which amended this subdivision, the following items shall not be included in the definition of wages: (a) wages in excess of the annual salary paid to the governor pursuant to section three of article four of the state constitution, (b) lump sum payments for deferred compensation, sick leave, accumulated vacation or other credits for time not worked, (c) any form of termination pay, (d) any additional compensation paid in anticipation of retirement, and (e) in the case of employees who receive wages from three or more employers in a twelve month period, the wages paid by the third and each successive employer. FOR NEW YORK CITY ENHANCED PLAN MEMBERS WHO RECEIVE THE ORDINARY DISABILITY BENEFIT PROVIDED FOR IN SUBDIVISION C-1 OF SECTION FIVE HUNDRED SIX OF THIS ARTICLE OR THE ACCIDENTAL DISABILITY BENEFIT PROVIDED FOR IN PARAGRAPH THREE OF SUBDIVISION C OF SECTION FIVE HUNDRED SEVEN OF THIS ARTICLE, THE FOLLOWING ITEMS SHALL NOT BE INCLUDED IN THE DEFINITION OF WAGES: (A) LUMP SUM PAYMENTS FOR DEFERRED COMPENSATION, SICK LEAVE, ACCUMULATED VACATION OR OTHER CREDITS FOR TIME NOT WORKED; (B) ANY FORM OF TERMINATION PAY; (C) ANY ADDITIONAL COMPENSATION PAID IN ANTICIPATION OF RETIREMENT; AND (D) IN THE CASE OF EMPLOYEES WHO RECEIVE WAGES FROM THREE OR MORE EMPLOYERS IN A TWELVE MONTH PERIOD, THE WAGES PAID BY THE THIRD AND EACH SUCCESSIVE EMPLOYER.

S 2. Section 501 of the retirement and social security law is amended by adding a new subdivision 28 to read as follows:

28. "NEW YORK CITY ENHANCED PLAN MEMBER" SHALL MEAN (A) A NEW YORK CITY POLICE/FIRE REVISED PLAN MEMBER WHO BECOMES SUBJECT TO THE PROVISIONS OF THIS ARTICLE ON OR AFTER APRIL FIRST, TWO THOUSAND SIXTEEN AND WHO IS A MEMBER OF THE NEW YORK CITY FIRE DEPARTMENT PENSION FUND, (B) A POLICE/FIRE MEMBER WHO IS A MEMBER OF THE NEW YORK CITY FIRE DEPARTMENT PENSION FUND AND WHO MAKES AN ELECTION, WHICH SHALL BE IRREVOCABLE AND SHALL BE DULY EXECUTED AND FILED WITH THE ADMINISTRATIVE HEAD OF SUCH PENSION FUND NO LATER THAN ONE HUNDRED TWENTY DAYS AFTER THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND SIXTEEN WHICH ADDED THIS SUBDIVISION, TO BE SUBJECT TO THE PROVISIONS OF THIS ARTICLE RELATED TO NEW YORK CITY ENHANCED PLAN MEMBERS, (C) A NEW YORK CITY POLICE/FIRE REVISED PLAN MEMBER WHO BECAME SUBJECT TO THE PROVISIONS OF THIS ARTICLE BEFORE APRIL FIRST, TWO THOUSAND SIXTEEN, WHO IS A MEMBER OF THE NEW YORK CITY FIRE DEPARTMENT PENSION FUND, AND WHO MAKES AN ELECTION, WHICH SHALL BE IRREVOCABLE AND SHALL BE DULY EXECUTED AND FILED WITH THE ADMINISTRATIVE HEAD OF SUCH PENSION FUND NO LATER THAN ONE HUNDRED TWENTY DAYS AFTER THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND SIXTEEN WHICH ADDED THIS SUBDIVISION, TO BE SUBJECT TO THE PROVISIONS OF THIS ARTICLE RELATED TO NEW YORK CITY ENHANCED PLAN MEMBERS, (D) A NEW YORK CITY UNIFORMED CORRECTION/SANITATION REVISED PLAN MEMBER WHO BECOMES SUBJECT TO THE PROVISIONS OF THIS ARTICLE ON OR AFTER APRIL FIRST, TWO THOUSAND SIXTEEN AND WHO IS A MEMBER OF THE UNIFORMED FORCE OF THE NEW YORK CITY DEPARTMENT OF CORRECTION, OR (E) A

NEW YORK UNIFORMED CORRECTION/SANITATION REVISED PLAN MEMBER WHO BECAME SUBJECT TO THE PROVISIONS OF THIS ARTICLE BEFORE APRIL FIRST, TWO THOUSAND SIXTEEN, WHO IS A MEMBER OF THE UNIFORMED FORCE OF THE NEW YORK CITY DEPARTMENT OF CORRECTION, AND WHO MAKES AN ELECTION, WHICH SHALL BE IRREVOCABLE AND SHALL BE DULY EXECUTED AND FILED WITH THE ADMINISTRATIVE HEAD OF THE NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM NO LATER THAN ONE HUNDRED TWENTY DAYS AFTER THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND SIXTEEN WHICH ADDED THIS SUBDIVISION, TO BE SUBJECT TO THE PROVISIONS OF THIS ARTICLE RELATED TO NEW YORK CITY ENHANCED PLAN MEMBERS.

S 3. Section 506 of the retirement and social security law is amended by adding a new subdivision c-1 to read as follows:

C-1. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISIONS A AND B OF THIS SECTION, THE ORDINARY DISABILITY BENEFIT FOR A NEW YORK CITY ENHANCED PLAN MEMBER IN ACTIVE SERVICE SHALL BE A PENSION EQUAL TO THE GREATER OF (I) THIRTY-THREE AND ONE-THIRD PERCENT OF FINAL AVERAGE SALARY, OR (II) TWO PERCENT OF FINAL AVERAGE SALARY TIMES YEARS OF CREDITED SERVICE NOT IN EXCESS OF THE MAXIMUM YEARS OF SERVICE FOR COMPUTING SERVICE RETIREMENT, SUCH BENEFIT IN EACH CASE TO BE REDUCED BY ONE HUNDRED PERCENT OF ANY WORKERS' COMPENSATION BENEFITS PAYABLE.

S 4. Subdivisions c and e of section 507 of the retirement and social security law, subdivision c as amended by chapter 18 of the laws of 2012, and subdivision e as added by chapter 890 of the laws of 1976, are amended to read as follows:

c. 1. In the case of a member of a retirement system other than the New York state and local employees' retirement system, the New York state teachers' retirement system, the New York city employees' retirement system, the New York city board of education retirement system or the New York city teachers' retirement system, or in the case of a member of the New York city employees' retirement system who is a New York city uniformed correction/sanitation revised plan member or an investigator revised plan member, the accidental disability benefit hereunder shall be a pension equal to two percent of final average salary times years of credited service which such member would have attained if employment had continued until such member's full escalation date, not in excess of the maximum years of service creditable for the normal service retirement benefit, less (i) fifty percent of the primary social security disability benefit, if any, as provided in section five hundred eleven of this article, and (ii) one hundred percent of any workers' compensation benefits payable. THE PROVISIONS OF THIS PARAGRAPH SHALL NOT APPLY TO NEW YORK CITY ENHANCED PLAN MEMBERS.

2. In the case of a member of the New York state and local employees' retirement system, the New York state teachers' retirement system, the New York city employees' retirement system (other than a New York city uniformed correction/sanitation revised plan member or an investigator revised plan member), the New York city board of education retirement system or the New York city teachers' retirement system, the accidental disability benefit hereunder shall be a pension equal to sixty percent of final average salary, less (i) fifty percent of the primary social security disability benefit, if any, as provided in section five hundred eleven of this article, and (ii) one hundred percent of any workers' compensation benefits payable. In the event a disability retiree from any retirement system is not eligible for the primary social security disability benefit and continues to be eligible for disability benefits hereunder, such disability benefit shall be reduced by one-half of such retiree's primary social security retirement benefit, commencing at age

sixty-two, in the same manner as provided for service retirement benefits under section five hundred eleven of this article.

3. IN THE CASE OF A NEW YORK CITY ENHANCED PLAN MEMBER, THE ACCIDENTAL DISABILITY BENEFIT HEREUNDER SHALL BE A PENSION EQUAL TO SEVENTY-FIVE PERCENT OF FINAL AVERAGE SALARY, LESS ONE HUNDRED PERCENT OF ANY WORKERS' COMPENSATION BENEFITS PAYABLE.

e. A member, EXCEPT A NEW YORK CITY ENHANCED PLAN MEMBER, shall not be eligible to apply for disability benefits under section five hundred six or this section unless such member shall, at the time of application, sign a waiver prepared by the retirement system and approved by the administrative head of such system pursuant to which such member agrees to waive the benefits of any statutory presumption relating to the cause of disability or eligibility for disability benefits, and a determination of eligibility for benefits hereunder shall be made without regard to any such statutory provision.

S 5. Section 507 of the retirement and social security law is amended by adding a new subdivision j to read as follows:

J. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS CHAPTER OR ANY LAW, ANY CONDITION OF IMPAIRMENT OF HEALTH CAUSED BY DISEASES OF THE LUNG, RESULTING IN DISABILITY OR DEATH TO A MEMBER OF THE NEW YORK CITY FIRE DEPARTMENT PENSION FUND WHO IS A NEW YORK CITY ENHANCED PLAN MEMBER, WHO SUCCESSFULLY PASSED A PHYSICAL EXAMINATION ON ENTRY INTO SERVICE AS A FIREFIGHTER, WHICH EXAMINATION FAILED TO DISCLOSE EVIDENCE OF ANY DISEASE OR OTHER IMPAIRMENT OF THE LUNG, SHALL BE PRESUMPTIVE EVIDENCE THAT IT WAS INCURRED IN THE PERFORMANCE AND DISCHARGE OF DUTY, UNLESS THE CONTRARY BE PROVED BY COMPETENT EVIDENCE.

S 6. 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, THE ANNUAL ESCALATION PROVIDED IN THIS SECTION SHALL NOT APPLY TO THE ORDINARY DISABILITY BENEFIT FOR NEW YORK CITY ENHANCED PLAN MEMBERS PROVIDED FOR IN SUBDIVISION C-1 OF SECTION FIVE HUNDRED SIX OF THIS ARTICLE OR THE ACCIDENTAL DISABILITY BENEFIT FOR NEW YORK CITY ENHANCED PLAN MEMBERS PROVIDED FOR IN PARAGRAPH THREE OF SUBDIVISION C OF SECTION FIVE HUNDRED SEVEN OF THIS ARTICLE. SUCH MEMBERS WHO RECEIVE SUCH ORDINARY DISABILITY BENEFIT OR ACCIDENTAL DISABILITY BENEFIT SHALL HAVE A COST-OF-LIVING ADJUSTMENT FOR SUCH BENEFIT, WHICH SHALL BE COMPUTED IN THE SAME MANNER AS PROVIDED FOR BY SECTION 13-696 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK.

S 7. Section 511 of the retirement and social security law is amended by adding a new subdivision g to read as follows:

G. THIS SECTION SHALL NOT APPLY TO A NEW YORK CITY ENHANCED PLAN MEMBER WHO RECEIVES THE ORDINARY DISABILITY BENEFIT PROVIDED FOR IN SUBDIVISION C-1 OF SECTION FIVE HUNDRED SIX OF THIS ARTICLE OR THE ACCIDENTAL DISABILITY BENEFIT PROVIDED FOR IN PARAGRAPH THREE OF SUBDIVISION C OF SECTION FIVE HUNDRED SEVEN OF THIS ARTICLE.

S 8. Subdivision a of section 512 of the retirement and social security law, as amended by chapter 18 of the laws of 2012, is amended to read as follows:

a. A member's final average salary shall be the average wages earned by such a member during any three consecutive years which provide the highest average wage; provided, however, if the wages earned during any year included in the period used to determine final average salary exceeds that of the average of the previous two years by more than ten percent, the amount in excess of ten percent shall be excluded from the computation of final average salary. Notwithstanding the preceding

provisions of this subdivision to the contrary, for a member who first becomes a member of the New York state and local employees' retirement system on or after April first, two thousand twelve, or for a New York city police/fire revised plan member, A NEW YORK CITY ENHANCED PLAN MEMBER WHO RECEIVES THE ORDINARY DISABILITY BENEFIT PROVIDED FOR IN SUBDIVISION C-1 OF SECTION FIVE HUNDRED SIX OF THIS ARTICLE OR THE ACCIDENTAL DISABILITY BENEFIT PROVIDED FOR IN PARAGRAPH THREE OF SUBDIVISION C OF SECTION FIVE HUNDRED SEVEN OF THIS ARTICLE, a New York city uniformed correction/sanitation revised plan member or an investigator revised plan member, a member's final average salary shall be the average wages earned by such a member during any five consecutive years which provide the highest average wage; provided, however, if the wages earned during any year included in the period used to determine final average salary exceeds that of the average of the previous four years by more than ten percent, the amount in excess of ten percent shall be excluded from the computation of final average salary. In determining final average salary pursuant to any provision of this subdivision, where the period used to determine final average salary is the period which immediately precedes the date of retirement, any month or months (not in excess of twelve) which would otherwise be included in computing final average salary but during which the member was on authorized leave of absence at partial pay or 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 9. Section 517 of the retirement and social security law is amended by adding a new subdivision h to read as follows:

H. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF SUBDIVISION A OF THIS SECTION, NEW YORK CITY ENHANCED PLAN MEMBERS SHALL, AS OF THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND SIXTEEN WHICH ADDED THIS SUBDIVISION, CONTRIBUTE SIX PERCENT OF ANNUAL WAGES TO THE PENSION FUND IN WHICH THEY HAVE MEMBERSHIP.

S 10. Notwithstanding any other law to the contrary, any condition of impairment of health caused by diseases of the lung, diseases of the heart, or by a stroke, resulting in disability or death to a medical officer of the fire department of the city of New York who is a member of the New York city fire department pension fund, who is presently employed, and who shall have sustained such disability while so employed, shall be presumptive evidence that it was incurred in the performance and discharge of duty, unless the contrary be proved by competent evidence, provided that (i) such officer successfully passed a physical examination for entry into public service, or authorized release of all relevant medical records, if such officer did not undergo a physical examination for entry into public service, and (ii) there is no evidence of the qualifying condition or impairment of health that formed the basis for the disability in such physical examination for entry into public service or in the relevant medical records, prior to such officer's entry into public service.

S 11. Notwithstanding any other law to the contrary, any medical officer of the fire department of the city of New York who is a member of the New York city fire department pension fund, who is presently employed, and who contracts HIV (where the officer may have been exposed to a bodily fluid of a person under his or her care or treatment, or while the officer examined, transported, rescued or otherwise had contact with such person, in the performance of his or her duties), tuberculosis or hepatitis, who shall have contracted such disease while

so employed, will be presumed to have contracted such disease as a natural or proximate result of an accidental injury received in the performance and discharge of his or her duties and not as a result of his or her willful negligence, unless the contrary be proved by competent evidence, provided that (i) such officer successfully passed a physical examination for entry into public service, or authorized release of all relevant medical records, if such officer did not undergo a physical examination for entry into public service, and (ii) there is no evidence of the qualifying disease that formed the basis for the disability in such physical examination for entry into public service or in the relevant medical records, prior to such officer's entry into public service.

S 12. Notwithstanding any other law to the contrary, any condition of impairment of health caused by (a) any condition of cancer affecting the lymphatic, digestive, hematological, urinary, neurological, breast, reproductive, or prostate systems or (b) melanoma resulting in total or partial disability or death, resulting in disability or death to a medical officer of the fire department of the city of New York who is a member of the New York city fire department pension fund, who is presently employed, and who shall have sustained such disability while so employed, shall be presumptive evidence that it was incurred in the performance and discharge of duty, unless the contrary be proved by competent evidence; provided that (i) such officer successfully passed a physical examination for entry into public service, or authorized release of all relevant medical records, if such officer did not undergo a physical examination for entry into public service, and (ii) there is no evidence of the qualifying condition or impairment of health that formed the basis for the disability in such physical examination for entry into public service or in the relevant medical records, prior to such officer's entry into public service.

S 13. Section 81 of chapter 18 of the laws of 2012 shall not apply to this act.

S 14. This act shall take effect immediately.

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

PROVISIONS OF PROPOSED LEGISLATION: With respect to the New York Fire Department Pension Fund (FIRE) and the New York City Employees' Retirement System (NYCERS), the proposed legislation would amend Sections 501, 506, 507, 510, 511, 512, and 517 of the Retirement and Social Security Law (RSSL) to provide changes to the Accidental Disability Retirement (ADR) and Ordinary Disability Retirement (ODR) benefit provisions of Tier 3 and Revised Tier 3 FIRE members and Tier 6 Correction members of NYCERS. The proposed legislation would also change the eligibility requirements for Medical Officers of FIRE to utilize the statutory presumptions that qualify other FIRE members for ADR.

The Effective Date of the proposed legislation would be the date of enactment.

For purposes of this Fiscal Note, all Tier 3 and Revised Tier 3 FIRE members and Tier 6 Corrections members are collectively referred to as "Affected Members." In addition, all FIRE members subject to Article 14 of the RSSL will be referred to as "Tier 3 FIRE Members."

IMPACT ON ODR BENEFITS PAYABLE: The current ODR benefits for Affected Members are equal to the greater of:

* 33 1/3% of Five-Year Final Average Salary (FAS), or

* 2% of FAS 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
* 100% of Workers' Compensation benefits (if any).

Final Average Salary is a Three-Year average (FAS3) for Tier 3 FIRE members who have a date of membership prior to April 1, 2012 and a Five-Year average (FAS 5) for all other Affected Members.

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

Under the proposed changes the ODR benefits would be revised to be equal to the greater of:
* 33 1/3% of FAS, or
* 2.0% of FAS multiplied by years of credited service.

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

Affected Members who are FIRE or NYCERS members prior to the effective date of this proposed legislation would have the option of remaining under the current ODR benefits or electing to be covered under the proposed ODR benefits.

IMPACT ON ADR BENEFITS PAYABLE: The current ADR benefits for Affected Members is equal to:
* 50% multiplied by FAS,

Reduced by:
* 50% of Primary Social Security disability benefit or Primary Social Security benefits, whichever begins first (determined under RSSL Section 511), and
* 100% of Workers' Compensation benefits (if any).

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

Under the proposed changes the eligibility requirements for ADR benefits for Tier 3 FIRE Members would be the same as those currently provided, with the exception that they could be eligible for and utilize the statutory presumptions (e.g., certain lung diseases) that qualify other FIRE members for ADR Benefits. In addition, under the proposed legislation, Medical Officers may satisfy the eligibility to utilize the statutory presumptions provided the Medical Officer authorized release of all relevant medical records, and there is no evidence of the qualifying condition or impairment that formed the basis for the disability in such medical records unless the contrary is proved by competent evidence. Tier 6 Correction Members would remain ineligible for the statutory benefits that Tier 4 Correction members are eligible for.

Under the proposed legislation, if enacted, the ADR benefit for Affected Members would be revised to equal a retirement allowance equal to:
* 75% multiplied by FAS,
* Reduced by 100% of Workers' Compensation benefits (if any).

In addition, the proposed legislation would NOT apply the Escalation available under RSSL Section 510 to ADR benefits for Affected Members. However, such ADR benefits would still be eligible for COLA under Chapter 125 of the Laws of 2000.

Affected Members who are FIRE or NYCERS members prior to the effective date of this proposed legislation would have the option of remaining under the current ADR benefits or electing to be covered under the proposed ADR benefits.

FINANCIAL IMPACT - CHANGES IN PROJECTED ACTUARIAL PRESENT VALUE OF FUTURE EMPLOYER CONTRIBUTIONS AND PROJECTED EMPLOYER CONTRIBUTIONS: For purposes of this Fiscal Note, it is assumed that the changes in the Actuarial Present Value (APV) of benefits (APVB), APV of member contributions, the Unfunded Actuarial Accrued Liability (UAAL) and APV of future employer contributions would be reflected for the first time in the June 30, 2015 actuarial valuation of FIRE and NYCERS. Under the One-Year Lag Methodology (OYLM), the first year that changes in benefits for Affected Members could impact employer contributions to FIRE and NYCERS would be Fiscal Year 2017.

Note that since the assumptions used in the actuarial valuation of FIRE do not distinguish between Medical Officers and other FIRE members and those assumptions for Tier 2 members already incorporate the presumptions available under law, there will be only a deminims change in employer contributions for the three medical officers who are Tier 3 members. The increase in employer costs for providing presumptions to all medical officers has been estimated to be approximately $100,000 to $200,000 per year.

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, 2015, the remaining working lifetime of the Tier 3 FIRE members is approximately 23 years and the remaining working lifetime of the Tier 6 Corrections members is approximately 19 years. Recognizing that these periods will decrease over time as the group of Affected Members matures, the Actuary would likely choose to amortize the new UAAL attributable to this proposed legislation over a 15-year to 20-year period (between 14 and 19 payments under the OYLM Methodology). For purposes of this Fiscal Note, the Actuary has elected to amortize the change in UAAL over a 15-year period (14 payments).

The following Table 1 presents an estimate of the increases/(decreases) in the APV of future employer contributions and in employer contributions to FIRE and NYCERS for Fiscal Years 2017 through 2021 due to the changes in ODR and ADR provisions for Affected Members and the changes in eligibility requirements for presumptions for FIRE Medical Officers based on the applicable actuarial assumptions and methods noted herein:

Table 1
Estimated Financial Impact on FIRE and NYCERS
If Certain Revisions are Made to
Provisions for ODR and ADR Benefits for Tier 3 FIRE and Tier 6 Corrrection
Members and Presumption Eligibility Requirements for Medical Officers

($ Million)

Fiscal Year	Increase/(Decrease) In APV of Future Employer Contributions	Increase/(Decrease) In Employer Contributions

2017		
* FIRE	24.2	4.2
* Corrections	(34.6)	(4.0)
* Total	(10.4)	0.2

2018		
* FIRE	31.2	5.5
* Corrections	(45.4)	(5.0)
* Total	(14.2)	0.5

2019		
* FIRE	35.8	6.5
* Corrections	(56.9)	(6.2)
* Total	(21.1)	0.3

2020		
* FIRE	39.4	7.5
* Corrections	(70.8)	(7.7)
* Total	(31.4)	(0.2)

2021		
* FIRE	42.6	8.3
* Corrections	(79.8)	(8.5)
* Total	(37.2)	(0.2)

The estimated increases/(decreases) in employer contributions shown in Table 1 are based upon the following projection assumptions:

* Level workforce (i.e., new employees are hired to replace those who leave active status).
* Salary increases consistent with those used in projections presented to the New York City Office of Management and Budget in February, 2016 (Preliminary Projections).
* New entrant salaries consistent with those used in the Preliminary Projections.

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

* The initial, additional administrative costs of FIRE, NYCERS, 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.
* The impact of this proposed legislation on Other Postemployment Benefit (OPEB) costs.

CENSUS DATA: The starting census data used for the calculations presented herein is the census data used in the Preliminary June 30, 2015 (Lag) actuarial valuation of NYCERS to determine the Preliminary Fiscal Year 2017 employer contributions.

The 318 Tier 3 FIRE members who have a date of membership prior to April 1, 2012 had an average age of approximately 29, average service of approximately 2.0 years and an average salary of approximately $54,300 as of June 30, 2015. The 1,065 Tier 3 FIRE Members who have a date of membership on or after April 1, 2012 had an average age of approximately 28, average service of approximately 0.8 years and an average salary of approximately $47,500 as of June 30, 2015. The 1,452 Tier 6 Correction Members had an average age of approximately 33, average service of approximately 1.7 years and an average salary of approximately $51,100 as of June 30, 2015. There are 3 Tier 3 Medical Officers in FIRE as of June 30, 2015.

ACTUARIAL ASSUMPTIONS AND METHODS: The additional employer contributions presented herein have been calculated based on the actuarial assumptions and methods in effect for the Preliminary June 30, 2015 (Lag) actuarial valuations used to determine the Preliminary Fiscal Year 2017 employer contributions of FIRE and NYCERS except that the probabilities of ADR for Tier 6 Correction members have been revised using a more empirical methodology.

In determining the change in employer contributions, the probabilities of accidental disability used for Tier 3 FIRE members equal those currently used for Tier 2 Fire members.

It has been further assumed that all Tier 3 FIRE members and all Tier 6 Correction members who became members prior to the effective date of the proposed legislation will choose the new disability provisions.

The actuarial valuation methodology does not include a calculation of the value of an offset for Workers' Compensation benefits for Tier 3 FIRE members as it is the understanding of the Actuary that these members are not covered by such benefits.

It is the understanding of the Actuary that Corrections members are covered by Workers' Compensation benefits. However, since both ADR and ODR benefits under both the current provisions and proposed legislation are offset by Workers' Compensation benefits, any Workers' Compensation benefits paid would not impact the costs shown.

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 were projected to replace the members expected to leave the active population to maintain a steady-state population.

For purposes of estimating the impact of Escalation for retired Affected Members, an assumption of 2.5% was used, which is consistent with the underlying Consumer Price Inflation (CPI) assumption of 2.5% per year.

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 a 1.0% minimum and 3.0% maximum) on the first $18,000 of benefit.

The following Table 2a presents the total number of active employees of FIRE used in the projections, assuming a level work force, and the cumulative number (i.e., net of withdrawals) of Tier 3 Members as of each June 30 from 2015 through 2019.

Table 2a

Surviving Actives from Census Data on June 30, 2015
and
Cumulative Tier 3 FIRE Members from 2015
Used in the Projections*

June 30	Tier 1 & 2	Tier 3	Total
2015	9,397	1,383	10,780
2016	8,827	1,953	10,780
2017	8,335	2,445	10,780
2018	7,864	2,916	10,780
2019	7,398	3,382	10,780

* Total active members included in the projections assume a level work force based on the June 30, 2015 (Lag) actuarial valuation census data. The following Table 2b presents the total number of active employees of Correction members used in the projections, assuming a level work force, and the cumulative number (i.e., net of withdrawals) of Tier 6 Members as of each June 30 from 2015 through 2019.

Table 2b

Surviving Actives from Census Data on June 30, 2015
and
Cumulative Tier 6 Correction Members from 2015
Used in the Projections*

June 30	Tier 1, 2, 3 & 4	Tier 6	Total
2015	7,014	1,452	8,466
2016	6,518	1,948	8,466
2017	6,016	2,450	8,466
2018	5,446	3,020	8,466
2019	5,089	3,377	8,466

Total active members included in the projections assume a level work force based on the June 30, 2015 (Lag) actuarial valuation census data.

STATEMENT OF ACTUARIAL OPINION: I, Sherry S. Chan, am the Chief Actuary for the New York City Retirement Systems. I am an Associate of the Society of Actuaries, a Fellow of the Conference of Consulting 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 2016 Legislative Session. It is Fiscal Note 2016-12, dated March 25, 2016 prepared by the Chief Actuary for the New York Fire Department Pension Fund and the New York City Employees' Retirement System.