

STATE OF NEW YORK

6378

2017-2018 Regular Sessions

IN SENATE

May 11, 2017

Introduced by Sen. KRUEGER -- 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 police pension fund, the New York city fire department pension fund and the New York city employees' retirement system

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 506 of the retirement and social security law is
2 amended by adding five new subdivisions e, f, g, h and i to read as
3 follows:

4 e. Notwithstanding the provisions of subdivisions a and b of this
5 section, the ordinary disability benefit for a police/fire member who
6 joined the New York city police pension fund or the New York city fire
7 department pension fund on or after the effective date of this subdivi-
8 sion, or a police/fire member who has elected to receive such benefit
9 pursuant to subdivision g of this section, shall be:

10 1. Except as provided in paragraph three of this subdivision, a
11 pension equal to (i) the greater of (A) two percent of final average
12 salary or sixth-year salary, whichever is greater, times years of cred-
13 ited service not in excess of the maximum years of service for computing
14 service retirement, or (B) thirty-three and one-third percent of final
15 average salary or sixth-year salary, whichever is greater, (ii) less one
16 hundred percent of any workers' compensation benefits payable;

17 2. A cost-of-living adjustment for such pension, which shall be
18 computed in the same manner as provided for by section 13-696 of the
19 administrative code of the city of New York; and

20 3. If the ordinary disability benefit as calculated pursuant to para-
21 graphs one and two of this subdivision is less than the ordinary disa-
22 bility benefit as calculated pursuant to subdivision b of this section
23 for any year that such police/fire member is eligible for such benefit,
24 then the ordinary disability benefit calculated pursuant to subdivision
25 b of this section shall be payable.

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

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1 f. Notwithstanding the provisions of subdivisions a and b of this
2 section, the ordinary disability benefit for a New York city uniformed
3 correction/sanitation revised plan member who joined the New York city
4 employees' retirement system on or after the effective date of this
5 subdivision, or a New York city uniformed correction/sanitation revised
6 plan member who has elected to receive such benefit pursuant to subdivi-
7 sion h of this section, shall be:

8 1. Except as provided in paragraph three of this subdivision, a
9 pension equal to (i) the greater of (A) two percent of final average
10 salary or sixth-year salary, whichever is greater, times years of cred-
11 ited service not in excess of the maximum years of service for computing
12 service retirement, or (B) thirty-three and one-third percent of final
13 average salary or sixth-year salary, whichever is greater, (ii) less one
14 hundred percent of any workers' compensation benefits payable;

15 2. A cost-of-living adjustment for such pension, which shall be
16 computed in the same manner as provided for by section 13-696 of the
17 administrative code of the city of New York; and

18 3. If the ordinary disability benefit as calculated pursuant to para-
19 graphs one and two of this subdivision is less than the ordinary disa-
20 bility benefit as calculated pursuant to subdivision b of this section
21 for any year that such New York city uniformed correction/sanitation
22 revised plan member is eligible for such benefit, then the ordinary
23 disability benefit calculated pursuant to subdivision b of this section
24 shall be payable.

25 g. Notwithstanding the provisions of subdivisions a and b of this
26 section, a police/fire member who joined the New York city police
27 pension fund or the New York city fire department pension fund before
28 the effective date of this subdivision and is eligible for the ordinary
29 disability benefit described in subdivision b of this section may at the
30 time of retirement make an election to receive the ordinary disability
31 benefit described in subdivision e of this section. Such election shall
32 be duly executed and filed with the administrative head of the pension
33 fund to which the member belongs and shall be irrevocable. If no such
34 election is made, such member shall receive the ordinary disability
35 benefit described in subdivision b of this section.

36 h. Notwithstanding the provisions of subdivisions a and b of this
37 section, a New York city uniformed correction/sanitation revised plan
38 member who joined the New York city employees' retirement system before
39 the effective date of this subdivision and is eligible for the ordinary
40 disability benefit described in subdivision b of this section may at the
41 time of retirement make an election to receive the ordinary disability
42 benefit described in subdivision f of this section. Such election shall
43 be duly executed and filed with the administrative head of the New York
44 city employees' retirement system and shall be irrevocable. If no such
45 election is made, such member shall receive the ordinary disability
46 benefit described in subdivision b of this section.

47 i. For the purposes of this section, "sixth-year salary" shall mean
48 the sum of the standard rate payable to a police officer, firefighter,
49 correction officer or sanitation worker upon six years of employment as
50 a police officer, firefighter, correction officer or sanitation worker,
51 excluding any longevity adjustments, and the average overtime compen-
52 sation paid or payable to such police officer, firefighter, correction
53 officer or sanitation worker. For the purposes of this subdivision,
54 "overtime compensation" shall have the same meaning as such term is
55 defined in subdivision twenty-four of section five hundred one of this
56 article. If such police officer, firefighter, correction officer or

1 sanitation worker has been a member of the New York city police pension
2 fund, the New York city fire department fund or the New York city
3 employees' retirement system for less than six years upon the date of
4 his or her retirement, the average overtime compensation shall be calcu-
5 lated as follows:

6 1. If the period of employment prior to the date of retirement is less
7 than one year, the projected first year overtime compensation shall be
8 based upon a twelve month projection of the overtime compensation paid
9 in the portion of the year worked. The average overtime compensation
10 shall be the projected first year overtime compensation.

11 2. If the period of employment prior to the date of retirement is more
12 than one year but less than two years, the projected second year over-
13 time compensation shall be based upon a twelve month projection of the
14 overtime compensation paid in the portion of the second year worked.
15 The average overtime compensation shall be one-sixth the sum of (i) the
16 projected second year overtime compensation multiplied by five and (ii)
17 the actual overtime compensation paid in the first year of employment.

18 3. If the period of employment prior to the date of retirement is more
19 than two years but less than three years, the projected third year over-
20 time compensation shall be based upon a twelve month projection of the
21 overtime compensation paid in the portion of the third year worked. The
22 average overtime compensation shall be one-sixth the sum of (i) the
23 projected third year overtime compensation multiplied by four and (ii)
24 the actual overtime compensation paid in the first two years of employ-
25 ment.

26 4. If the period of employment prior to the date of retirement is more
27 than three years but less than four years, the projected fourth year
28 overtime compensation shall be based upon a twelve month projection of
29 the overtime compensation paid in the portion of the fourth year worked.
30 The average overtime compensation shall be one-sixth the sum of (i) the
31 projected fourth year overtime compensation multiplied by three and (ii)
32 the actual overtime compensation paid in the first three years of
33 employment.

34 5. If the period of employment prior to the date of retirement is more
35 than four years but less than five years, the projected fifth year over-
36 time compensation shall be based upon a twelve month projection of the
37 overtime compensation paid in the portion of the fifth year worked. The
38 average overtime compensation shall be one-sixth the sum of (i) the
39 projected fifth year overtime compensation multiplied by two and (ii)
40 the actual overtime compensation paid in the first four years of employ-
41 ment.

42 6. If the period of employment prior to the date of retirement is more
43 than five years but less tan six years, the projected sixth year over-
44 time compensation shall be based upon a twelve month projection of the
45 overtime compensation paid in the portion of the sixth year worker. The
46 average overtime compensation shall be one-sixth the sum of (i) the
47 projected sixth year overtime compensation and (ii) the actual overtime
48 compensation paid in the first five years of employment.

49 § 2. Section 507 of the retirement and social security law is amended
50 by adding six new subdivisions c-1, c-2, c-3, c-4, c-5 and c-6 to read
51 as follows:

52 c-1. Notwithstanding the provisions of subdivisions a and c of this
53 section, the accidental disability benefit for a police/fire member who
54 joined the New York city police pension fund or the New York city fire
55 department pension fund on or after the effective date of this subdivi-

1 sion, or a police/fire member who has elected to receive such benefit
2 pursuant to subdivision c-3 of this section, shall be:

3 1. Except as provided in paragraph three of this subdivision, a
4 pension equal to (i) the greater of (A) fifty percent of final average
5 salary, (B) fifty percent of sixth-year salary, or (C) for members who
6 meet the requirements set forth in subdivision c-6 of this section, the
7 greater of seventy-five percent of final average salary or seventy-five
8 percent of sixth-year salary, (ii) less one hundred percent of any work-
9 ers' compensation benefits payable; and

10 2. A cost-of-living adjustment for such pension, which shall be
11 computed in the same manner as provided for by section 13-696 of the
12 administrative code of the city of New York.

13 If the accidental disability benefit as calculated pursuant to para-
14 graphs one and two of this subdivision is less than the accidental disa-
15 bility benefit as calculated pursuant to subdivision c of this section
16 for any year that such police/fire member is eligible for such benefit,
17 then the accidental disability benefit calculated pursuant to subdivi-
18 sion c of this section shall be payable.

19 c-2. Notwithstanding the provisions of subdivisions a and c of this
20 section, the accidental disability benefit for a New York city uniformed
21 correction/sanitation revised plan member who joined the new York city
22 employees' retirement system on or after the effective date of this
23 subdivision, or a New York city uniformed correction/sanitation revised
24 plan member who has elected to receive such benefit pursuant to subdivi-
25 sion c-4 of this section, shall be:

26 1. Except as provided in paragraph three of this subdivision, a
27 pension equal to (i) the greater of (A) fifty percent of final average
28 salary, (B) fifty percent of sixth-year salary, or (C) for members who
29 meet the requirements set forth in subdivision c-6 of this section, the
30 greater of seventy-five percent of final average salary or seventy-five
31 percent of sixth-year salary, (ii) less one hundred percent of any work-
32 ers' compensation benefits payable; and

33 2. A cost-of-living adjustment for such pension, which shall be
34 computed in the same manner provided for by section 13-696 of the admin-
35 istrative code of the city of New York.

36 If the accidental disability benefit as calculated pursuant to para-
37 graphs one and two of this subdivision is less than the accidental disa-
38 bility benefit as calculated pursuant to subdivision c of this section
39 for any year that such New York city uniformed correction/sanitation
40 revised plan member is eligible for such benefit, then the accidental
41 disability benefit calculated pursuant to subdivision c of this section
42 shall be payable.

43 c-3. Notwithstanding the provisions of subdivisions a and c of this
44 section, a police/fire member who joined the New York city police
45 pension fund or the New York city fire department pension fund before
46 the effective date of this subdivision and is eligible for the acci-
47 dental disability benefit described in subdivision c of this section may
48 at the time of retirement make an election to receive the accidental
49 disability benefit described in subdivision c-1 of this section. Such
50 election shall be duly executed and filed with the administrative head
51 of the pension fund to which the member belongs and shall be irrev-
52 ocable. If no such election is made, such member shall receive the acci-
53 dental disability benefit described in subdivision c of this section.

54 c-4. Notwithstanding the provisions of subdivisions a and c of this
55 section, a New York city uniformed correction/sanitation revised plan
56 member who joined the New York city employees' retirement system before

1 the effective date of this subdivision and is eligible for the acci-
2 dental disability benefit described in subdivision c of this section may
3 at the time of retirement make an election to receive the accidental
4 disability benefit described in subdivision c-2 of this section. Such
5 election shall be duly executed and filed with the administrative head
6 of the New York city employees' retirement system and shall be irrev-
7 ocable. If no such election is made, such member shall receive the acci-
8 dental disability benefit described in subdivision c of this section.

9 c-5. For the purposes of this section, "sixth-year salary" shall have
10 the same meaning as such term is defined in subdivision j of section
11 five hundred six of this article.

12 c-6. For the purposes of subdivisions c-1 and c-2 of this section, the
13 accidental disability benefit shall be calculated using the greater of
14 seventy-five percent of final average salary or seventy-five percent of
15 sixth-year salary if such police/fire member or New York city uniformed
16 correction/sanitation revised plan member is (i) entitled to disability
17 insurance benefits pursuant to section 223 of the federal social securi-
18 ty act, or (ii) is ineligible for such disability insurance benefits on
19 the basis of requirements of section 223(c)(1)(B) of the federal social
20 security act and does not have earnings that demonstrate an ability to
21 engage in substantial gainful activity as set forth in section 223(d)(4)
22 of the federal social security act. In the event that a member no longer
23 meets the requirements of this subdivision, such member's accidental
24 disability benefit shall be calculated using the greater of fifty
25 percent of final average salary or fifty percent of sixth-year salary as
26 set forth in subdivision c-1 or c-2 of this section.

27 § 3. Section 510 of the retirement and social security law is amended
28 by adding a new subdivision j to read as follows:

29 j. Notwithstanding any other provision of this article, the annual
30 escalation provided in this section shall not apply to the ordinary
31 disability benefit provided for in subdivisions e and f of section five
32 hundred six of this article or the accidental disability benefit
33 provided for in subdivisions c-1 and c-2 of section five hundred seven
34 of this article.

35 § 4. Subdivision f of section 511 of the retirement and social securi-
36 ty law, as amended by chapter 18 of the laws of 2012, is amended and a
37 new subdivision h is added to read as follows:

38 f. This section shall not apply to general members in the uniformed
39 correction force of the New York city department of correction or to
40 uniformed personnel in institutions under the jurisdiction of the
41 department of corrections and community supervision and security hospi-
42 tal treatment assistants, as those terms are defined in subdivision i of
43 section eighty-nine of this chapter, provided, however, that the
44 provisions of this section shall apply to a New York city uniformed
45 correction/sanitation revised plan member, except as provided in subdi-
46 vision h of this section.

47 h. This section shall not apply to a police/fire member who receives
48 the ordinary disability benefit provided for in subdivision e of section
49 five hundred six of this article or the accidental disability benefit
50 provided for in subdivision c-1 of section five hundred seven of this
51 article, or a New York city uniformed correction/sanitation revised plan
52 member who receives the ordinary disability benefit provided for in
53 subdivision f of section five hundred six of this article or the acci-
54 dental disability benefit provided for in subdivision c-2 of section
55 five hundred seven of this article.

56 § 5. This act shall take effect immediately.