

# STATE OF NEW YORK

6343

2023-2024 Regular Sessions

## IN SENATE

April 17, 2023

Introduced by Sen. GOUNARDES -- 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 the limitation of overtime compensation in final average salary calculations

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

1 Section 1. Section 1203 of the retirement and social security law, as  
2 added by section 1 of part A of chapter 504 of the laws of 2009, is  
3 amended to read as follows:

4 § 1203. Overtime. A member's final average salary shall be calculated  
5 in accordance with such provisions of article eight or article eleven of  
6 this chapter as govern the member's benefits including overtime, except  
7 that earnings classified as overtime compensation in an amount in excess  
8 of [~~fifteen~~] thirty percent of a member's annual wages not classified as  
9 overtime compensation shall be excluded from such calculation. "Overtime  
10 compensation" shall mean, for purposes of this section, compensation  
11 paid under any law or policy under which employees are paid at a rate  
12 greater than their standard rate for additional hours worked beyond  
13 those required, including compensation paid under section one hundred  
14 thirty-four of the civil service law and section ninety of the general  
15 municipal law.

16 § 2. This act shall take effect immediately.

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

This bill would increase the allowable overtime compensation included in the final average salary calculation to 30 percent of a member's annual wages for Tier 5 and Tier 6 members in the New York State and Local Police and Fire Retirement System. The current limit is 15 percent.

Insofar as this bill affects the New York State and Local Police and Fire Retirement System (NYSLPFRS), increased costs would be shared by

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

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the State of New York and all participating employers in the NYSLPFRS. If this bill is enacted during the 2023 legislative session, there will be an increase in the present value of future benefits of approximately \$414 million.

| NYSLPFRS    | Increase in present<br>value benefits | Increase in future<br>contributions |
|-------------|---------------------------------------|-------------------------------------|
| Tiers 1 - 5 | \$30 million                          | \$68 million                        |
| Tier 6      | \$384 million                         | \$346 million                       |
| Total       | \$414 million                         | \$414 million                       |

In the NYSLPFRS, this benefit improvement will be funded by increasing the billing rates charged annually. The annual contribution required of all participating employers in the NYSLPFRS is approximately 0.9% of billable salary, or approximately \$7.7 million to the State of New York and \$30 million to the local participating employers in the fiscal year ending March 31, 2025. This permanent annual cost will vary in subsequent billing cycles with changes in the billing rate and salary of the affected members.

Summary of relevant resources:

Membership data as of March 31, 2022 was used in measuring the impact of the proposed change, the same data used in the April 1, 2022 actuarial valuation. Distributions and other statistics can be found in the 2022 Report of the Actuary and the 2022 Annual Comprehensive Financial Report.

The actuarial assumptions and methods used are described in the 2020, 2021, and 2022 Annual Report to the Comptroller on Actuarial Assumptions, and the Codes, Rules and Regulations of the State of New York: Audit and Control.

The Market Assets and GASB Disclosures are found in the March 31, 2022 New York State and Local Retirement System Financial Statements and Supplementary Information.

I am a member of the American Academy of Actuaries and meet the Qualification Standards to render the actuarial opinion contained herein.

This fiscal note does not constitute a legal opinion on the viability of the proposed change nor is it intended to serve as a substitute for the professional judgment of an attorney.

This estimate, dated April 3, 2023, and intended for use only during the 2023 Legislative Session, is Fiscal Note No. 2023-100, prepared by the Actuary for the New York State and Local Retirement System.