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

5705--B

2015-2016 Regular Sessions

I N S E N A T E

May 29, 2015

Introduced by Sen. KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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

E. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISIONS A AND B OF THIS SECTION, THE ORDINARY DISABILITY BENEFIT FOR A POLICE/FIRE MEMBER WHO JOINED THE NEW YORK CITY POLICE PENSION FUND OR THE NEW YORK CITY FIRE DEPARTMENT PENSION FUND ON OR AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION, OR A POLICE/FIRE MEMBER WHO HAS ELECTED TO RECEIVE SUCH BENEFIT PURSUANT TO SUBDIVISION G OF THIS SECTION, SHALL BE:

1. EXCEPT AS PROVIDED IN PARAGRAPH THREE OF THIS SUBDIVISION, A PENSION EQUAL TO (I) THE GREATER OF (A) TWO PERCENT OF FINAL AVERAGE SALARY OR SIXTH-YEAR SALARY, WHICHEVER IS GREATER, TIMES YEARS OF CREDITED SERVICE NOT IN EXCESS OF THE MAXIMUM YEARS OF SERVICE FOR COMPUTING SERVICE RETIREMENT, OR (B) THIRTY-THREE AND ONE-THIRD PERCENT OF FINAL AVERAGE SALARY OR SIXTH-YEAR SALARY, WHICHEVER IS GREATER, (II) LESS ONE HUNDRED PERCENT OF ANY WORKERS' COMPENSATION BENEFITS PAYABLE;

2. A COST-OF-LIVING ADJUSTMENT FOR SUCH PENSION, 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; AND

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

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3. IF THE ORDINARY DISABILITY BENEFIT AS CALCULATED PURSUANT TO PARAGRAPHS ONE AND TWO OF THIS SUBDIVISION IS LESS THAN THE ORDINARY DISABILITY BENEFIT AS CALCULATED PURSUANT TO SUBDIVISION B OF THIS SECTION FOR ANY YEAR THAT SUCH POLICE/FIRE MEMBER IS ELIGIBLE FOR SUCH BENEFIT, THEN THE ORDINARY DISABILITY BENEFIT CALCULATED PURSUANT TO SUBDIVISION B OF THIS SECTION SHALL BE PAYABLE.

F. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISIONS A AND B OF THIS SECTION, THE ORDINARY DISABILITY BENEFIT FOR A NEW YORK CITY UNIFORMED CORRECTION/SANITATION REVISED PLAN MEMBER WHO JOINED THE NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM ON OR AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION, OR A NEW YORK CITY UNIFORMED CORRECTION/SANITATION REVISED PLAN MEMBER WHO HAS ELECTED TO RECEIVE SUCH BENEFIT PURSUANT TO SUBDIVISION H OF THIS SECTION, SHALL BE:

1. EXCEPT AS PROVIDED IN PARAGRAPH THREE OF THIS SUBDIVISION, A PENSION EQUAL TO (I) THE GREATER OF (A) TWO PERCENT OF FINAL AVERAGE SALARY OR SIXTH-YEAR SALARY, WHICHEVER IS GREATER, TIMES YEARS OF CREDITED SERVICE NOT IN EXCESS OF THE MAXIMUM YEARS OF SERVICE FOR COMPUTING SERVICE RETIREMENT, OR (B) THIRTY-THREE AND ONE-THIRD PERCENT OF FINAL AVERAGE SALARY OR SIXTH-YEAR SALARY, WHICHEVER IS GREATER, (II) LESS ONE HUNDRED PERCENT OF ANY WORKERS' COMPENSATION BENEFITS PAYABLE;

2. A COST-OF-LIVING ADJUSTMENT FOR SUCH PENSION, 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; AND

3. IF THE ORDINARY DISABILITY BENEFIT AS CALCULATED PURSUANT TO PARAGRAPHS ONE AND TWO OF THIS SUBDIVISION IS LESS THAN THE ORDINARY DISABILITY BENEFIT AS CALCULATED PURSUANT TO SUBDIVISION B OF THIS SECTION FOR ANY YEAR THAT SUCH NEW YORK CITY UNIFORMED CORRECTION/SANITATION REVISED PLAN MEMBER IS ELIGIBLE FOR SUCH BENEFIT, THEN THE ORDINARY DISABILITY BENEFIT CALCULATED PURSUANT TO SUBDIVISION B OF THIS SECTION SHALL BE PAYABLE.

G. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISIONS A AND B OF THIS SECTION, A POLICE/FIRE MEMBER WHO JOINED THE NEW YORK CITY POLICE PENSION FUND OR THE NEW YORK CITY FIRE DEPARTMENT PENSION FUND BEFORE THE EFFECTIVE DATE OF THIS SUBDIVISION AND IS ELIGIBLE FOR THE ORDINARY DISABILITY BENEFIT DESCRIBED IN SUBDIVISION B OF THIS SECTION MAY AT THE TIME OF RETIREMENT MAKE AN ELECTION TO RECEIVE THE ORDINARY DISABILITY BENEFIT DESCRIBED IN SUBDIVISION E OF THIS SECTION. SUCH ELECTION SHALL BE DULY EXECUTED AND FILED WITH THE ADMINISTRATIVE HEAD OF THE PENSION FUND TO WHICH THE MEMBER BELONGS AND SHALL BE IRREVOCABLE. IF NO SUCH ELECTION IS MADE, SUCH MEMBER SHALL RECEIVE THE ORDINARY DISABILITY BENEFIT DESCRIBED IN SUBDIVISION B OF THIS SECTION.

H. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISIONS A AND B OF THIS SECTION, A NEW YORK CITY UNIFORMED CORRECTION/SANITATION REVISED PLAN MEMBER WHO JOINED THE NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM BEFORE THE EFFECTIVE DATE OF THIS SUBDIVISION AND IS ELIGIBLE FOR THE ORDINARY DISABILITY BENEFIT DESCRIBED IN SUBDIVISION B OF THIS SECTION MAY AT THE TIME OF RETIREMENT MAKE AN ELECTION TO RECEIVE THE ORDINARY DISABILITY BENEFIT DESCRIBED IN SUBDIVISION F OF THIS SECTION. SUCH ELECTION SHALL BE DULY EXECUTED AND FILED WITH THE ADMINISTRATIVE HEAD OF THE NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM AND SHALL BE IRREVOCABLE. IF NO SUCH ELECTION IS MADE, SUCH MEMBER SHALL RECEIVE THE ORDINARY DISABILITY BENEFIT DESCRIBED IN SUBDIVISION B OF THIS SECTION.

I. FOR THE PURPOSES OF THIS SECTION, "SIXTH-YEAR SALARY" SHALL MEAN THE SUM OF THE STANDARD RATE PAYABLE TO A POLICE OFFICER, FIREFIGHTER, CORRECTION OFFICER OR SANITATION WORKER UPON SIX YEARS OF EMPLOYMENT AS A POLICE OFFICER, FIREFIGHTER, CORRECTION OFFICER OR SANITATION WORKER,

EXCLUDING ANY LONGEVITY ADJUSTMENTS, AND THE AVERAGE OVERTIME COMPENSATION PAID OR PAYABLE TO SUCH POLICE OFFICER, FIREFIGHTER, CORRECTION OFFICER OR SANITATION WORKER. FOR THE PURPOSES OF THIS SUBDIVISION, "OVERTIME COMPENSATION" SHALL HAVE THE SAME MEANING AS SUCH TERM IS DEFINED IN SUBDIVISION TWENTY-FOUR OF SECTION FIVE HUNDRED ONE OF THIS ARTICLE. IF SUCH POLICE OFFICER, FIREFIGHTER, CORRECTION OFFICER OR SANITATION WORKER HAS BEEN A MEMBER OF THE NEW YORK CITY POLICE PENSION FUND, THE NEW YORK CITY FIRE DEPARTMENT FUND OR THE NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM FOR LESS THAN SIX YEARS UPON THE DATE OF HIS OR HER RETIREMENT, THE AVERAGE OVERTIME COMPENSATION SHALL BE CALCULATED AS FOLLOWS:

1. IF THE PERIOD OF EMPLOYMENT PRIOR TO THE DATE OF RETIREMENT IS LESS THAN ONE YEAR, THE PROJECTED FIRST YEAR OVERTIME COMPENSATION SHALL BE BASED UPON A TWELVE MONTH PROJECTION OF THE OVERTIME COMPENSATION PAID IN THE PORTION OF THE YEAR WORKED. THE AVERAGE OVERTIME COMPENSATION SHALL BE THE PROJECTED FIRST YEAR OVERTIME COMPENSATION.

2. IF THE PERIOD OF EMPLOYMENT PRIOR TO THE DATE OF RETIREMENT IS MORE THAN ONE YEAR BUT LESS THAN TWO YEARS, THE PROJECTED SECOND YEAR OVERTIME COMPENSATION SHALL BE BASED UPON A TWELVE MONTH PROJECTION OF THE OVERTIME COMPENSATION PAID IN THE PORTION OF THE SECOND YEAR WORKED. THE AVERAGE OVERTIME COMPENSATION SHALL BE ONE-SIXTH THE SUM OF (I) THE PROJECTED SECOND YEAR OVERTIME COMPENSATION MULTIPLIED BY FIVE AND (II) THE ACTUAL OVERTIME COMPENSATION PAID IN THE FIRST YEAR OF EMPLOYMENT.

3. IF THE PERIOD OF EMPLOYMENT PRIOR TO THE DATE OF RETIREMENT IS MORE THAN TWO YEARS BUT LESS THAN THREE YEARS, THE PROJECTED THIRD YEAR OVERTIME COMPENSATION SHALL BE BASED UPON A TWELVE MONTH PROJECTION OF THE OVERTIME COMPENSATION PAID IN THE PORTION OF THE THIRD YEAR WORKED. THE AVERAGE OVERTIME COMPENSATION SHALL BE ONE-SIXTH THE SUM OF (I) THE PROJECTED THIRD YEAR OVERTIME COMPENSATION MULTIPLIED BY FOUR AND (II) THE ACTUAL OVERTIME COMPENSATION PAID IN THE FIRST TWO YEARS OF EMPLOYMENT.

4. IF THE PERIOD OF EMPLOYMENT PRIOR TO THE DATE OF RETIREMENT IS MORE THAN THREE YEARS BUT LESS THAN FOUR YEARS, THE PROJECTED FOURTH YEAR OVERTIME COMPENSATION SHALL BE BASED UPON A TWELVE MONTH PROJECTION OF THE OVERTIME COMPENSATION PAID IN THE PORTION OF THE FOURTH YEAR WORKED. THE AVERAGE OVERTIME COMPENSATION SHALL BE ONE-SIXTH THE SUM OF (I) THE PROJECTED FOURTH YEAR OVERTIME COMPENSATION MULTIPLIED BY THREE AND (II) THE ACTUAL OVERTIME COMPENSATION PAID IN THE FIRST THREE YEARS OF EMPLOYMENT.

5. IF THE PERIOD OF EMPLOYMENT PRIOR TO THE DATE OF RETIREMENT IS MORE THAN FOUR YEARS BUT LESS THAN FIVE YEARS, THE PROJECTED FIFTH YEAR OVERTIME COMPENSATION SHALL BE BASED UPON A TWELVE MONTH PROJECTION OF THE OVERTIME COMPENSATION PAID IN THE PORTION OF THE FIFTH YEAR WORKED. THE AVERAGE OVERTIME COMPENSATION SHALL BE ONE-SIXTH THE SUM OF (I) THE PROJECTED FIFTH YEAR OVERTIME COMPENSATION MULTIPLIED BY TWO AND (II) THE ACTUAL OVERTIME COMPENSATION PAID IN THE FIRST FOUR YEARS OF EMPLOYMENT.

6. IF THE PERIOD OF EMPLOYMENT PRIOR TO THE DATE OF RETIREMENT IS MORE THAN FIVE YEARS BUT LESS TAN SIX YEARS, THE PROJECTED SIXTH YEAR OVERTIME COMPENSATION SHALL BE BASED UPON A TWELVE MONTH PROJECTION OF THE OVERTIME COMPENSATION PAID IN THE PORTION OF THE SIXTH YEAR WORKER. THE AVERAGE OVERTIME COMPENSATION SHALL BE ONE-SIXTH THE SUM OF (I) THE PROJECTED SIXTH YEAR OVERTIME COMPENSATION AND (II) THE ACTUAL OVERTIME COMPENSATION PAID IN THE FIRST FIVE YEARS OF EMPLOYMENT.

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

C-1. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISIONS A AND C OF THIS SECTION, THE ACCIDENTAL DISABILITY BENEFIT FOR A POLICE/FIRE MEMBER WHO JOINED THE NEW YORK CITY POLICE PENSION FUND OR THE NEW YORK CITY FIRE DEPARTMENT PENSION FUND ON OR AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION, OR A POLICE/FIRE MEMBER WHO HAS ELECTED TO RECEIVE SUCH BENEFIT PURSUANT TO SUBDIVISION C-3 OF THIS SECTION, SHALL BE:

1. EXCEPT AS PROVIDED IN PARAGRAPH THREE OF THIS SUBDIVISION, A PENSION EQUAL TO (I) THE GREATER OF (A) FIFTY PERCENT OF FINAL AVERAGE SALARY, (B) FIFTY PERCENT OF SIXTH-YEAR SALARY, OR (C) FOR MEMBERS WHO MEET THE REQUIREMENTS SET FORTH IN SUBDIVISION C-6 OF THIS SECTION, THE GREATER OF SEVENTY-FIVE PERCENT OF FINAL AVERAGE SALARY OR SEVENTY-FIVE PERCENT OF SIXTH-YEAR SALARY, (II) LESS ONE HUNDRED PERCENT OF ANY WORKERS' COMPENSATION BENEFITS PAYABLE; AND

2. A COST-OF-LIVING ADJUSTMENT FOR SUCH PENSION, 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.

IF THE ACCIDENTAL DISABILITY BENEFIT AS CALCULATED PURSUANT TO PARAGRAPHS ONE AND TWO OF THIS SUBDIVISION IS LESS THAN THE ACCIDENTAL DISABILITY BENEFIT AS CALCULATED PURSUANT TO SUBDIVISION C OF THIS SECTION FOR ANY YEAR THAT SUCH POLICE/FIRE MEMBER IS ELIGIBLE FOR SUCH BENEFIT, THEN THE ACCIDENTAL DISABILITY BENEFIT CALCULATED PURSUANT TO SUBDIVISION C OF THIS SECTION SHALL BE PAYABLE.

C-2. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISIONS A AND C OF THIS SECTION, THE ACCIDENTAL DISABILITY BENEFIT FOR A NEW YORK CITY UNIFORMED CORRECTION/SANITATION REVISED PLAN MEMBER WHO JOINED THE NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM ON OR AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION, OR A NEW YORK CITY UNIFORMED CORRECTION/SANITATION REVISED PLAN MEMBER WHO HAS ELECTED TO RECEIVE SUCH BENEFIT PURSUANT TO SUBDIVISION C-4 OF THIS SECTION, SHALL BE:

1. EXCEPT AS PROVIDED IN PARAGRAPH THREE OF THIS SUBDIVISION, A PENSION EQUAL TO (I) THE GREATER OF (A) FIFTY PERCENT OF FINAL AVERAGE SALARY, (B) FIFTY PERCENT OF SIXTH-YEAR SALARY, OR (C) FOR MEMBERS WHO MEET THE REQUIREMENTS SET FORTH IN SUBDIVISION C-6 OF THIS SECTION, THE GREATER OF SEVENTY-FIVE PERCENT OF FINAL AVERAGE SALARY OR SEVENTY-FIVE PERCENT OF SIXTH-YEAR SALARY, (II) LESS ONE HUNDRED PERCENT OF ANY WORKERS' COMPENSATION BENEFITS PAYABLE; AND

2. A COST-OF-LIVING ADJUSTMENT FOR SUCH PENSION, WHICH SHALL BE COMPUTED IN THE SAME MANNER PROVIDED FOR BY SECTION 13-696 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK.

IF THE ACCIDENTAL DISABILITY BENEFIT AS CALCULATED PURSUANT TO PARAGRAPHS ONE AND TWO OF THIS SUBDIVISION IS LESS THAN THE ACCIDENTAL DISABILITY BENEFIT AS CALCULATED PURSUANT TO SUBDIVISION C OF THIS SECTION FOR ANY YEAR THAT SUCH NEW YORK CITY UNIFORMED CORRECTION/SANITATION REVISED PLAN MEMBER IS ELIGIBLE FOR SUCH BENEFIT, THEN THE ACCIDENTAL DISABILITY BENEFIT CALCULATED PURSUANT TO SUBDIVISION C OF THIS SECTION SHALL BE PAYABLE.

C-3. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISIONS A AND C OF THIS SECTION, A POLICE/FIRE MEMBER WHO JOINED THE NEW YORK CITY POLICE PENSION FUND OR THE NEW YORK CITY FIRE DEPARTMENT PENSION FUND BEFORE THE EFFECTIVE DATE OF THIS SUBDIVISION AND IS ELIGIBLE FOR THE ACCIDENTAL DISABILITY BENEFIT DESCRIBED IN SUBDIVISION C OF THIS SECTION MAY AT THE TIME OF RETIREMENT MAKE AN ELECTION TO RECEIVE THE ACCIDENTAL DISABILITY BENEFIT DESCRIBED IN SUBDIVISION C-1 OF THIS SECTION. SUCH

ELECTION SHALL BE DULY EXECUTED AND FILED WITH THE ADMINISTRATIVE HEAD OF THE PENSION FUND TO WHICH THE MEMBER BELONGS AND SHALL BE IRREVOCABLE. IF NO SUCH ELECTION IS MADE, SUCH MEMBER SHALL RECEIVE THE ACCIDENTAL DISABILITY BENEFIT DESCRIBED IN SUBDIVISION C OF THIS SECTION.

C-4. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISIONS A AND C OF THIS SECTION, A NEW YORK CITY UNIFORMED CORRECTION/SANITATION REVISED PLAN MEMBER WHO JOINED THE NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM BEFORE THE EFFECTIVE DATE OF THIS SUBDIVISION AND IS ELIGIBLE FOR THE ACCIDENTAL DISABILITY BENEFIT DESCRIBED IN SUBDIVISION C OF THIS SECTION MAY AT THE TIME OF RETIREMENT MAKE AN ELECTION TO RECEIVE THE ACCIDENTAL DISABILITY BENEFIT DESCRIBED IN SUBDIVISION C-2 OF THIS SECTION. SUCH ELECTION SHALL BE DULY EXECUTED AND FILED WITH THE ADMINISTRATIVE HEAD OF THE NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM AND SHALL BE IRREVOCABLE. IF NO SUCH ELECTION IS MADE, SUCH MEMBER SHALL RECEIVE THE ACCIDENTAL DISABILITY BENEFIT DESCRIBED IN SUBDIVISION C OF THIS SECTION.

C-5. FOR THE PURPOSES OF THIS SECTION, "SIXTH-YEAR SALARY" SHALL HAVE THE SAME MEANING AS SUCH TERM IS DEFINED IN SUBDIVISION I OF SECTION FIVE HUNDRED SIX OF THIS ARTICLE.

C-6. FOR THE PURPOSES OF SUBDIVISIONS C-1 AND C-2 OF THIS SECTION, THE ACCIDENTAL DISABILITY BENEFIT SHALL BE CALCULATED USING THE GREATER OF SEVENTY-FIVE PERCENT OF FINAL AVERAGE SALARY OR SEVENTY-FIVE PERCENT OF SIXTH-YEAR SALARY IF SUCH POLICE/FIRE MEMBER OR NEW YORK CITY UNIFORMED CORRECTION/SANITATION REVISED PLAN MEMBER IS (I) ENTITLED TO DISABILITY INSURANCE BENEFITS PURSUANT TO SECTION 223 OF THE FEDERAL SOCIAL SECURITY ACT, OR (II) IS INELIGIBLE FOR SUCH DISABILITY INSURANCE BENEFITS ON THE BASIS OF REQUIREMENTS OF SECTION 223(C)(1)(B) OF THE FEDERAL SOCIAL SECURITY ACT AND DOES NOT HAVE EARNINGS THAT DEMONSTRATE AN ABILITY TO ENGAGE IN SUBSTANTIAL GAINFUL ACTIVITY AS SET FORTH IN SECTION 223(D)(4) OF THE FEDERAL SOCIAL SECURITY ACT. IN THE EVENT THAT A MEMBER NO LONGER MEETS THE REQUIREMENTS OF THIS SUBDIVISION, SUCH MEMBER'S ACCIDENTAL DISABILITY BENEFIT SHALL BE CALCULATED USING THE GREATER OF FIFTY PERCENT OF FINAL AVERAGE SALARY OR FIFTY PERCENT OF SIXTH-YEAR SALARY AS SET FORTH IN SUBDIVISION C-1 OR C-2 OF THIS SECTION.

S 3. 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 PROVIDED FOR IN SUBDIVISIONS E AND F OF SECTION FIVE HUNDRED SIX OF THIS ARTICLE OR THE ACCIDENTAL DISABILITY BENEFIT PROVIDED FOR IN SUBDIVISIONS C-1 AND C-2 OF SECTION FIVE HUNDRED SEVEN OF THIS ARTICLE.

S 4. Subdivision f of section 511 of the retirement and social security law, as amended by chapter 18 of the laws of 2012, is amended and a new subdivision g is added 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, EXCEPT AS PROVIDED IN SUBDIVISION G OF THIS SECTION.

G. THIS SECTION SHALL NOT APPLY TO A POLICE/FIRE MEMBER WHO RECEIVES THE ORDINARY DISABILITY BENEFIT PROVIDED FOR IN SUBDIVISION E OF SECTION FIVE HUNDRED SIX OF THIS ARTICLE OR THE ACCIDENTAL DISABILITY BENEFIT

PROVIDED FOR IN SUBDIVISION C-1 OF SECTION FIVE HUNDRED SEVEN OF THIS ARTICLE, OR A NEW YORK CITY UNIFORMED CORRECTION/SANITATION REVISED PLAN MEMBER WHO RECEIVES THE ORDINARY DISABILITY BENEFIT PROVIDED FOR IN SUBDIVISION F OF SECTION FIVE HUNDRED SIX OF THIS ARTICLE OR THE ACCIDENTAL DISABILITY BENEFIT PROVIDED FOR IN SUBDIVISION C-2 OF SECTION FIVE HUNDRED SEVEN OF THIS ARTICLE.

S 5. This act shall take effect immediately.

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

PROVISIONS OF PROPOSED LEGISLATION: This proposed legislation would amend Retirement and Social Security Law (RSSL) Sections 506, 507, 510 and 511 to change the calculation of Ordinary Disability Retirement (ODR) benefits and Accidental Disability Retirement (ADR) benefits for:

* Tier III and Revised Tier III members of the New York City Police Pension Fund (POLICE),

* Tier III and Revised Tier III members of the New York Fire Department Pension Fund (FIRE),

* Tier VI Sanitation members of the New York City Employees' Retirement System (NYCERS), and

* Tier VI Corrections members of NYCERS

Note: For purposes of this Fiscal Note, these members are collectively referred to as the "Uniformed Covered Groups".

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

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

IMPACT ON ODR BENEFITS PAYABLE: The current ODR benefits for the Uniformed Covered Groups are equal to the greater of:

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

* 2.0% 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

* Reduced by 100% of Workers' Compensation benefits (if any).

Note: Final Average Salary is a Three-Year average (FAS3) for Original Tier III POLICE and FIRE members and a Five-Year average (FAS5) for all other Uniformed Covered Group members.

It is the understanding of the Office of the Actuary that POLICE, FIRE and Sanitation Members are not covered by Workers' Compensation.

Under the proposed legislation, if enacted, the ODR benefit for the Uniformed Covered Groups would be equal to the greater of:

* 33 1/3% of the greater of FAS or Sixth-year Salary, or

* 2.0 of the greater of FAS or Sixth-year Salary multiplied by years of credited service not in excess of 22 years, and

* Reduced by 100% of Workers' Compensation benefits (if any).

Sixth-year Salary is defined as the sum of (1) the standard rate that would be payable to a disabled Uniformed Covered Group member upon six years of employment, excluding any longevity adjustments and (2) the average overtime compensation paid to the disabled member. If the disabled member has less than six years of service, the average overtime compensation would be calculated by adding (1) the overtime compensation

earned by the member in the years prior to the year of disability, (2) the annualized overtime compensation earned by the member in the year of disability and (3) the annualized rate of overtime compensation earned by the member in the year of disability projected for years (up to six) following the year of disability, so that there are six years in total, and then dividing that amount by six.

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

Finally, the proposed legislation would provide that in no event would the benefit payable in any year in the future to a member retired under ODR be less than the benefit the member would be entitled to in that year, under the provisions in effect prior to the enactment of this proposed legislation.

If enacted, a Uniformed Covered Group member who joined his/her respective retirement system before the Effective Date of the proposed legislation would have the option, at the time of disability retirement, to elect to receive the ODR benefits in effect prior to this proposed legislation.

IMPACT ON ADR BENEFITS PAYABLE: The current ADR benefits for the Uniformed Covered Groups are equal to:

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

Note: Final Average Salary is a Three-Year average (FAS3) for Original Tier III POLICE and FIRE members and a Five-Year average (FAS5) for all other Uniformed Covered Group members.

Under the proposed legislation, if enacted, the ADR benefit for the Uniformed Covered Groups would depend on whether the member is entitled to Social Security Disability benefits (or would be entitled had the member met the quarters of coverage requirement).

If the member is not entitled to Social Security Disability benefits, the ADR benefit would be equal to:

* 50% of the greater of FAS or Sixth-year Salary
* Reduced by 100% of Workers' Compensation benefits (if any).

If the member is entitled to Social Security benefits (or would be entitled had the member met the quarters of coverage requirement), the ADR benefit would be equal to:

* 75% of the greater of FAS or Sixth-Year Salary
* 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 Uniformed Covered Group members. However, such ADR benefits would still be eligible for Cost-of-Living Adjustments (COLA) under Chapter 125 of the Laws of 2000.

Finally, the proposed legislation would provide that in no event would the benefit payable in any year in the future to a member retired under ADR be less than the benefit the member would have been entitled to in that year, under the provisions in effect prior to the enactment of this proposed legislation.

If enacted, a Uniformed Covered Group member who joined his/her respective retirement system before the Effective Date of the proposed legislation would have the option, at the time of disability retirement,

to elect to receive the ADR benefits in effect prior to this proposed legislation.

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 (APVB), APV of member contributions, the Unfunded Actuarial Accrued Liability (UAAL) and APV of future employer contributions as of June 30, 2013 for the Uniformed Covered Groups.

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 APVB, APV of member contributions, UAAL and APV of future employer contributions would be reflected for the first time in the June 30, 2013 actuarial valuations of POLICE, FIRE and NYCERS.

Under the One-Year Lag Methodology (OYLM), the first year that changes in benefits for the Uniformed Covered Groups could impact employer contributions to POLICE, FIRE and NYCERS 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 is approximately 18 years for the Tier III POLICE Members, 24 years for the Tier III FIRE members, 21 years for Tier VI Sanitation members and 20 years for Tier VI Corrections members. Recognizing that this period will decrease over time as these groups of members matures and that virtually all of the FIRE, Sanitation and Corrections members that would be impacted by the benefit changes are new entrants, 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 1 presents an estimate of the increases due to the changes in ODR and ADR provisions for the Uniformed Covered Groups in the APV of future employer contributions and in employer contributions to POLICE, FIRE and NYCERS for Fiscal Years 2015 through 2019 that would occur based on the applicable actuarial assumptions and methods noted herein:

Table 1

Estimated Financial Impact If Certain Revisions are Made to Provisions for ODR and ADR Benefits for the Uniform Covered Groups*
(Assumes 25% of ADR Retirees Qualify for Social Security Disability Benefits)
($ Millions)

Fiscal Year	Increase in APV of Future Employer Contributions	Increase in Employer Contributions
2015		
*POLICE	$59.6	$7.2
*FIRE	1.9	0.2
*Sanitation	2.0	0.3
*Corrections	4.5	0.6
*Total	$68.0	$8.3

2016		
*POLICE	$86.2	$10.0
*FIRE	8.2	0.9
*Sanitation	3.9	0.5
*Corrections	7.3	0.8
*Total	$105.6	$12.2
2017		
*POLICE	$111.4	$12.5
*FIRE	14.3	1.5
*Sanitation	5.5	0.5
*Corrections	9.8	1.0
*Total	$141.0	$15.5
2018		
*POLICE	$134.3	$14.6
*FIRE	20.1	2.1
*Sanitation	7.3	0.7
*Corrections	12.7	1.3
*Total	$174.4	$18.7
2019		
*POLICE	$153.6	$16.3
*FIRE	25.6	2.6
*Sanitation	8.7	0.8
*Corrections	15.8	1.6
*Total	$203.7	$21.3

*Note that the current assumption used in the actuarial valuations is that no ADR retirees qualify for Social Security Disability Benefits.

The following Table 2 presents an estimate of the increases due to the changes in ODR and ADR provisions for the Uniformed Covered Groups in the APV of future employer costs and in employer costs to POLICE, FIRE and NYCERS for Fiscal Years 2015 through 2019 assuming that 25% of ADR retirees will qualify for Social Security Disability benefits. The actual cost will depend on the number of members who retire under ADR that qualify for Social Security Disability benefits at the time of disability retirement. The actual costs will be greater/less to the extent that the percentage is greater/less than 25%.

Table 2

Estimated Financial Impact If Certain Revisions are Made to Provisions for ODR and ADR Benefits for the Uniform Covered Groups* (Assumes 25% of ADR Retirees Qualify for Social Security Disability Benefits)
($ Millions)

Fiscal Year	Increase in APV of Future Employer Costs	Increase in Employer Costs
2015		
*POLICE	$85.3	$10.3
*FIRE	2.6	0.3
*Sanitation	2.3	0.3

*Corrections	5.1	0.6
*Total	$95.3	$11.5
2016		
*POLICE	$122.4	$14.2
*FIRE	11.5	1.2
*Sanitation	4.4	0.5
*Corrections	8.3	0.9
*Total	$146.6	$16.8
2017		
*POLICE	$157.1	$17.6
*FIRE	20.0	2.1
*Sanitation	6.2	0.6
*Corrections	11.2	1.1
*Total	$194.5	$21.4
2018		
*POLICE	$188.7	$20.5
*FIRE	28.0	2.9
*Sanitation	8.2	0.8
*Corrections	14.4	1.4
*Total	$239.3	$25.6
2019		
*POLICE	$215.3	$22.9
*FIRE	35.7	3.6
*Sanitation	9.7	1.0
*Corrections	17.9	1.8
*Total	$278.6	$29.3

* Note that the assumption used is 25% of ADR retirees qualify for Social Security Disability Benefits.

The estimated increases in employer contributions and employer costs shown in Table 1 and Table 2 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 January 2015 Financial Plan (Updated Preliminary Projections).

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

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

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

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

* 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 Updated Preliminary June 30, 2013 (Lag) actuarial valuation of POLICE, FIRE and NYCERS used under the OYLM to determine the Updated 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 Updated Preliminary June 30, 2013 (Lag) actuarial valuations used to determine Updated Preliminary Fiscal Year 2015 employer contributions of POLICE, FIRE and NYCERS.

The 3,601 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 $63,000.

The 1,916 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 $55,000.

Overall, the 5,517 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 $60,000.

The 169 Tier III FIRE Members as of June 30, 2013 (including the one Tier III member who has a date of membership prior to April 1, 2012) had an average age of approximately 27, average service of approximately 0.5 years and an average salary of approximately $48,200.

The 382 Tier VI Sanitation Members as of June 30, 2013 had an average age of approximately 35, average service of approximately 1.0 years and an average salary of approximately $47,500.

The 877 Tier VI Corrections Members as of June 30, 2013 had an average age of approximately 32, average service of approximately 0.5 years and an average salary of approximately $46,000.

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 Updated Preliminary Fiscal Year 2015 employer contributions of POLICE, FIRE and NYCERS including the General Wage Increase assumption of 3.0% per year which was used to project the Sixth-year Salary for future years.

It was further assumed that all individuals who become members of his/her respective retirement system before the Effective Date of the proposed legislation would elect to be covered by the new ADR and ODR benefit provisions provided for in this proposed legislation.

Neither this Fiscal Note nor the actuarial valuation methodology used to determine employer contributions to POLICE, FIRE and NYCERS reflect a calculation of the value of an offset for Workers' Compensation benefits. For POLICE, FIRE and Sanitation this is because it is the understanding of the Office of the Actuary that POLICE, FIRE and Sanitation members are not covered by such benefits.

It is the understanding of the Office 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 Methologody).

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

The following Table 3a 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 3a

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	3,315	8,889	34,775
2017	20,937	3,225	10,613	34,775

* Total active members included in the projections assume a level work force based on the June 30, 2013 (Lag) actuarial valuation census data.

The following Table 3b 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 III Members as of each June 30 from 2013 through 2017.

Table 3b

Surviving Actives from Census on June 30, 2013
and
Cumulative New Tier III FIRE Members from 2013

Used in the Projections*

June 30	Tier I & II	Tier III	Total
2013	10,013	169	10,182
2014	9,486	696	10,182
2015	8,988	1,194	10,182
2016	8,509	1,673	10,182
2017	8,055	2,127	10,182

* Total active members included in the projections assume a level work force based on the June 30, 2013 (Lag) actuarial valuation census data.

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

Table 3c

Surviving Actives from Census on June 30, 2013
and
Cumulative New Tier VI Sanitation Members from 2013
Used in the Projections*

June 30	Tier I, II & IV	Tier VI	Total
2013	6,579	382	6,961
2014	6,150	811	6,961

2015	5,858	1,103	6,961
2016	5,495	1,466	6,961
2017	5,239	1,722	6,961

* Total active members included in the projections assume a level work force based on the June 30, 2013 (Lag) actuarial valuation census data.

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

Table 3d
Surviving Actives from Census on June 30, 2013
and
Cumulative New Tier VI Corrections Members from 2013
Used in the Projections*

June 30	Tier I, II & III	Tier VI	Total
2013	7,798	877	8,675
2014	7,278	1,397	8,675
2015	6,865	1,810	8,675
2016	6,414	2,261	8,675
2017	5,919	2,756	8,675

* Total active members included in the projections assume a level work force based on the June 30, 2013 (Lag) actuarial valuation census data.

For purposes of estimating the impact of the Tier III Escalation for retired 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 auto 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.

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

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, Sherry S. Chan, am the Chief Actuary for the New York City Retirement Systems. I am an Associate 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 2015 Legislative Session. It is Fiscal Note 2015-30, dated June 8, 2015.