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

7421

I N S E N A T E

April 29, 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 general municipal law, in relation to creating a state-wide, uniform, minimum accidental disability benefit of three-quarters of final average salary for all police officers

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

Section 1. Legislative findings and declaration. The legislature hereby finds and declares that there is a substantial state interest in the fair and equitable treatment of police officers throughout the state who are disabled as a result of an accident incurred in the line of duty. That substantial state interest would be furthered by establishing and maintaining a minimum level of accidental disability benefits for police officers in New York state who are rendered disabled by an accident in the performance of their duties. The legislature also finds and declares that accidental disability retirement benefits of less than three-quarters of final average salary to police officers injured as a result of an accident incurred in the line of duty do not adequately compensate disabled police officers for the sacrifice of their health and livelihood in the cause of public service. Therefore, the legislature declares the necessity for the enactment of this act to establish a minimum accidental disability retirement benefit of three-quarters of final average salary for police officers throughout the state.

S 2. The general municipal law is amended by adding a new section 209-ff to read as follows:

S 209-FF. MINIMUM ACCIDENTAL DISABILITY RETIREMENT ALLOWANCE FOR POLICEMEN IN CITIES, TOWNS AND VILLAGES WHO ARE MEMBERS OF A POLICE PENSION OR RETIREMENT SYSTEM. 1. AS USED IN THIS SECTION, THE TERM "POLICE ACCIDENTAL DISABILITY RETIREMENT ALLOWANCE" SHALL MEAN THE ALLOWANCE GRANTED TO ANY PERSON WHO IS AN OFFICER OR MEMBER OF THE UNIFORMED FORCE OR A POLICE DEPARTMENT OF ANY CITY, TOWN OR VILLAGE, AND WHO IS A MEMBER OF A POLICE PENSION OR RETIREMENT SYSTEM, PURSUANT TO SECTION FIVE HUNDRED SEVEN OF THE RETIREMENT AND SOCIAL SECURITY LAW, OR SECTION THREE HUNDRED SIXTY-THREE OF THE RETIREMENT AND SOCIAL SECURITY

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

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LAW, OR ANY SIMILAR ACCIDENTAL DISABILITY PENSION PROVIDED BY THE PENSION FUND OF WHICH HE OR SHE IS A MEMBER.

2. NOTWITHSTANDING THE PROVISIONS OF ANY GENERAL, SPECIAL OR LOCAL LAW, CHARTER OR ADMINISTRATIVE CODE TO THE CONTRARY, AND IN LIEU OF ANY LESSER AMOUNT OTHERWISE PRESCRIBED, ANY POLICE ACCIDENTAL DISABILITY RETIREMENT ALLOWANCE SHALL NOT BE LESS THAN THREE-QUARTERS OF THE MEMBER OF THE POLICE PENSION OR RETIREMENT SYSTEM'S FINAL AVERAGE SALARY OR ANNUAL COMPENSATION, AS SUCH FINAL AVERAGE SALARY OR ANNUAL COMPENSATION IS OTHERWISE PRESCRIBED BY LAW. SUCH ALLOWANCE SHALL NOT BE REDUCED, DIMINISHED OR OFFSET BY A MEMBER'S RECEIPT OF, OR ELIGIBILITY FOR, SOCIAL SECURITY BENEFITS.

3. NOTWITHSTANDING THE PROVISIONS OF ANY GENERAL, SPECIAL OR LOCAL LAW, CHARTER OR ADMINISTRATIVE CODE TO THE CONTRARY, AND IN LIEU OF ANY AMOUNT PRESCRIBED BY SECTION FIVE HUNDRED TEN OF THE RETIREMENT AND SOCIAL SECURITY LAW OR OTHERWISE PRESCRIBED BY LAW, A COST OF LIVING ADJUSTMENT SHALL BE PAYABLE ON POLICE ACCIDENTAL DISABILITY RETIREMENT ALLOWANCES UNDER THE SAME TERMS AND CONDITIONS AS PROVIDED IN SUCH SYSTEMS IMMEDIATELY PRIOR TO JULY FIRST, TWO THOUSAND NINE.

4. NOTWITHSTANDING THE PROVISIONS OF ANY GENERAL, SPECIAL OR LOCAL LAW, CHARTER OR ADMINISTRATIVE CODE TO THE CONTRARY, SUBDIVISION D OF SECTION FIVE HUNDRED SEVEN OF THE RETIREMENT AND SOCIAL SECURITY LAW SHALL NOT APPLY TO MEMBERS OF A POLICE PENSION OR RETIREMENT SYSTEM WHO RECEIVE POLICE ACCIDENTAL DISABILITY RETIREMENT ALLOWANCES. SUCH MEMBERS SHALL BE SUBJECT TO POST-RETIREMENT MEDICAL EXAMINATIONS, AND WHERE APPLICABLE, MODIFICATION OF RETIREMENT ALLOWANCES FOLLOWING SUCH EXAMINATIONS, IN THE SAME MANNER AND UNDER THE SAME CONDITIONS PRESCRIBED BY LAW IMMEDIATELY PRIOR TO JULY FIRST, TWO THOUSAND NINE FOR MEMBERS OF SUCH POLICE PENSION OR RETIREMENT SYSTEM.

S 3. This act shall take effect immediately.

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

PROVISIONS OF PROPOSED LEGISLATION: With respect to the New York City Police Pension Fund (POLICE), the proposed legislation would amend the General Municipal Law (GML) by adding a new section 209-ff to provide a revised benefit payable as the result of an Accidental Disability Retirement (ADR) to Tier 3 and Revised Tier 3 members. The proposed legislation would also make these members who retire on an ADR, subject to the same post-retirement medical examinations and subject to the same modification of retirement allowances following such examinations, as Tier 2 POLICE members.

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

For purposes of this Fiscal Note, all POLICE Members subject to Article 14 of the RSSL will be referred to as "Tier 3 POLICE Members." Of those Tier 3 POLICE members who have a date of membership prior to April 1, 2012, they will be referred to as "Original Tier 3 POLICE Members." Of those Tier 3 POLICE Members who have a date of membership on or after April 1, 2012, they will be referred to as "Revised Tier 3 POLICE Members."

IMPACT ON ADR BENEFITS PAYABLE: The current ADR benefits for Tier 3 POLICE Members are equal to the greater of:

* 50% multiplied by Final Average Salary,

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).

Final Average Salary is a Three-Year average (FAS3) for Original Tier 3 POLICE Members and a Five-year average (FAS5) for Revised Tier 3 POLICE Members.

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

Under the proposed legislation, if enacted, the ADR benefit for Tier 3 POLICE 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 Tier 3 POLICE members. However, such ADR benefits would still be eligible for COLA under Chapter 125 of the Laws of 2000.

Tier 3 POLICE Members who are POLICE 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.

Eligibility for ADR will be unchanged from the current eligibility provisions for Tier 3. Therefore, the ability to be eligible for and to utilize the presumptive conditions that qualify for ADR that is available to Tier 1 and Tier 2 POLICE Members will not be available for Tier 3 POLICE Members.

Finally, the proposed legislation would also make these members who retire on an ADR, subject to the same post-retirement medical examinations and subject to the same modification of retirement allowances following such examinations, as Tier 2 POLICE members.

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 POLICE. Under the One-Year Lag Methodology (OYLM), the first year that changes in benefits for Tier 3 POLICE Members could impact employer contributions to POLICE would be Fiscal Year 2017.

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 POLICE Members is approximately 18 years. Recognizing that this period will decrease over time as the group of Tier 3 Members matures, for purposes of this Fiscal Note, the Actuary has elected to amortize the change in UAAL over a 15-year period (14 payments under the OYLM Methodology).

Table 1 presents an estimate of the increases in the APV of future employer contributions and in employer contributions to POLICE for Fiscal Years 2017 through 2021 due to the changes in ADR provisions for Tier 3 POLICE Members assuming no increase in the incidence of ADRs and based on the applicable actuarial assumptions and methods noted herein:

Table 1

Estimated Financial Impact on POLICE
If Certain Revisions are Made to

Provisions for ADR Benefits
for Tier 3 POLICE Members

($ Millions)

Fiscal Year	Increase in APV of Future Employer Contributions	Increase in Employer Contributions
2017	$182.5	$21.7
2018	215.9	25.0
2019	243.4	27.7
2020	271.8	30.4
2021	300.4	32.8

For illustrative purposes, Table 2 presents an estimate of the increases in the APV of future employer contributions and in employer contributions to POLICE for Fiscal Years 2017 through 2021 due to the changes in ADR provisions for Tier 3 POLICE Members assuming the change in the ADR benefit provisions would increase the incidence of ADRs to equal the midpoint of the current Tier 2 and Tier 3 probabilities of ADR for POLICE members:

Table 2

Estimated Financial Impact on POLICE
If Certain Revisions are Made to
Provisions for ADR Benefits
for Tier 3 POLICE Members

($ Millions)

Fiscal Year	Increase in APV of Future Employer Contributions	Increase in Employer Contributions
2017	$209.7	$27.0
2018	245.9	30.9
2019	274.7	34.1
2020	304.5	37.2
2021	334.1	40.0

The estimated increases in employer contributions 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).
* Salary increases consistent with those used in projections presented to the New York City Office of Management and Budget for use 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 potential costs:

* The initial, additional administrative costs of POLICE and other New York City agencies to implement the proposed legislation.
* The potential impact if this proposed legislation were to be extended to other public safety employees (e.g., firefighters).

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

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

The 3,337 Original Tier 3 POLICE Members as of June 30, 2015 had an average age of approximately 30, average service of approximately 4.2 years and an average salary of approximately $71,900.

The 5,124 Revised Tier 3 POLICE Members as of June 30, 2015 had an average age of approximately 28, average service of approximately 1.6 years and an average salary of approximately $55,900.

Overall, the 8,461 Tier 3 POLICE Members as of June 30, 2015 had an average age of approximately 29, average service of approximately 2.6 years, and an average salary of approximately $62,200.

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 POLICE.

It has been further assumed that all Tier 3 POLICE Members who became members prior to the effective date of the proposed legislation will choose to be covered by the new disability provisions.

The results shown in Table 1 above assume that here is no change in the incidence of ADRs as a result of the change in ADR provisions. The results shown in Table 2 above assume that the probabilities of ADR for Tier 3 POLICE Members will equal the midpoint of the current Tier 2 and Tier 3 probabilities of ADR for POLICE members.

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

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 POLICE members expected to leave the active population to maintain a steady-state population.

For purposes of estimating the impact of Escalation for retired Tier 3 POLICE 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 1.0% minimum and 3.0% maximum) on the first $18,000 of benefit.

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

Table 3

Surviving Actives from Census Data on June 30, 2015
and

Cumulative Tier 3 POLICE Members from 2015
Used in the Projections*

June 30	Tier 1&2	Original Tier 3	Revised Tier 3	Total
2015	25,974	3,337	5,124	34,435
2016	23,902	3,246	7,287	34,435
2017	22,097	3,158	9,108	34,435
2018	20,192	3,076	11,167	34,435
2019	18,469	2,999	12,967	34,435

* Total active members included in the projections assume a level work force based on the June 30, 2015 (Lag) actuarial valuation census data and assume no increase in the probabilities of ADR.

STATEMENT OF ACTUARIAL OPINION: I, Sherry S. Chan, and 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 2016-24, dated April 25, 2016 prepared by the Chief Actuary of the New York City Police Pension Fund.