STATE OF NEW YORK

7599--A

2017-2018 Regular Sessions

IN ASSEMBLY

May 3, 2017

Introduced by M. of A. ABBATE, COLTON, RICHARDSON, DICKENS, MOSLEY, HYNDMAN, RODRIGUEZ, ORTIZ, AUBRY, BARNWELL, SOLAGES, DE LA ROSA, PERRY -- Multi-Sponsored by -- M. of A. SIMON, SIMOTAS -- read once and referred to the Committee on Governmental Employees -- recommitted to the Committee on Governmental Employees in accordance with Assembly Rule 3, sec. 2 -- 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 the definition of overtime ceiling

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

Section 1. Subdivision l of section 601 of the retirement and social security law, as amended by chapter 368 of the laws of 2017, is amended to read as follows:

l. (a) "Wages" shall mean regular compensation earned by and paid to a member by a public employer, except that for members who first join the New York state and local employees' retirement system or the New York state teachers' 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.

(b) "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.

(c) The "overtime ceiling" shall mean fifteen thousand dollars per annum on January first, two thousand ten, and shall be increased by three per cent each year thereafter, provided, however, that:

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

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(i) for members who first become members of a public retirement system of the state on or after April first, two thousand twelve, **other than a pension authorized under section six hundred four-b of this article,** "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 period ending on the December thirty-first preceding the overtime ceiling adjustment effective on the ensuing April first.

(ii) Commencing January first, two thousand eighteen, and each year thereafter, the overtime ceiling percentage shall be increased by an amount equal to the annual inflation as determined from the increase in the consumer price index in the one year period ending on the September thirtieth prior to the overtime ceiling adjustment effective on the ensuing January first.

(d) For members who first join a public retirement system of the state on or after April first, two thousand twelve, the following items shall not be included in the definition of wages: 1. wages in excess of the annual salary paid to the governor pursuant to section three of article four of the state constitution, 2. lump sum payments for deferred compensation, sick leave, accumulated vacation or other credits for time not worked, 3. any form of termination pay, 4. any additional compensation paid in anticipation of retirement, and 5. 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 additional employer.

§ 2. This act shall take effect immediately.

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

SUMMARY OF BILL: The proposed legislation would amend the definition of "Wages" contained in Section 601 of the Retirement and Social Security Law (RSSL) to make inapplicable the Overtime Ceiling for Tier 6 New York City Transit Authority (NYCTA) members subject to the 25-Year and Age 55 Retirement Program contained in RSSL Section 604-b (the 55/25 NYCTA Plan).

Effective Date: Upon enactment.

CURRENT PROVISIONS: Wages, as defined in RSSL Section 601(1), is regular compensation earned by and paid to a member by a public employer. Wages, among other things, are used to determine Tier 6 contribution rates and to calculate Final Average Salary. The wages of certain members, including Tier 6 55/25 NYCTA Plan participants, are capped by an Overtime Ceiling of $15,000 as of April 1, 2012. Each year thereafter, the Overtime Ceiling is increased by a percentage determined by reference to a specifically identified Consumer Price Index (CPI). For calendar year 2017, the Overtime Ceiling is $16,406.

IMPACT ON CURRENT PROVISIONS: Under the proposed legislation, the Overtime Ceiling would become inapplicable to Tier 6 55/25 NYCTA Plan participants. As a result, any prospective Tier 6 55/25 NYCTA Plan participant's overtime earnings exceeding the yearly Overtime Ceiling would be included in determining Tier 6 contributions, contribution rates, and in calculating Final Average Salary. To the extent a Tier 6 55/25 NYCTA Plan participant earns overtime exceeding the applicable Overtime Ceiling and such earnings fall within the participant's Final

Average Salary period, the participant may be entitled to a higher annual pension calculation.

FINANCIAL IMPACT - CHANGES IN PROJECTED ACTUARIAL PRESENT VALUE OF FUTURE EMPLOYER CONTRIBUTIONS AND PROJECTED EMPLOYER CONTRIBUTIONS: In accordance with Administrative Code of the City of New York (ACCNY) Section 13.638.2(k-2), new Unfunded Accrued Liability (UAL) 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, 2017, the remaining working lifetime of the Tier 6 55/25 NYCTA Plan participants is approximately 18 years. For purposes of this Fiscal Note, the change in UAL was amortized over an 18-year period (17 payments under the One-Year Lag Methodology) using level dollar payments.

The following Table 1 presents an estimate of the increases in the Actuarial Present Value (APV) of future employer contributions and in the annual employer contributions to the New York City Employees' Retirement System (NYCERS) for Fiscal Years 2019 through 2023 due to the removal of the Overtime Ceiling for Tier 6 Transit members based on the applicable actuarial assumptions and methods noted therein:

TABLE 1

Fiscal Year	Increase in APV of Future Employer Contributions ($ Millions)	Increase in Employer Contributions ($ Millions)
2019	$55.1	$4.7
2020	68.5	5.7
2021	78.6	6.5
2022	88.1	7.4
2023	96.8	8.3

CONTRIBUTION TIMING: For the purposes of this Fiscal Note, it is assumed that the changes in the APV of future employer contributions and annual employer contributions would be reflected for the first time in the June 30, 2017 actuarial valuation of NYCERS. In accordance with the One-Year Lag Methodology (OYLM) used to determine employer contributions, the increase in employer contributions would first be reflected in Fiscal Year 2019.

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

* The initial, additional administrative costs of NYCERS to implement the proposed legislation.

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

CENSUS DATA: The estimates presented herein are based on census data used in the Preliminary June 30, 2017 (LAG) actuarial valuations of NYCERS to determine the Preliminary Fiscal Year 2019 employer contributions.

The 9,822 Tier 6 55/25 NYCTA members had an average age of approximately 41.1 years, average service of approximately 2.4 years, and an average salary of approximately $68,740 as of June 30, 2017.

ACTUARIAL ASSUMPTIONS AND METHODS: The changes in the APV of future employer contributions and annual employer contributions presented herein have been calculated based on the same actuarial assumptions and methods in effect for the June 30, 2017 (Lag) actuarial valuations used to determine the Preliminary Fiscal Year 2019 employer contributions of NYCERS. Please note these assumptions and methods are subject to change

as this valuation is not considered final until the end of Fiscal Year 2019.

New entrants were projected to replace the members expected to leave the active population to maintain a steady-state population. New entrant ages, salaries, and future salary increases are consistent with those used in projections for the New York City Office of Management and Budget in April 2018.

The following Table 2 presents the total number of active Tier 6 25/55 NYCTA Plan participants used in the projections, assuming a level work force, and the cumulative number (i.e. net of withdrawals) of such participants as of each June 30 from 2017 through 2021.

TABLE 2

June 30	Tier 1, 2 & 4	Tier 6	Total
2017	26,747	9,822	36,569
2018	24,191	12,378	36,569
2019	22,152	14,417	36,569
2020	20,266	16,303	36,569
2021	18,551	18,018	36,569

STATEMENT OF ACTUARIAL OPINION: I, Sherry S. Chan, am the Chief Actuary for, and independent of, the New York City Retirement Systems and Pension Funds. I am a Fellow of the Society of Actuaries, an Enrolled Actuary under the Enrolled Actuary under the Employee Retirement Income and Security Act of 1974 (ERISA), a Member of the American Academy of Actuaries, and a Fellow of the Conference of Consulting Actuaries. I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein. To the best of my knowledge, the results contained herein have been prepared in accordance with generally accepted actuarial principles and procedures and with the Actuarial Standards of Practice issued by the Actuarial Standards Board.

FISCAL NOTE IDENTIFICATION: This Fiscal Note 2018-25 dated May 3, 2018 was prepared by the Chief Actuary for the New York City Employees' Retirement System. This estimate is intended for use only during the 2018 Legislative Session.