

# STATE OF NEW YORK

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2910--C

2017-2018 Regular Sessions

## IN SENATE

January 18, 2017

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Introduced by Sens. GOLDEN, FUNKE, ORTT -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- recommitted to the Committee on Civil Service and Pensions in accordance with Senate Rule 6, sec. 8 -- 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 -- 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 criminal justice faculty employed by a community college

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

1 Section 1. Section 211 of the retirement and social security law is  
2 amended by adding a new subdivision 9 to read as follows:

3 9. Any person employed by a community college as a faculty member  
4 under a criminal justice program of the state university of New York or  
5 city university of New York who retired from public employment while a  
6 member of the New York state and local police and fire retirement  
7 system, the New York city police pension fund, or the New York city fire  
8 department pension fund and who is entitled to receive a retirement  
9 allowance from such retirement system prior to the commencement date of  
10 such employment by a community college shall automatically be deemed to  
11 have been granted a waiver of retirement earnings limitation and such  
12 person may be employed by a community college without loss, suspension  
13 or diminution of his or her retirement allowance. Any person employed  
14 by a community college as a faculty member under a criminal justice  
15 program of the state university of New York or city university of New  
16 York who has not retired as a member of the New York state and local  
17 police and fire retirement system, the New York city police pension  
18 fund, or the New York city fire department pension fund shall not auto-

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

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1 atically be deemed to have been granted a waiver of retirement earnings  
2 limitation.

3 § 2. This act shall take effect immediately.

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

This bill will allow certain retirees of the New York State and Local Police and Fire Retirement System to work in a community college as a faculty member of a criminal justice program of the state university of New York or city university of New York without loss, suspension or diminution of his or her retirement allowance.

If this bill is enacted, insofar as it will affect the New York State and Local Police and Fire Retirement System, we expect few retirees to be affected. There would be negligible additional annual costs.

Summary of relevant resources:

The membership data used in measuring the impact of the proposed change was the same as that used in the March 31, 2017 actuarial valuation. Distributions and other statistics can be found in the 2017 Report of the Actuary and the 2017 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2015, 2016, and 2017 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, 2017 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 estimate, dated November 15, 2017, and intended for use only during the 2018 Legislative Session, is Fiscal Note No. 2018-6, prepared by the Actuary for the New York State and Local Retirement System.

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

SUMMARY OF BILL: With respect to the New York City Police Pension Fund (Police) and the New York City Fire Pension Fund (Fire), this proposed legislation would amend Retirement and Social Security Law (RSSL) Section 211 to permit eligible retirees to serve as faculty members in the criminal justice programs of the State University of New York (SUNY) or City University of New York (CUNY) by way of an automatic post-retirement earnings waiver pursuant to the provisions of RSSL Section 211.

Effective Date: Upon enactment.

IMPACT ON PENSION PAYMENTS: Retirees of public pension funds and retirement systems who return to public service within New York, and do not rejoin the applicable public fund or system, are generally subject to various post-retirement earnings restrictions. Police and Fire retirees are subject to, among other things, post-retirement earnings restrictions as provided in RSSL Sections 211 and 212.

Those who elect to be covered under the provisions of RSSL Section 212 are permitted to earn post-retirement earnings from a public employer in an amount not exceeding a specific dollar limit in each calendar year without loss, suspension, or diminution of their retirement allowances. Once this dollar limit is reached, the retiree's retirement allowance is suspended for the remainder of that calendar year. Generally, there are no earnings limitations in, or following, the calendar year in which the retiree attains age 65. Currently, the RSSL Section 212 post-retirement earnings limitation in effect for calendar year 2007 and each year thereafter is \$30,000.

When certain exigent criteria are met and approval is given to the employer by a specially designated entity, a waiver pursuant to RSSL Section 211 may be granted, for a two-year period. Under RSSL Section 211, there is no salary restriction for reemployment with a public entity that is not the former employer.

Under the proposed legislation, the RSSL Section 211 post-retirement public service earnings waiver would be automatically granted, without the need to satisfy the criteria currently required pursuant to RSSL Section 211, to retired Police and Fire members employed as a faculty member in a SUNY or CUNY criminal justice program.

For purposes of this fiscal note, it has been assumed that Police and Fire retirees who are or would be employed as faculty members in a SUNY or CUNY criminal justice program would not be subject to any post-retirement earnings limitation pursuant to RSSL Section 211 since they would not be working for their former employer.

For illustrative purposes only, the table below presents the estimated additional retirement allowances paid if RSSL Section 211 waivers are granted in lieu of applying RSSL Section 212 post-retirement earnings limitation for various sample combinations of post-retirement annual earnings and annual retirement allowance amounts.

Annual Retirement Allowance	Annual Post-Retirement Earnings in Calendar Year		
	\$40,000	\$50,000	\$60,000
\$30,000	\$ 7,500	\$12,000	\$15,000
\$40,000	\$10 000	\$16,000	\$20,000
\$50,000	\$12,500	\$20,000	\$25,000
\$60,000	\$15,000	\$24,000	\$30,000
\$70,000	\$17,500	\$28,000	\$35,000

**FINANCIAL IMPACT - EMPLOYER CONTRIBUTIONS:** In accordance with the 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 are generally amortized over the remaining working lifetime of those impacted by the benefit changes. However, since changes in the applicable retirement allowances paid to Police and Fire retirees under this proposed legislation are not known in advance, the increase in pension payments due to this legislation would be treated as an actuarial loss. These actuarial losses would be amortized over a 15-year period (14 payments under the One-Year Lag Methodology (OYLM)) using level dollar payments.

The number of Police and Fire retirees who could potentially be impacted by this proposed legislation cannot be readily determined. However, the Actuary believes the increase in pension payments, if the proposed legislation is enacted, would be approximately \$1.5 million to \$2.0 million per year for each 100 faculty SUNY and CUNY criminal justice program positions created for eligible Police and Fire service retirees. This would result in an increase in annual employer contributions of \$180,000 to \$240,000 compounded each year (e.g. \$240,000 in the first year, \$480,000 in the second year, \$720,000 in the third year, etc.) for 14 years and then will remain level thereafter, assuming 100 such faculty members are employed each year. Future years' costs would depend on factors such as, but not limited to, the number of retirees that benefit under the legislation and the amount of their earnings and retirement allowances.

CONTRIBUTION TIMING: For purposes of this Fiscal Note, it is assumed that the change in the UAL would be reflected for the first time in the June 30, 2019 actuarial valuations of Police and Fire. Under the OYLM, the first fiscal year in which these changes in benefits would impact employer contributions would be Fiscal Year 2021.

OTHER COSTS: Not measured in this Fiscal Note are any possible increased administrative costs attributable to enactment of the proposed legislation.

CENSUS DATA: For purposes of analyzing the impact of the proposed legislation, illustrative examples with various salary and retirement allowance amounts have been provided above.

ACTUARIAL ASSUMPTIONS AND METHODS: The changes in employer contributions presented herein have been calculated based on the same actuarial assumptions and methods in effect for the June 30, 2017 (Lag) actuarial valuation used to determine the Preliminary Fiscal Year 2019 employer contributions of Police and Fire. Please note these assumptions and methods are subject to change as this valuation is not considered final until the end of the Fiscal Year 2019.

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 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 2018-50, dated August 14, 2018 was prepared by the Chief Actuary for the New York City Police Pension Fund and the New York City Fire Pension Fund. This estimate is intended for use only during the 2018 Legislative Session.