STATE OF NEW YORK

8115--A

2017-2018 Regular Sessions

IN ASSEMBLY

May 30, 2017

Introduced by M. of A. ABBATE -- read once and referred to the Committee on Governmental Employees -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general municipal law, in relation to provisions affecting accidental disability benefits for police/fire members, New York city uniformed correction/sanitation revised plan members and investigator revised plan members

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

Section 1. The general municipal law is amended by adding a new section 209-ff to read as follows:

§ 209-ff. Provisions relating to certain accidental disability benefits. 1. Notwithstanding the provisions of subdivisions a and b of section five hundred seven of the retirement and social security law, a police/fire member in active service, a New York city uniformed correction/sanitation revised plan member in active service or an investigator revised plan member in active service shall be eligible for the accidental disability benefit provided in such section five hundred seven, regardless of whether he or she is eligible for a normal service retirement benefit. For the purposes of this section, the terms "police/fire member" and "active service" shall have the same meanings as defined in section five hundred one of the retirement and social security law.

2. Notwithstanding the provision 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 retired police/fire members, retired New York city uniformed correction/sanitation revised plan members and retired investigator revised plan members who receive accidental disability retirement allowances. Such retirees shall be subject to post retirement medical examinations, and where applicable, modification of retirement allowance,

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

LBD11535-04-7

following such examinations, in the same manner and under the same conditions prescribed by law immediately prior to the first of April, two thousand twelve for retired New York city uniformed correction/sanitation revised plan members, and prior to the first of July, two thousand nine for retired police/fire members and retired investigator revised plan members.

§ 2. Section 81 of chapter 18 of the laws of 2012 shall not apply to this act.

§ 3. This act shall take effect immediately.

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

This bill will allow certain uniformed members of public retirement systems who are subject to the provisions of Article 14 of the Retirement and Social Security Law to be eligible to file for an accidental disability benefit regardless of whether he or she is eligible for a normal service retirement benefit. The bill would also allow retirees who are receiving an accidental disability pension to continue to do so despite being disapproved from receiving a federal social security disability pension.

If this bill is enacted, insofar as it affects the New York State and Local Police and Fire Retirement System (PFRS), there are fewer than 100 Tier 3 members that are subject to the provisions of Article 14 who could possibly be affected.

It is estimated that there will be few, if any, accidental disability retirees affected, thus we anticipate that the cost to state of New York and the participating in the PFRS would be negligible.

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, 2016 actuarial valuation. Distributions and other statistics can be found in the 2016 Report of the Actuary and the 2016 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2015 and 2016 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, 2016 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 May 26, 2017, and intended for use only during the 2017 Legislative Session, is Fiscal Note No. 2017-98, prepared by the Actuary for the New York State and Local Retirement System.

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

PROVISIONS OF PROPOSED LEGISLATION: With respect to the New York City Police Pension Fund (POLICE), the New York City Employees' Retirement System (NYCERS), the proposed legislation would add Section 209-ff to the General Municipal Law (GML) to permit POLICE, FIRE and NYCERS Members who are subject to Retirement and Social Security Law (RSSL) Article 14 (Eligible Members) and who would be ineligible for disability retirement benefits solely on account of being eligible for a normal service retirement benefit to be eligible for disability benefits.

The proposed legislation would also relax the safeguards provisions regarding restrictions on post-retirement employment for Eligible Members who are awarded Accident Disability Retirement (ADR), and would

also make the process for reducing or eliminating an ADR benefit based on post-retirement earnings more onerous.

Currently, Eligible Members receiving ADR benefits are subject to the safeguards provision contained in RSSL section 507(d). RSSL section 507(d) restricts ADR recipients who have not reached age 65 from engaging in employment or business activity that would render them ineligible for social security disability benefits. It is the understanding of the Actuary that ceasing to be disabled or earning above a threshold amount determined by the Social Security Administration, set at $13,560 per year in 2016 for non-blind individuals, would result in an automatic cessation of ADR benefits.

Where applicable, Eligible Members who would have been deemed ineligible for social security disability may be permitted to receive ADR benefits while being placed on a preferred eligible list for purposes of reemployment at a salary grade not to exceed that from which the individual retired. Once an offer of employment is made, ADR benefits would cease.

Under the proposed legislation, RSSL section 507(d) safeguards would become inapplicable to Eligible Members, and a medical examination, followed by the conditions prescribed by safeguards provisions in effect for the relevant POLICE, FIRE and NYCERS titles who became members prior to the application or RSSL Article 14 would be required before an ADR benefit reduction or suspension could occur.

Although subject to varying applicable safeguards provisions, relevant POLICE, FIRE and NYCERS titles that joined prior to the application of RSSL Article 14 are generally subject to two alternative safeguards processes. Where an ADR recipient has not yet reached the minimum age of service retirement and the sum of ADR retirement benefits and post-retirement earnings exceed the salary of the title next higher than that held at the time of retirement, the ADR pension is automatically reduced by the amount exceeding such salary rate. The second alternative involves a medical examination to determine disability level, the Board of Trustee review and approval, to reduce the ADR amount based on an ability of the retiree to perform gainful employment, or based on an offer of employment after being placed on a preferred eligible list. It is the understanding of the Actuary, that the second alternative is rarely utilized.

The proposed legislation would therefore eliminate the automatic benefit reduction and termination alternative under safeguards, reduce the amount of time safeguards may be applied to a retiree, increase the amount of post-retirement earnings an ADR recipient may earn before a reduction or elimination of an ADR benefit can be applied, and modify the safeguards provision in effect for Eligible Member titles who became members prior to application of Article 14 to require a medical examination and Board of Trustee review and approval to reduce or terminate and ADR benefit even in situations where the retiree is gainfully employed and earning above the applicable post-retirement earnings threshold.

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

IMPACT ON ADR BENEFITS PAYABLE: Under the proposed legislation the eligibility requirements for disability benefits would be revised to allow for benefits after a member is eligible for normal service retirement benefits and the safeguards provisions would be relaxed as explained above.

FINANCIAL IMPACT - CHANGES IN PROJECTED ACTUARIAL PRESENT VALUE OF BENEFITS 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, 2016 actuarial valuation of POLICE, FIRE and NYCERS. Under the One-Year Lag Methodology (OYLM), the first year in which changes in benefits for Eligible Members would impact employer contributions to POLICE, FIRE and NYCERS would be Fiscal Year 2018.

The additional member contributions expressed as percentages of annual wages provided in section 18 of Chapter 298 of the Laws of 2016 and section 4, Part SSS of Chapter 59 of the Laws of 2017 for purposes of maintaining no additional employer contributions for implementation of the Enhanced Plan for applicable members included the cost for changes to eligibility requirements for disability retirement contained in the proposed legislation, corresponding to the APVB in Table 1 below.

Table 1 presents an estimate of the increases in the APV of benefits and in employer contributions to POLICE, FIRE and NYCERS for Fiscal Years 2018 through 2022 due to the changes in disability eligibility based on the applicable actuarial assumptions and methods noted herein:

Table 1

Estimated Financial Impact if Certain Revisions are Made to Eligibility for Disability Benefits for Eligible Members

($ Millions)

Fiscal Year	Increase in APV of Benefits	Increase in Employer Contributions*
2018		
* POLICE	$76.5	8.9
* FIRE	45.4	0
* Sanitation	6.9	0
* Correction	**4.6**	**0**
* Total	$133.4	$8.9
2019		
* POLICE	$95.8	9.9
* FIRE	61.6	0
* Sanitation	9.0	0
* Correction	**6.2**	**0**
* Total	$172.6	$9.9
2020		
* POLICE	$116.2	11.0
* FIRE	77.1	0
* Sanitation	11.5	0
* Correction	**9.7**	**0**
* Total	$212.9	$11.0
2021		
* POLICE	$136.9	11.7
* FIRE	93.1	0
* Sanitation	13.9	0
* Correction	**9.7**	**0**

* Total	$253.6	$11.7
2022		
* POLICE	$158.8	12.5
* FIRE	111.4	0
* Sanitation	17.1	0
* Correction	**11.5**	**0**
* Total	$298.8	$12.5

* The cost for this change has already been accounted for in the Preliminary June 30, 2016 actuarial valuation of FIRE and NYCERS.

The estimated increases in APVB in Table 1 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 in April 2017 (Preliminary Projections).

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

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

* The initial, additional administrative costs of POLICE, FIRE and NYCERS 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 and shown in Table 2 below are the census data used in the Preliminary June 30, 2016 (Lag) actuarial valuation of POLICE, FIRE, and NYCERS to determine the Preliminary Fiscal Year 2018 employer contributions.

Table 2
Census Data as of June 30, 2016

Group	Count	Average Age	Average Service	Average Salary
Police				
Tier 3	3,211	31.3	5.2	$87,300
Revised Tier 3	7,998	28.5	1.8	$58,400
Fire				
Tier 3	336	29.9	3.0	$60,500
Revised Tier 3	1,638	29.0	1.3	$53,000
Sanitation	1,563	36.5	2.4	$55,800
Correction	2,302	33.1	1.9	$52,200

ACTUARIAL ASSUMPTIONS AND METHODS: The change in the APVB presented herein has been calculated based on the actuarial assumptions and methods in effect for the Preliminary June 30, 2016 (Lag) actuarial valuations used to determine the Preliminary Fiscal Year 2018 employer contributions of POLICE, FIRE and NYCERS.

It has been further assumed that all Tier 3 POLICE, FIRE and NYCERS members who became members prior to the effective date of the proposed legislation will choose new disability provisions.

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

STATEMENT OF ACTUARIAL OPINION: I, Sherry S. Chan, am the Chief Actuary for, and independent of, the New York City Pension Funds and Retirement Systems. I am a Fellow 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 Fiscal Note 2017-23 dated May 30, 2017 was prepared by the Chief Actuary for the New York City Employees' Retirement System, the New York City Police Pension Fund, and the New York Fire Department Pension Fund. This estimate is intended for use only during the 2017 Legislative Session.