# STATE OF NEW YORK

5731

2017-2018 Regular Sessions

# IN SENATE

April 27, 2017

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

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 510 of the laws of 2015, is amended to read as follows:

l. "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. "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. 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 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),

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

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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 prior to the cost-of-living adjustment effective on the ensuing April first. 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:

PROVISIONS OF PROPOSED LEGISLATION: 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 contain in RSSL Section 604-b (the 55/25 NYCTA Plan).

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

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 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: 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 NYCERS. Under the One-Year Lag Methodology (OYLM), the first year in which changes in benefits for Tier 6 55/25 NYCTA Plan participants could impact employer contributions to NYCERS would be Fiscal Year 2018.

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 by generally over the remaining working lifetime of those impacted by the benefit changes. As of June 30, 2016, the remaining working lifetime of

the Tier 6 55/25 NYCTA Plan participants is approximately 18 years. Recognizing that this period will decrease over time as the group matures, the Actuary would likely choose to amortize the new UAAL attributable to this proposed legislation over a 15-year to 20-year period (between 14 and 19 payments under the OYLM Methodology). For purposes of this Fiscal Note, the Actuary has elected to amortize the change in UAAL over a 15-year period (14 payments).

Table 1 presents an estimate of the increases in the APV of future employer contributions and in employer contributions to NYCERS for Fiscal Years 2018 through 2022 due to the removal of the Overtime Ceiling for Tier 6 Transit members based on the applicable actuarial assumptions and methods noted herein:

Table 1

Estimated Financial Impact on NYCERS
If Overtime Ceiling is removed for Tier 6 55/25
NYCTA Plan participants

($ Millions)

| Fiscal Year | Increase in APV of Future Employer Contributions | Increase In Employer Contributions |
|---|---|---|
| 2018 | $31.4 | $2.3 |
| 2019 | 41.2 | 3.1 |
| 2020 | 49.3 | 3.8 |
| 2021 | 56.9 | 4.6 |
| 2022 | 64.2 | 5.3 |

The estimated increases in employer contributions shown 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 March 2017 (Preliminary Projections).

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

OTHER COSTS: Not measured in this Fiscal Note are the initial, additional administrative costs of NYCERS to implement the proposed legislation.

CENSUS DATA: The starting census data used for the calculations presented herein is the census data used in the Preliminary June 30, 2016 (Lag) actuarial valuation of NYCERS to determine the Preliminary Fiscal Year 2018 employer contributions.

The 7,684 Tier 6 55/25 NYCTA Plan participants had an average age of approximately 40.8, average service of approximately 2.0 years and an average salary of approximately $66,000 as of June 30, 2016.

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, 2016 (Lag) actuarial valuations and used to determine the Preliminary Fiscal Year 2018 employer contributions of NYCERS.

In determining the change in employer contributions, overtime for Tier 6 NYCTA members earned in excess of the Overtime Ceiling was assumed to be at the level as that earned in recent Fiscal Year for all of NYCTA.

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

Table 2 presents the total number of active Tier 6 55/25 NYCTA Plan participant 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 2016 through 2020.

Table 2
NYCTA Members
Used In the Projections*

| June 30 | Tier 1, 2 & 4 | Tier 6 | Total |
|---|---|---|---|
| 2016 | 28,066 | 7,684 | 35,750 |
| 2017 | 25,620 | 10,130 | 35,750 |
| 2018 | 23,585 | 12,165 | 35,750 |
| 2019 | 21,697 | 14,053 | 35,750 |
| 2020 | 19,915 | 15,835 | 35,750 |

* Total active members included in the projections assume a level work force based on the June 30, 2016 (Lag) actuarial valuation census data.

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 2017-03 dated March 31, 2017 was prepared by the Chief Actuary for the New York City Employees' Retirement System. This estimate is intended for use only during the 2017 Legislative Session.