STATE OF NEW YORK

6378

2017-2018 Regular Sessions

IN SENATE

May 11, 2017

Introduced by Sen. KRUEGER -- 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 disability benefits for certain members of the New York city police pension fund, the New York city fire department pension fund and the New York city employees' retirement system

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

Section 1. Section 506 of the retirement and social security law is amended by adding five new subdivisions e, f, g, h and i to read as follows:

e. Notwithstanding the provisions of subdivisions a and b of this section, the ordinary disability benefit for a police/fire member who joined the New York city police pension fund or the New York city fire department pension fund on or after the effective date of this subdivision, or a police/fire member who has elected to receive such benefit pursuant to subdivision g of this section, shall be:

1. Except as provided in paragraph three of this subdivision, a pension equal to (i) the greater of (A) two percent of final average salary or sixth-year salary, whichever is greater, times years of credited service not in excess of the maximum years of service for computing service retirement, or (B) thirty-three and one-third percent of final average salary or sixth-year salary, whichever is greater, (ii) less one hundred percent of any workers' compensation benefits payable;

2. A cost-of-living adjustment for such pension, which shall be computed in the same manner as provided for by section 13-696 of the administrative code of the city of New York; and

3. If the ordinary disability benefit as calculated pursuant to paragraphs one and two of this subdivision is less than the ordinary disability benefit as calculated pursuant to subdivision b of this section for any year that such police/fire member is eligible for such benefit, then the ordinary disability benefit calculated pursuant to subdivision b of this section shall be payable.

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

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f. Notwithstanding the provisions of subdivisions a and b of this section, the ordinary disability benefit for a New York city uniformed correction/sanitation revised plan member who joined the New York city employees' retirement system on or after the effective date of this subdivision, or a New York city uniformed correction/sanitation revised plan member who has elected to receive such benefit pursuant to subdivision h of this section, shall be:

1. Except as provided in paragraph three of this subdivision, a pension equal to (i) the greater of (A) two percent of final average salary or sixth-year salary, whichever is greater, times years of credited service not in excess of the maximum years of service for computing service retirement, or (B) thirty-three and one-third percent of final average salary or sixth-year salary, whichever is greater, (ii) less one hundred percent of any workers' compensation benefits payable;

2. A cost-of-living adjustment for such pension, which shall be computed in the same manner as provided for by section 13-696 of the administrative code of the city of New York; and

3. If the ordinary disability benefit as calculated pursuant to paragraphs one and two of this subdivision is less than the ordinary disability benefit as calculated pursuant to subdivision b of this section for any year that such New York city uniformed correction/sanitation revised plan member is eligible for such benefit, then the ordinary disability benefit calculated pursuant to subdivision b of this section shall be payable.

g. Notwithstanding the provisions of subdivisions a and b of this section, a police/fire member who joined the New York city police pension fund or the New York city fire department pension fund before the effective date of this subdivision and is eligible for the ordinary disability benefit described in subdivision b of this section may at the time of retirement make an election to receive the ordinary disability benefit described in subdivision e of this section. Such election shall be duly executed and filed with the administrative head of the pension fund to which the member belongs and shall be irrevocable. If no such election is made, such member shall receive the ordinary disability benefit described in subdivision b of this section.

h. Notwithstanding the provisions of subdivisions a and b of this section, a New York city uniformed correction/sanitation revised plan member who joined the New York city employees' retirement system before the effective date of this subdivision and is eligible for the ordinary disability benefit described in subdivision b of this section may at the time of retirement make an election to receive the ordinary disability benefit described in subdivision f of this section. Such election shall be duly executed and filed with the administrative head of the New York city employees' retirement system and shall be irrevocable. If no such election is made, such member shall receive the ordinary disability benefit described in subdivision b of this section.

i. For the purposes of this section, "sixth-year salary" shall mean the sum of the standard rate payable to a police officer, firefighter, correction officer or sanitation worker upon six years of employment as a police officer, firefighter, correction officer or sanitation worker, excluding any longevity adjustments, and the average overtime compensation paid or payable to such police officer, firefighter, correction officer or sanitation worker. For the purposes of this subdivision, "overtime compensation" shall have the same meaning as such term is defined in subdivision twenty-four of section five hundred one of this article. If such police officer, firefighter, correction officer or

sanitation worker has been a member of the New York city police pension fund, the New York city fire department fund or the New York city employees' retirement system for less than six years upon the date of his or her retirement, the average overtime compensation shall be calculated as follows:

1. If the period of employment prior to the date of retirement is less than one year, the projected first year overtime compensation shall be based upon a twelve month projection of the overtime compensation paid in the portion of the year worked. The average overtime compensation shall be the projected first year overtime compensation.

2. If the period of employment prior to the date of retirement is more than one year but less than two years, the projected second year overtime compensation shall be based upon a twelve month projection of the overtime compensation paid in the portion of the second year worked. The average overtime compensation shall be one-sixth the sum of (i) the projected second year overtime compensation multiplied by five and (ii) the actual overtime compensation paid in the first year of employment.

3. If the period of employment prior to the date of retirement is more than two years but less than three years, the projected third year overtime compensation shall be based upon a twelve month projection of the overtime compensation paid in the portion of the third year worked. The average overtime compensation shall be one-sixth the sum of (i) the projected third year overtime compensation multiplied by four and (ii) the actual overtime compensation paid in the first two years of employment.

4. If the period of employment prior to the date of retirement is more than three years but less than four years, the projected fourth year overtime compensation shall be based upon a twelve month projection of the overtime compensation paid in the portion of the fourth year worked. The average overtime compensation shall be one-sixth the sum of (i) the projected fourth year overtime compensation multiplied by three and (ii) the actual overtime compensation paid in the first three years of employment.

5. If the period of employment prior to the date of retirement is more than four years but less than five years, the projected fifth year overtime compensation shall be based upon a twelve month projection of the overtime compensation paid in the portion of the fifth year worked. The average overtime compensation shall be one-sixth the sum of (i) the projected fifth year overtime compensation multiplied by two and (ii) the actual overtime compensation paid in the first four years of employment.

6. If the period of employment prior to the date of retirement is more than five years but less tan six years, the projected sixth year overtime compensation shall be based upon a twelve month projection of the overtime compensation paid in the portion of the sixth year worker. The average overtime compensation shall be one-sixth the sum of (i) the projected sixth year overtime compensation and (ii) the actual overtime compensation paid in the first five years of employment.

§ 2. Section 507 of the retirement and social security law is amended by adding six new subdivisions c-1, c-2, c-3, c-4, c-5 and c-6 to read as follows:

c-1. Notwithstanding the provisions of subdivisions a and c of this section, the accidental disability benefit for a police/fire member who joined the New York city police pension fund or the New York city fire department pension fund on or after the effective date of this subdivi-

sion, or a police/fire member who has elected to receive such benefit pursuant to subdivision c-3 of this section, shall be:

1. Except as provided in paragraph three of this subdivision, a pension equal to (i) the greater of (A) fifty percent of final average salary, (B) fifty percent of sixth-year salary, or (C) for members who meet the requirements set forth in subdivision c-6 of this section, the greater of seventy-five percent of final average salary or seventy-five percent of sixth-year salary, (ii) less one hundred percent of any workers' compensation benefits payable; and

2. A cost-of-living adjustment for such pension, which shall be computed in the same manner as provided for by section 13-696 of the administrative code of the city of New York.

If the accidental disability benefit as calculated pursuant to paragraphs one and two of this subdivision is less than the accidental disability benefit as calculated pursuant to subdivision c of this section for any year that such police/fire member is eligible for such benefit, then the accidental disability benefit calculated pursuant to subdivision c of this section shall be payable.

c-2. Notwithstanding the provisions of subdivisions a and c of this section, the accidental disability benefit for a New York city uniformed correction/sanitation revised plan member who joined the new York city employees' retirement system on or after the effective date of this subdivision, or a New York city uniformed correction/sanitation revised plan member who has elected to receive such benefit pursuant to subdivision c-4 of this section, shall be:

1. Except as provided in paragraph three of this subdivision, a pension equal to (i) the greater of (A) fifty percent of final average salary, (B) fifty percent of sixth-year salary, or (C) for members who meet the requirements set forth in subdivision c-6 of this section, the greater of seventy-five percent of final average salary or seventy-five percent of sixth-year salary, (ii) less one hundred percent of any workers' compensation benefits payable; and

2. A cost-of-living adjustment for such pension, which shall be computed in the same manner provided for by section 13-696 of the administrative code of the city of New York.

If the accidental disability benefit as calculated pursuant to paragraphs one and two of this subdivision is less than the accidental disability benefit as calculated pursuant to subdivision c of this section for any year that such New York city uniformed correction/sanitation revised plan member is eligible for such benefit, then the accidental disability benefit calculated pursuant to subdivision c of this section shall be payable.

c-3. Notwithstanding the provisions of subdivisions a and c of this section, a police/fire member who joined the New York city police pension fund or the New York city fire department pension fund before the effective date of this subdivision and is eligible for the accidental disability benefit described in subdivision c of this section may at the time of retirement make an election to receive the accidental disability benefit described in subdivision c-1 of this section. Such election shall be duly executed and filed with the administrative head of the pension fund to which the member belongs and shall be irrevocable. If no such election is made, such member shall receive the accidental disability benefit described in subdivision c of this section.

c-4. Notwithstanding the provisions of subdivisions a and c of this section, a New York city uniformed correction/sanitation revised plan member who joined the New York city employees' retirement system before

the effective date of this subdivision and is eligible for the accidental disability benefit described in subdivision c of this section may at the time of retirement make an election to receive the accidental disability benefit described in subdivision c-2 of this section. Such election shall be duly executed and filed with the administrative head of the New York city employees' retirement system and shall be irrevocable. If no such election is made, such member shall receive the accidental disability benefit described in subdivision c of this section.

c-5. For the purposes of this section, "sixth-year salary" shall have the same meaning as such term is defined in subdivision j of section five hundred six of this article.

c-6. For the purposes of subdivisions c-1 and c-2 of this section, the accidental disability benefit shall be calculated using the greater of seventy-five percent of final average salary or seventy-five percent of sixth-year salary if such police/fire member or New York city uniformed correction/sanitation revised plan member is (i) entitled to disability insurance benefits pursuant to section 223 of the federal social security act, or (ii) is ineligible for such disability insurance benefits on the basis of requirements of section 223(c)(1)(B) of the federal social security act and does not have earnings that demonstrate an ability to engage in substantial gainful activity as set forth in section 223(d)(4) of the federal social security act. In the event that a member no longer meets the requirements of this subdivision, such member's accidental disability benefit shall be calculated using the greater of fifty percent of final average salary or fifty percent of sixth-year salary as set forth in subdivision c-1 or c-2 of this section.

§ 3. Section 510 of the retirement and social security law is amended by adding a new subdivision j to read as follows:

j. Notwithstanding any other provision of this article, the annual escalation provided in this section shall not apply to the ordinary disability benefit provided for in subdivisions e and f of section five hundred six of this article or the accidental disability benefit provided for in subdivisions c-1 and c-2 of section five hundred seven of this article.

§ 4. Subdivision f of section 511 of the retirement and social security law, as amended by chapter 18 of the laws of 2012, is amended and a new subdivision h is added to read as follows:

f. This section shall not apply to general members in the uniformed correction force of the New York city department of correction or to uniformed personnel in institutions under the jurisdiction of the department of corrections and community supervision and security hospital treatment assistants, as those terms are defined in subdivision i of section eighty-nine of this chapter, provided, however, that the provisions of this section shall apply to a New York city uniformed correction/sanitation revised plan member, except as provided in subdivision h of this section.

h. This section shall not apply to a police/fire member who receives the ordinary disability benefit provided for in subdivision e of section five hundred six of this article or the accidental disability benefit provided for in subdivision c-1 of section five hundred seven of this article, or a New York city uniformed correction/sanitation revised plan member who receives the ordinary disability benefit provided for in subdivision f of section five hundred six of this article or the accidental disability benefit provided for in subdivision c-2 of section five hundred seven of this article.

§ 5. This act shall take effect immediately.