

# STATE OF NEW YORK

10310

## IN ASSEMBLY

May 13, 2022

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Gottfried)  
-- read once and referred to the Committee on Governmental Employees

AN ACT relating to granting retroactive eligibility to apply for enhanced Tier 3 status to former New York City police officer Mark Rivera

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

1 Section 1. Notwithstanding the provisions of any general or special  
2 law, rule or regulation to the contrary, Mark Rivera who was previously  
3 employed by the New York City police department as a police officer and  
4 was a Tier 3 member of the Police Pension Fund at the time of his death  
5 on March 21, 2015 shall be eligible to apply for membership in Enhanced  
6 Tier 3, if within one year from the effective date of this act, Abigail  
7 Rivera, the widow of Mark Rivera, shall file with the retirement system  
8 an application for membership Enhanced Tier 3 of the Police Pension  
9 Fund, and Abigail Rivera may also file for any retirement options or  
10 death benefits that would have been available to Mark Rivera if he had  
11 been a member of Enhanced Tier 3 on the date of his death. Any amounts  
12 paid by the police pension fund to Mark Rivera, his estate or Abigail  
13 Rivera prior to the filing of the application for benefits pursuant to  
14 this act shall be deducted from the benefit payable thereafter.

15 § 2. All costs pursuant to this act shall be borne by the City of New  
16 York.

17 § 3. This act shall take effect immediately.

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

SUMMARY OF BILL: This proposed legislation would permit Ms. Rivera, within one year of the effective date, to posthumously elect the Tier 3 Enhanced Plan on behalf of Police Officer Mark Rivera, her deceased husband, and to apply for any benefits applicable to such Plan.

Effective Date: Upon enactment.

BACKGROUND: Officer Rivera died as a Tier 3 Revised member of the New York City Police Pension Fund (POLICE) on March 21, 2015. His surviving spouse, Ms. Rivera, received an ordinary death benefit equal to a lump

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

LBD11212-02-2

sum benefit based on salary and member contributions according to the provisions of a Tier 3 revised member.

After his death, beginning in September 8, 2016, certain Tier 3 Revised members could elect to join the Tier 3 Enhanced Plan which, among other things, extended the statutory presumptions contained in the Heart Bill (General Municipal Law (GML) § 207-k) to Enhanced Plan members pursuant to Chapter 298 of the Laws of 2016. Tier 3 police officers became eligible to participate in the Enhanced Plan on April 10, 2017 pursuant to Part SSS of Chapter 59 of the Laws of 2017.

If this legislation is passed, Officer Rivera's death could potentially be deemed as a Line-of-Duty death under such presumption, entitling his spouse to receive an Accidental Death Benefit pursuant to Retirement and Social Security Law (RSSL) Section 509 and a Special Accidental Death Benefit (SADB) under GML Section 208-f, less any amount previously paid as an ordinary death benefit.

FINANCIAL IMPACT - PRESENT VALUES: The estimated financial impact of this proposal has been calculated as the difference between the present value of (1) and (2), where:

(1) is the Accidental Death and SADB benefits Officer Rivera's spouse could potentially receive if the proposed legislation were enacted (retroactive to the date of death on March 21, 2015), and

(2) is the value of the amount of ordinary death benefits already paid.

Based on the actuarial assumptions and methods described herein, the enactment of this proposed legislation would increase the Present Value of Future Benefits (PVFB) and the Unfunded Accrued Liability (UAL) of POLICE by approximately \$2.5 million. This calculation does not reflect the offset for a Social Security death benefit, if any, payable to Ms. Rivera.

FINANCIAL IMPACT - ANNUAL EMPLOYER CONTRIBUTIONS: In accordance with Administrative Code of the City of New York (ACCNYS) Section 13-638.2(k-2), new 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.

For purposes of this Fiscal Note, since Officer Rivera is deceased and therefore has no remaining working lifetime, the entire increase in UAL would be recognized immediately.

CONTRIBUTION TIMING: For the purposes of this Fiscal Note, it is assumed that the changes in the UAL and annual employer contributions would be reflected for the first time in the June 30, 2022 actuarial valuation of POLICE. In accordance with the One-Year Lag Methodology (OYLM) used to determine employer contributions, the increase in employer contributions would be reflected in Fiscal Year 2024.

CENSUS DATA: As of June 30, 2021, Ms. Rivera would be approximately age 43 and is not receiving an annual pension. Additional data was provided by POLICE which was not audited but was checked for reasonableness. Below is a summary of the data provided:

- \* Ordinary Death Benefit Lump Sum: \$167,000
- \* Accidental Death Annual Benefit (City): \$25,343
- \* SADB Annual Benefit at Date of Death (State): \$58,854

ACTUARIAL ASSUMPTIONS AND METHODS: The changes in the PVFB presented herein have been calculated based on the actuarial assumptions and methods in effect for the June 30, 2021 (Lag) actuarial valuations used to determine the Preliminary Fiscal Year 2023 employer contributions of POLICE.

RISK AND UNCERTAINTY: The costs presented in this Fiscal Note depend highly on the realization of the actuarial assumptions used, as well as certain demographic characteristics of the Plan and other exogenous factors such as investment, contribution, and other risks. If actual experience deviates from actuarial assumptions, the actual costs could differ from those presented herein. Costs are also dependent on the actuarial methods used, and therefore different actuarial methods could produce different results. Quantifying these risks is beyond the scope of this Fiscal Note.

Not measured in this Fiscal Note are the following:

- \* The initial, additional administrative costs of POLICE and other New York City agencies to implement the proposed legislation.

- \* The impact of this proposed legislation on Other Postemployment Benefit (OPEB) costs.

STATEMENT OF ACTUARIAL OPINION: I, Michael J. Samet, am the Interim Chief Actuary for, and independent of, the New York City Retirement Systems and Pension Funds. I am a Fellow of the Society of 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. 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 2022-19 dated April 12, 2022 was prepared by the Interim Chief Actuary for the New York City Police Pension Fund. This estimate is intended for use only during the 2022 Legislative Session.