STATE OF NEW YORK

7370--A

2021-2022 Regular Sessions

IN ASSEMBLY

May 6, 2021

Introduced by M. of A. ABBATE -- read once and referred to the Committee on Governmental Employees -- recommitted to the Committee on Governmental Employees in accordance with Assembly Rule 3, sec. 2 -- 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 the limitation of overtime compensation in final average salary calculations

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

Section 1. Section 1203 of the retirement and social security law, as added by section 1 of part A of chapter 504 of the laws of 2009, is amended to read as follows:

§ 1203. Overtime. A member's final average salary shall be calculated in accordance with such provisions of article eight or article eleven of this chapter as govern the member's benefits **including overtime**, except that earnings classified as overtime compensation in an amount in excess of [~~fifteen~~] **thirty** percent of a member's annual wages not classified as overtime compensation shall be excluded from such calculation. "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.

§ 2. This act shall take effect immediately.

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

This bill would increase the allowable overtime compensation included in the final average salary calculation to 30 percent of a member's annual wages for tier 5 and 6 members in the New York State and Local

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

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Police and Fire Retirement System (NYSLPFRS). The current limit is 15 percent.

If this bill is enacted during the 2022 legislative session, the increase in the present value of benefits would be approximately $340 million and would be shared by the State of New York and all participating employers in the NYSLPFRS. The estimated first year cost would be approximately $6.99 million to the State of New York and approximately $27.0 million to the participating employers in the NYSLPFRS.

Summary of relevant resources:

Membership data as of March 31, 2021 was used in measuring the impact of the proposed change, the same data used in the April 1, 2021 actuarial valuation. Distributions and other statistics can be found in the 2021 Report of the Actuary and the 2021 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2020 and 2021 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, 2021 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 fiscal note does not constitute a legal opinion on the viability of the proposed change nor is it intended to serve as a substitute for the professional judgment of an attorney.

This estimate, dated January 11, 2022, and intended for use only during the 2022 Legislative Session, is Fiscal Note No. 2022-42, prepared by the Actuary for the New York State and Local Retirement System.