STATE OF NEW YORK

7131

2023-2024 Regular Sessions

IN ASSEMBLY

May 11, 2023

Introduced by M. of A. PHEFFER AMATO -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the retirement and social security law, in relation to calculating the final average salary for members of the New York state and local police and fire retirement system

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

Section 1. Section 1209 of the retirement and social security law, as added by chapter 18 of the laws of 2012, is amended to read as follows:

§ 1209. Final average salary. **a.** For members who first become members of the New York state and local police and fire retirement system on or after April first, two thousand twelve, a member's final average salary shall be equal to one-fifth of the highest total wages earned by such member during any continuous period of employment for which the member was credited with five years of service credit; provided, however, if the wages earned during any year of credited service included in the period used to determine final average salary exceeds the average of the wages of the previous four years of credited service by more than ten percent, the amount in excess of ten percent shall be excluded from the computation of final average salary. Wages in excess of the annual salary paid to the governor pursuant to section three of article four of the state constitution shall be excluded from the computation of final average salary for members who first become members of the New York state and local police and fire retirement system on or after April first, two thousand twelve.

b. Beginning on and after April first, two thousand twenty-four, a member's final average salary shall be equal to one-third of the highest total wages earned during any continuous period of employment for which the member was credited with three years of service credit; provided, however, if the wages earned during any year of credited service included in the period used to determine final average salary

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

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exceeds the average of the wages of the previous two years of credited service by more than twenty percent, the amount in excess of twenty percent shall be excluded from the computation of final average salary pursuant to this section. Wages in excess of the annual salary paid to the governor pursuant to section three of article four of the state constitution shall be excluded from the computation of final average salary for members who first become members of the New York state and local police and fire retirement system on or after April first, two thousand twelve.

§ 2. This act shall take effect immediately.

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

This bill would provide Tier 6 members in the New York State and Local Police and Fire Retirement System (NYSLPFRS) a final average salary based on the highest three years of salary where salary in any year cannot exceed the average of the previous two years by more than 20%. Currently, a final average salary is based on the highest five years of salary where salary in any year cannot exceed the average of the previous four years by more than 10%.

Insofar as this bill affects the NYSLPFRS, the increased costs would be shared by the State of New York and the local participating employers in the NYSLPFRS. If this bill were enacted during the 2023 legislative session, the increase in the present value of benefits would be approximately $289 million.

NYSLPFRS	Increase in present value benefits	Increase in required contributions
Tiers 1 - 5	$0 million	$36 million
Tier 6	$289 million	$253 million
Total	$289 million	$289 million

This benefit improvement will be funded by increasing the billing rates charged annually to cover both retrospective and prospective benefit increases. The annual contribution required of all participating employers in the NYSLPFRS is 0.7% of billable salary, or approximately $6 million to the State of New York and approximately $24 million to the local participating employers. **The annual cost will increase** as Tier 6 salary grows and will vary by employer based upon the plan coverage and salary reported in Tier 6.

These estimated costs are based on 14,513 Tier 6 members in the NYSLPFRS, with annual salary of approximately $1.2 billion as of March 31, 2022.

Summary of relevant resources:

Membership data as of March 31, 2022 was used in measuring the impact of the proposed change, the same data used in the April 1, 2022 actuarial valuation. Distributions and other statistics can be found in the 2022 Report of the Actuary and the 2022 Annual Comprehensive Financial Report.

The actuarial assumptions and methods used are described in the 2020, 2021, and 2022 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, 2022 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 May 8, 2023, and intended for use only during the 2023 Legislative Session, is Fiscal Note No. 2023-142, prepared by the Actuary for the New York State and Local Retirement System.