STATE OF NEW YORK

9373

IN SENATE

May 14, 2024

Introduced by Sen. GOUNARDES -- 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 368 of the laws of 2017, is amended to read as follows:

l. (a) "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.

(b) "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.

(c) 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:

(i) 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), published by the United States bureau of labor statistics, for each applicable calendar year. Said percentage shall

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

LBD08432-02-4

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 preceding the overtime ceiling adjustment effective on the ensuing April first.

(ii) Commencing January first, two thousand eighteen, and each year thereafter, the overtime ceiling percentage shall be increased by an amount equal to the annual inflation as determined from the increase in the consumer price index in the one year period ending on the September thirtieth prior to the overtime ceiling adjustment effective on the ensuing January first.

(d) 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:

SUMMARY: This proposed legislation would remove the Overtime Ceiling for Tier 6 New York City Transit Authority (NYCTA) members subject to the 25-Year and Age 55 Retirement Program (the 55/25 NYCTA Plan) for wages used to calculate member contributions and pension benefits.

EXPECTED INCREASE (DECREASE) IN EMPLOYER CONTRIBUTIONS
by Fiscal Year for the first 25 years ($ in Millions)

Year	NYCERS
2025	15.1
2026	15.9
2027	16.7
2028	17.6
2029	18.5
2030	19.4
2031	20.3
2032	21.2
2033	22.1
2034	23.1
2035	24.1
2036	25.0
2037	26.0
2038	27.0
2039	28.0
2040	29.1
2041	22.2
2042	23.2
2043	24.2
2044	25.1
2045	26.1
2046	27.1
2047	28.1
2048	29.1
2049	30.0

Employer Contribution impact beyond Fiscal Year 2049 is not shown. Projected contributions include future new hires that may be impacted.

The increase in employer contributions will be allocated to the NYC Transit Authority.

INITIAL INCREASE (DECREASE) IN ACTUARIAL LIABILITIES
as of June 30, 2023 ($ in Millions)

Present Value (PV)	NYCERS
PV of Benefits:	237.5
PV of Employee Contributions:	71.2
PV of Employer Contributions:	166.3
Unfunded Accrued Liabilities:	71.9

AMORTIZATION OF UNFUNDED ACCRUED LIABILITY

	NYCERS
Number of Payments:	16
Fiscal Year of Last Payment:	2040
Amortization Payment:	7.9 M

Unfunded Accrued Liability increases were amortized over the expected remaining working lifetime of those impacted by the benefit changes using level dollar payments.

CENSUS DATA: The estimates presented herein are based on preliminary census data collected as of June 30, 2023. The census data for the impacted population is summarized below.

	NYCERS
Active Members	
- Number Count:	19,953
- Average Age:	42.9
- Average Service:	5.0
- Average Salary:	82,600

IMPACT ON MEMBER BENEFITS AND CONTRIBUTIONS: Under the proposed legislation, the Overtime Ceiling would become inapplicable to participants in the Tier 6 55/25 NYCTA Plan. As a result, overtime earnings exceeding the Overtime Ceiling would be included in determining member contribution rates and annual contributions to be paid by the member. Participants may be entitled to a higher annual pension benefit if such earnings increase their Final Average Salary.

ASSUMPTIONS AND METHODS: The estimates presented herein have been calculated based on the Revised 2021 Actuarial Assumptions and Methods of the impacted retirement systems. In addition:

* Future overtime earnings exceeding the Overtime Ceiling were assumed to remain level based on reported overtime for the last three fiscal years.

* New entrants were assumed to replace exiting members so that total payroll increases by 3% each year for NYC Transit members. New entrant

demographics were developed based on data for recent new hires and actuarial judgement.

RISK AND UNCERTAINTY: The costs presented in this Fiscal Note depend highly on the actuarial assumptions, methods, and models used, demographics of the impacted population and other factors such as investment, contribution, and other risks. If actual experience deviates from actuarial assumptions, the actual costs could differ from those presented herein. Quantifying these risks is beyond the scope of this Fiscal Note.

This Fiscal Note is intended to measure pension-related impacts and does not include other potential costs (e.g., administrative and Other Postemployment Benefits).

STATEMENT OF ACTUARIAL OPINION: Marek Tyszkiewicz and Gregory Zelikovsky are members of the Society of Actuaries and the American Academy of Actuaries. We are members of NYCERS but do not believe it impairs our objectivity and we meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein. To the best of our 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 2024-39 dated April 1, 2024 was prepared by the Chief Actuary for the New York City Retirement Systems and Pension Funds. This estimate is intended for use only during the 2024 Legislative Session.