STATE OF NEW YORK

6419--A

2023-2024 Regular Sessions

IN ASSEMBLY

April 6, 2023

Introduced by M. of A. STIRPE, GUNTHER, McDONALD -- read once and referred to the Committee on Governmental Employees -- 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 increasing the earning limitations for retired law enforcement officers; and providing for the repeal of such provisions upon the expiration thereof

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

Section 1. Section 212 of the retirement and social security law is amended by adding a new subdivision 4 to read as follows:

4. Notwithstanding the provisions of subdivisions one and two of this section, the earnings limitation for the year two thousand twenty-four and thereafter shall be sixty-five thousand dollars for a retired law enforcement officer employed as a law enforcement officer after such retirement. For the purposes of this section, "retired law enforcement officer" shall mean a retired police officer, a retired state trooper, or a retired deputy sheriff.

§ 2. This act shall take effect immediately and shall expire and be deemed repealed January 1, 2029.

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

Insofar as it would affect the New York State and Local Retirement System (NYSLRS), this bill would allow retired police officers and deputy sheriffs to be reemployed in a law enforcement capacity with an annual salary of $65,000 or less to continue to receive their full retirement benefit for the 5-year period beginning January 1, 2024 and ending December 31, 2028. Currently, the post-retirement earnings limit is $35,000.

If this bill were enacted during the 2023 legislative session, the direct cost incurred would be the retiree's post-retirement earnings

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

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more than $35,000 each calendar year, not to exceed the full pension benefit paid by the NYSLRS during that period.

The number of members and retirees who could be affected by this legislation cannot be readily determined. For each retiree hired pursuant to this proposal, an annual cost of $30,000 is expected.

In addition to the direct costs quoted above, insofar as this proposal disrupts the usual pattern and timing of employee turnover (that is, if members retire earlier than expected and participating employers hire a retiree instead of a new billable member), shifts in member behavior could generate losses that increase the average billing rate in 20-year and 25-year service-based plans from 27.8% to 40.4%. The actual increase in billing rates will depend upon member and employer utilization, with the rate above representing an upper maximum.

All costs will be shared by the State of New York and all participating employers in the NYSLRS and spread over future billing cycles. Since this proposal exclusively benefits retirees, the increased costs are primarily attributable to retirees from Tiers 1 - 4. Approximately half the contributions required to fund this proposal will be collected on salary reported for current members of Tier 6.

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 March 30, 2023, and intended for use only during the 2023 Legislative Session, is Fiscal Note No. 2023-3, prepared by the Actuary for the New York State and Local Retirement System.

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

SUMMARY OF BILL: This proposed legislation, as it relates to the New York City Retirement Systems and Pension Funds and, would add a new subdivision 4 to Section 212 of the Retirement and Social Security Law (RSSL) to increase the post-retirement public employment earnings limit from $35,000 per year to $65,000 per year for retired New York City law enforcement officers, which include New York City Police Pension Fund (POLICE) Police Officer and New York City Employees' Retirement System (NYCERS) Deputy Sheriff retirees.

Effective Date: Upon enactment, and expiring and being deemed repealed on January 1, 2029.

IMPACT ON PENSION BENEFITS: Retirees who return to public service and elect to be covered under the provisions of RSSL Section 212 are permitted to earn while working in retirement an amount not exceeding a specific dollar limit in each calendar year without loss, suspension, or diminution of their retirement allowances. Once this dollar limit is

reached, the retiree's retirement allowance is suspended for the remainder of that calendar year. Generally, there are no earnings limitations in, or following, the calendar year in which the retiree attains age 65.

Currently, the Section 212 post-retirement earnings limitation in effect for calendar year 2023 and each year thereafter is $35,000. Under the proposed legislation, the RSSL Section 212 post-retirement public service earnings limitation would, for eligible retired law enforcement officers, be increased to $65,000 per year for calendar years 2024 through 2028.

The total amount of RSSL Section 212 retirement allowance suspensions, given certain RSSL Section 212 limits, are contingent upon both individual post-retirement earnings and individual annual retirement allowances. Therefore, for illustrative purposes only, the table below presents the estimated additional retirement allowances paid (i.e., those benefits that would not be subject to suspension), if this proposed legislation is enacted, for various sample combinations of post-retirement annual earnings and annual retirement allowance amounts.

Annual Retirement Allowance	Annual Post-Retirement Earnings in Calendar Year $40,000	$60,000	$80,000
$30,000	$3,750	$12,500	$11,250
$40,000	$5,000	$16,667	$15,000
$50,000	$6,250	$20,833	$18,750
$60,000	$7,500	$25,000	$22,500
$70,000	$8,750	$29,167	$26,250

FINANCIAL IMPACT - ANNUAL EMPLOYER CONTRIBUTIONS: Enactment of this proposed legislation would increase employer contributions, where such amount would depend on the number of retirees that benefit under the legislation and the amount of their earnings and retirement allowances. As there is no data currently available to estimate the number of law enforcement officers who might become reemployed, the financial impact would be recognized at the time of event. Consequently, changes in employer contributions have been estimated assuming that the increase in pension payments will be financed over a closed 15-year period (14 payments under the One-Year Lag Methodology (OLYM)) using level dollar payments.

The number of retirees who could potentially be impacted by this proposed legislation cannot be readily determined. However, for each 100 positions that would be impacted if this legislation were to pass and assuming post-retirement earnings of $50,000 to $60,000 for each retiree, the increase in pension payments is calculated to be approximately $1.5 million to $2.0 million per year if the proposed legislation is enacted. This would result in an increase in annual employer contributions of $180,000 to $240,000.

CENSUS DATA: For purposes of analyzing the impact of the proposed legislation, illustrative examples with various salary and retirement allowance amounts have been provided above.

ACTUARIAL ASSUMPTIONS AND METHODS: The estimates presented herein have been calculated based on the actuarial assumptions and methods used to determine the Preliminary Fiscal Year 2024 employer contributions of NYCERS and POLICE.

For the purposes of this Fiscal Note, it is assumed that the change in the pension payments would be reflected for the first time in the June 30, 2024 actuarial valuations of NYCERS and POLICE used to determine employer contributions for Fiscal Year 2026.

RISK AND UNCERTAINTY: The costs presented in this Fiscal Note depend highly on the realization of the actuarial assumptions used, demographic of the impacted populations, 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.

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 initial additional administrative costs to implement the proposed legislation.

STATEMENT OF ACTUARIAL OPINION: I, Marek Tyszkiewicz, am the Chief Actuary for, and independent of, the New York City Retirement Systems and Pension Funds. I am an Associate of the Society of Actuaries and a Member of the American Academy of Actuaries. I am a member of NYCERS but do not believe it impairs my objectivity and 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 2023-58 dated May 24, 2023 was prepared by the Chief Actuary for the New York City Employees Retirement System and New York City Police Pension Fund. This estimate is intended for use only during the 2023 Legislative Session.