

STATE OF NEW YORK

7309--A

2023-2024 Regular Sessions

IN ASSEMBLY

May 17, 2023

Introduced by M. of A. PHEFFER AMATO -- 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 setting the increase to the overtime ceiling as a fixed percentage

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

Section 1. Paragraph (c) of subdivision 24 of section 501 of the retirement and social security law, as amended by chapter 368 of the laws of 2017, is amended to read as follows:

(c) ~~(i)~~ The "overtime ceiling" shall mean fifteen thousand dollars per annum on January first, two thousand ten, and shall be increased by three percent each year thereafter, provided, however, that ~~for~~:

(i) For members who first become members of the New York state and local employees' retirement system on or after April first, two thousand twelve, "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 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

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

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thirtieth prior to the overtime ceiling adjustment effective on the ensuing January first.

(iii) Commencing January first, two thousand twenty-five, and each year thereafter, for members who first become members of the New York state and local employees' retirement system on or after April first, two thousand twelve, the overtime ceiling percentage increase shall be equal to the greater of: (A) three percent, or (B) 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.

§ 2. Paragraph (c) of subdivision 1 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:

(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]~~ percent each year thereafter, provided, however, that:

(i) ~~[for]~~ For members who first become members of a public retirement system of the state on or after April first, two thousand twelve, "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 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.

(iii) Commencing January first, two thousand twenty-five, and each year thereafter, for members who first become members of the New York state and local employees' retirement system on or after April first, two thousand twelve, the overtime ceiling percentage increase shall be equal to the greater of: (A) three percent, or (B) 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.

§ 3. Notwithstanding any provision of law to the contrary, none of the provisions of this act shall be subject to the appropriation requirement of section twenty-five of the retirement and social security law.

§ 4. This act shall take effect immediately.

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

This bill would change the overtime ceiling percentage increase for Tier 6 members in the New York State and Local Employees' Retirement System (NYSLERS) to the greater of three percent or the annual inflation, beginning January 1, 2025. Under current law, the ceiling was set at \$15,000 at the inception of Tier 6 and is increased annually by the inflation rate.

The provisions of Section 25 of the Retirement and Social Security Law shall not apply.

Insofar as this bill affects the NYSLERS, the increased costs would be shared by the State of New York and the local participating employers in

the NYSLERS. If this bill were enacted during the 2024 Legislative Session, the increase in the present value of benefits would be approximately \$263 million.

NYSLERS	Increase in present value benefits	Increase in required contributions
Tiers 1 - 5	\$0	\$49 million
Tier 6	\$263 million	\$214 million
Total	\$263 million	\$263 million

In the NYSLERS, 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 NYSLERS is 0.1% of billable salary, or approximately \$13 million to the State of New York and approximately \$19 million to the local participating employers. This permanent 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 265,533 affected Tier 6 members, with annual salary of approximately \$12 billion as of March 31, 2023.

To develop the costs above, our models included a Monte Carlo method of 5,000 simulations, each consisting of thirty-year CPI-U projections. In every one of the 5,000 simulations, in at least one year of the thirty-year period, the proposed legislation caused a higher overtime ceiling based on the 3% inflation floor, compared to current law. This occurred in approximately 64% of the 150,000 trial years.

Summary of relevant resources:

Membership data as of March 31, 2023 was used in measuring the impact of the proposed change, the same data used in the April 1, 2023 actuarial valuation. Distributions and other statistics can be found in the 2023 Report of the Actuary and the 2023 Annual Comprehensive Financial Report.

The actuarial assumptions and methods used are described in the 2023 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, 2023 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 8, 2024, and intended for use only during the 2024 Legislative Session, is Fiscal Note No. 2024-104, prepared by the Actuary for the New York State and Local Retirement System.