STATE OF NEW YORK

9515

IN ASSEMBLY

March 20, 2024

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 eligibility for ordinary disability benefits and re-employment of disability retirees of the New York city police pension fund Tier III plans

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

Section 1. Subdivisions a and b of section 506 of the retirement and social security law, subdivision a as amended by chapter 513 of the laws of 2010 and subdivision b as added by chapter 890 of the laws of 1976, are amended to read as follows:

a. A member in active service who is not eligible for a normal retirement benefit shall, upon completing five years or more of service, be eligible for the ordinary disability benefit described in subdivision b of this section if such member has been determined to be eligible for primary social security disability benefits; provided, however, that no member of the New York state teachers' retirement system, the New York city employees' retirement system, the New York city board of education retirement system, the New York city teachers' retirement system**, the New York city police pension fund** or the New York state and local employees' retirement system who is otherwise eligible for ordinary disability benefits pursuant to this section shall be deemed to be ineligible for such benefits because such member is eligible for a normal service retirement benefit. **Members of the New York city police pension fund need not complete five years or more of service nor be eligible for primary social security disability benefits in order to be eligible for the ordinary disability benefit described in subdivision b of this section. Application for and the determination of such ordinary disability benefit shall be governed by section 13-251 of the administrative code of the city of New York.**

b. The ordinary disability benefit hereunder shall be a pension equal to the greater of (i) thirty-three and one-third percent of final average salary, or (ii) two percent of final average salary times years of

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

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credited service not in excess of the maximum years of service for computing service retirement, such benefit in each case to be reduced by fifty percent of the primary social security disability benefit as provided in section five hundred eleven and one hundred percent of any workmen's compensation benefits payable**, provided, however, that, for a member of the New York city police pension fund who qualified without being eligible for primary social security disability benefits, the ordinary disability benefit shall be reduced by one-half of such retiree's primary social security retirement benefit, commencing at age sixty-two, in the same manner as provided for service retirement benefits under section five hundred eleven of this article**.

§ 2. Subdivision d of section 507 of the retirement and social security law, as added by chapter 890 of the laws of 1976, is amended to read as follows:

d. If a member shall cease to be eligible for primary social security benefits before attaining age sixty-five, or, if receipt of social security benefits is not a condition for disability benefits hereunder, shall engage in such employment or business activity as would render such member ineligible for social security disability benefits (had he or she otherwise been eligible), benefits hereunder shall cease. Provided, however, if such member is otherwise eligible, the state civil service department or appropriate municipal commission shall place the name of such person, as a preferred eligible, on the appropriate eligible lists prepared by it for positions for which such person is stated to be qualified in a salary grade not exceeding that from which such person retired. In such event, disability benefits shall be continued for such member until such member first shall be offered a position in public service at such salary grade. **This subdivision shall not apply to members of the New York city police pension fund who shall be governed by section 13-254 of the administrative code of the city of New York.**

§ 3. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after July 1, 2009.

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

SUMMARY: This proposed legislation modifies Ordinary Disability Retirement (ODR) eligibility, and provides an additional ODR benefit, for Tier 3 members of the New York City Police Pension Fund (POLICE) by removing the requirements of having at least five years of credited service and being eligible for primary Social Security disability benefits (SSDI).

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

Year	POLICE
2025	4.7
2026	5.5
2027	6.4
2028	7.5
2029	8.5
2030	9.6
2031	10.6
2032	11.4
2033	12.3
2034	13.1
2035	13.8
2036	14.6
2037	15.3

2038	16.0
2039	16.7
2040	17.4
2041	20.0
2042	20.7
2043	21.5
2044	22.3
2045	23.1
2046	23.9
2047	24.7
2048	25.6
2049	26.5

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

The entire increase in employer contributions will be allocated to New York City.

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

Present Value (PV)	POLICE
PV of Benefits:	80.6
PV of Employee Contributions:	0.0
PV of Employer Contributions:	80.6
Unfunded Accrued Liabilities:	(17.5)

AMORTIZATION OF UNFUNDED ACCRUED LIABILITY

	POLICE
Number of Payments:	16
Fiscal Year of Last Payment:	2040
Amortization Payment:	(1.9) 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.

	POLICE
Active Members	
- Number Count:	20,176
- Average Age:	32.8
- Average Service:	6.1
- Average Salary:	107,600

IMPACT ON MEMBER BENEFITS: Currently, active Tier 3 POLICE members are eligible for an ODR benefit if they are approved for SSDI benefits and have at least five years of credited service.

Under the proposed legislation, active or separated Tier 3 POLICE members who are determined to be disabled by the POLICE Medical Board would be eligible for an ODR benefit, irrespective of SSDI eligibility and credited service. The safeguards provisions associated with SSDI would be replaced with Tier 1 and Tier 2 safeguards.

The proposed ODR benefit would be equal to the greater of 1/3 of applicable Final Average Salary (FAS) or 2% of applicable FAS multiplied

by credited service. This benefit would be subject to an offset, beginning at age 62, equal to 50% of the primary social security benefit as defined in Retirement and Social Security Law Section (RSSL) 511, if any, and would be subject to annual escalation pursuant to RSSL Section 510.

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:

* New entrants were assumed to replace exiting members so that total payroll increases by 3% each year for impacted groups. New entrant demographics were developed based on data for recent new hires and actuarial judgement.

* For purposes of this Fiscal Note, it has been assumed that 100% of members exiting for ODR under current ODR rates would be ineligible for SSDI.

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 does not quantify the potential cost for members who may qualify for ordinary disability benefits before enactment.

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 2024-21 dated March 7, 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.