STATE OF NEW YORK

6526

2023-2024 Regular Sessions

IN SENATE

April 25, 2023

Introduced by Sen. JACKSON -- 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 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 thirtieth prior to the overtime ceiling adjustment effective on the ensuing January first.

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

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(iii) Commencing January first, two thousand twenty-four, 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 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:

(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-four, 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. 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, 2024. Under current law, the ceiling was set at $15,000 at the inception of Tier 6 and is increased annually by the inflation rate.

Insofar as this bill affects the NYSLERS, pursuant to Section 25 of the Retirement and Social Security Law, the increased costs would be borne entirely by the State of New York and would require an itemized appropriation sufficient to pay the cost of the provision. If this bill is enacted during the 2023 legislative session, the increase in the present value of benefits would be approximately $204 million.

In the NYSLERS, this benefit improvement will be funded by (1) billing a past service cost to cover retrospective benefit increases and (2) increasing the billing rates charged annually to cover prospective benefit increases, as follows:

(1) To fund retrospective costs, the State of New York will be required to pay $75 million as of March 1, 2024.

(2) To fund prospective costs, the annual contribution required of all participating employers in the NYSLERS is 0.05% of billable salary, or approximately $6.2 million to the State of New York and approximately $9.0 million to local participating employers in the fiscal year ending March 31, 2025. This **permanent annual cost** will vary in subsequent billing cycles with changes in the billing rate and salary of the affected members.

These estimated costs are based on 238,007 affected Tier 6 members, with annual salary of approximately $10 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 April 24, 2023, and intended for use only during the 2023 Legislative Session, is Fiscal Note No. 2023-31, prepared by the Actuary for the New York State and Local Retirement System.