

# STATE OF NEW YORK

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5705--B

2015-2016 Regular Sessions

## IN SENATE

May 29, 2015

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Introduced by Sen. KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- 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 disability benefits for certain members of the New York city police pension fund, the New York city fire department pension fund and the New York city employees' retirement system

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

1 Section 1. Section 506 of the retirement and social security law is  
2 amended by adding five new subdivisions e, f, g, h and i to read as  
3 follows:  
4 e. Notwithstanding the provisions of subdivisions a and b of this  
5 section, the ordinary disability benefit for a police/fire member who  
6 joined the New York city police pension fund or the New York city fire  
7 department pension fund on or after the effective date of this subdivi-  
8 sion, or a police/fire member who has elected to receive such benefit  
9 pursuant to subdivision g of this section, shall be:  
10 1. Except as provided in paragraph three of this subdivision, a  
11 pension equal to (i) the greater of (A) two percent of final average  
12 salary or sixth-year salary, whichever is greater, times years of cred-  
13 ited service not in excess of the maximum years of service for computing  
14 service retirement, or (B) thirty-three and one-third percent of final  
15 average salary or sixth-year salary, whichever is greater, (ii) less one  
16 hundred percent of any workers' compensation benefits payable;  
17 2. A cost-of-living adjustment for such pension, which shall be  
18 computed in the same manner as provided for by section 13-696 of the  
19 administrative code of the city of New York; and

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

LBD11379-09-5

1 3. If the ordinary disability benefit as calculated pursuant to para-  
2 graphs one and two of this subdivision is less than the ordinary disa-  
3 bility benefit as calculated pursuant to subdivision b of this section  
4 for any year that such police/fire member is eligible for such benefit,  
5 then the ordinary disability benefit calculated pursuant to subdivision  
6 b of this section shall be payable.

7 f. Notwithstanding the provisions of subdivisions a and b of this  
8 section, the ordinary disability benefit for a New York city uniformed  
9 correction/sanitation revised plan member who joined the New York city  
10 employees' retirement system on or after the effective date of this  
11 subdivision, or a New York city uniformed correction/sanitation revised  
12 plan member who has elected to receive such benefit pursuant to subdivi-  
13 sion h of this section, shall be:

14 1. Except as provided in paragraph three of this subdivision, a  
15 pension equal to (i) the greater of (A) two percent of final average  
16 salary or sixth-year salary, whichever is greater, times years of cred-  
17 ited service not in excess of the maximum years of service for computing  
18 service retirement, or (B) thirty-three and one-third percent of final  
19 average salary or sixth-year salary, whichever is greater, (ii) less one  
20 hundred percent of any workers' compensation benefits payable;

21 2. A cost-of-living adjustment for such pension, which shall be  
22 computed in the same manner as provided for by section 13-696 of the  
23 administrative code of the city of New York; and

24 3. If the ordinary disability benefit as calculated pursuant to para-  
25 graphs one and two of this subdivision is less than the ordinary disa-  
26 bility benefit as calculated pursuant to subdivision b of this section  
27 for any year that such New York city uniformed correction/sanitation  
28 revised plan member is eligible for such benefit, then the ordinary  
29 disability benefit calculated pursuant to subdivision b of this section  
30 shall be payable.

31 g. Notwithstanding the provisions of subdivisions a and b of this  
32 section, a police/fire member who joined the New York city police  
33 pension fund or the New York city fire department pension fund before  
34 the effective date of this subdivision and is eligible for the ordinary  
35 disability benefit described in subdivision b of this section may at the  
36 time of retirement make an election to receive the ordinary disability  
37 benefit described in subdivision e of this section. Such election shall  
38 be duly executed and filed with the administrative head of the pension  
39 fund to which the member belongs and shall be irrevocable. If no such  
40 election is made, such member shall receive the ordinary disability  
41 benefit described in subdivision b of this section.

42 h. Notwithstanding the provisions of subdivisions a and b of this  
43 section, a New York city uniformed correction/sanitation revised plan  
44 member who joined the New York city employees' retirement system before  
45 the effective date of this subdivision and is eligible for the ordinary  
46 disability benefit described in subdivision b of this section may at the  
47 time of retirement make an election to receive the ordinary disability  
48 benefit described in subdivision f of this section. Such election shall  
49 be duly executed and filed with the administrative head of the New York  
50 city employees' retirement system and shall be irrevocable. If no such  
51 election is made, such member shall receive the ordinary disability  
52 benefit described in subdivision b of this section.

53 i. For the purposes of this section, "sixth-year salary" shall mean  
54 the sum of the standard rate payable to a police officer, firefighter,  
55 correction officer or sanitation worker upon six years of employment as  
56 a police officer, firefighter, correction officer or sanitation worker,

1 excluding any longevity adjustments, and the average overtime compen-  
2 sation paid or payable to such police officer, firefighter, correction  
3 officer or sanitation worker. For the purposes of this subdivision,  
4 "overtime compensation" shall have the same meaning as such term is  
5 defined in subdivision twenty-four of section five hundred one of this  
6 article. If such police officer, firefighter, correction officer or  
7 sanitation worker has been a member of the New York city police pension  
8 fund, the New York city fire department fund or the New York city  
9 employees' retirement system for less than six years upon the date of  
10 his or her retirement, the average overtime compensation shall be calcu-  
11 lated as follows:

12 1. If the period of employment prior to the date of retirement is less  
13 than one year, the projected first year overtime compensation shall be  
14 based upon a twelve month projection of the overtime compensation paid  
15 in the portion of the year worked. The average overtime compensation  
16 shall be the projected first year overtime compensation.

17 2. If the period of employment prior to the date of retirement is more  
18 than one year but less than two years, the projected second year over-  
19 time compensation shall be based upon a twelve month projection of the  
20 overtime compensation paid in the portion of the second year worked.  
21 The average overtime compensation shall be one-sixth the sum of (i) the  
22 projected second year overtime compensation multiplied by five and (ii)  
23 the actual overtime compensation paid in the first year of employment.

24 3. If the period of employment prior to the date of retirement is more  
25 than two years but less than three years, the projected third year over-  
26 time compensation shall be based upon a twelve month projection of the  
27 overtime compensation paid in the portion of the third year worked. The  
28 average overtime compensation shall be one-sixth the sum of (i) the  
29 projected third year overtime compensation multiplied by four and (ii)  
30 the actual overtime compensation paid in the first two years of employ-  
31 ment.

32 4. If the period of employment prior to the date of retirement is more  
33 than three years but less than four years, the projected fourth year  
34 overtime compensation shall be based upon a twelve month projection of  
35 the overtime compensation paid in the portion of the fourth year worked.  
36 The average overtime compensation shall be one-sixth the sum of (i) the  
37 projected fourth year overtime compensation multiplied by three and (ii)  
38 the actual overtime compensation paid in the first three years of  
39 employment.

40 5. If the period of employment prior to the date of retirement is more  
41 than four years but less than five years, the projected fifth year over-  
42 time compensation shall be based upon a twelve month projection of the  
43 overtime compensation paid in the portion of the fifth year worked. The  
44 average overtime compensation shall be one-sixth the sum of (i) the  
45 projected fifth year overtime compensation multiplied by two and (ii)  
46 the actual overtime compensation paid in the first four years of employ-  
47 ment.

48 6. If the period of employment prior to the date of retirement is more  
49 than five years but less than six years, the projected sixth year over-  
50 time compensation shall be based upon a twelve month projection of the  
51 overtime compensation paid in the portion of the sixth year worker. The  
52 average overtime compensation shall be one-sixth the sum of (i) the  
53 projected sixth year overtime compensation and (ii) the actual overtime  
54 compensation paid in the first five years of employment.

1 § 2. Section 507 of the retirement and social security law is amended  
2 by adding six new subdivisions c-1, c-2, c-3, c-4, c-5 and c-6 to read  
3 as follows:

4 c-1. Notwithstanding the provisions of subdivisions a and c of this  
5 section, the accidental disability benefit for a police/fire member who  
6 joined the New York city police pension fund or the New York city fire  
7 department pension fund on or after the effective date of this subdivi-  
8 sion, or a police/fire member who has elected to receive such benefit  
9 pursuant to subdivision c-3 of this section, shall be:

10 1. Except as provided in paragraph three of this subdivision, a  
11 pension equal to (i) the greater of (A) fifty percent of final average  
12 salary, (B) fifty percent of sixth-year salary, or (C) for members who  
13 meet the requirements set forth in subdivision c-6 of this section, the  
14 greater of seventy-five percent of final average salary or seventy-five  
15 percent of sixth-year salary, (ii) less one hundred percent of any work-  
16 ers' compensation benefits payable; and

17 2. A cost-of-living adjustment for such pension, which shall be  
18 computed in the same manner as provided for by section 13-696 of the  
19 administrative code of the city of New York.

20 If the accidental disability benefit as calculated pursuant to para-  
21 graphs one and two of this subdivision is less than the accidental disa-  
22 bility benefit as calculated pursuant to subdivision c of this section  
23 for any year that such police/fire member is eligible for such benefit,  
24 then the accidental disability benefit calculated pursuant to subdivi-  
25 sion c of this section shall be payable.

26 c-2. Notwithstanding the provisions of subdivisions a and c of this  
27 section, the accidental disability benefit for a New York city uniformed  
28 correction/sanitation revised plan member who joined the new York city  
29 employees' retirement system on or after the effective date of this  
30 subdivision, or a New York city uniformed correction/sanitation revised  
31 plan member who has elected to receive such benefit pursuant to subdivi-  
32 sion c-4 of this section, shall be:

33 1. Except as provided in paragraph three of this subdivision, a  
34 pension equal to (i) the greater of (A) fifty percent of final average  
35 salary, (B) fifty percent of sixth-year salary, or (C) for members who  
36 meet the requirements set forth in subdivision c-6 of this section, the  
37 greater of seventy-five percent of final average salary or seventy-five  
38 percent of sixth-year salary, (ii) less one hundred percent of any work-  
39 ers' compensation benefits payable; and

40 2. A cost-of-living adjustment for such pension, which shall be  
41 computed in the same manner provided for by section 13-696 of the admin-  
42 istrative code of the city of New York.

43 If the accidental disability benefit as calculated pursuant to para-  
44 graphs one and two of this subdivision is less than the accidental disa-  
45 bility benefit as calculated pursuant to subdivision c of this section  
46 for any year that such New York city uniformed correction/sanitation  
47 revised plan member is eligible for such benefit, then the accidental  
48 disability benefit calculated pursuant to subdivision c of this section  
49 shall be payable.

50 c-3. Notwithstanding the provisions of subdivisions a and c of this  
51 section, a police/fire member who joined the New York city police  
52 pension fund or the New York city fire department pension fund before  
53 the effective date of this subdivision and is eligible for the acci-  
54 dental disability benefit described in subdivision c of this section may  
55 at the time of retirement make an election to receive the accidental  
56 disability benefit described in subdivision c-1 of this section. Such

1 election shall be duly executed and filed with the administrative head  
2 of the pension fund to which the member belongs and shall be irrev-  
3 ocable. If no such election is made, such member shall receive the acci-  
4 dental disability benefit described in subdivision c of this section.

5 c-4. Notwithstanding the provisions of subdivisions a and c of this  
6 section, a New York city uniformed correction/sanitation revised plan  
7 member who joined the New York city employees' retirement system before  
8 the effective date of this subdivision and is eligible for the acci-  
9 dental disability benefit described in subdivision c of this section may  
10 at the time of retirement make an election to receive the accidental  
11 disability benefit described in subdivision c-2 of this section. Such  
12 election shall be duly executed and filed with the administrative head  
13 of the New York city employees' retirement system and shall be irrev-  
14 ocable. If no such election is made, such member shall receive the acci-  
15 dental disability benefit described in subdivision c of this section.

16 c-5. For the purposes of this section, "sixth-year salary" shall have  
17 the same meaning as such term is defined in subdivision i of section  
18 five hundred six of this article.

19 c-6. For the purposes of subdivisions c-1 and c-2 of this section, the  
20 accidental disability benefit shall be calculated using the greater of  
21 seventy-five percent of final average salary or seventy-five percent of  
22 sixth-year salary if such police/fire member or New York city uniformed  
23 correction/sanitation revised plan member is (i) entitled to disability  
24 insurance benefits pursuant to section 223 of the federal social securi-  
25 ty act, or (ii) is ineligible for such disability insurance benefits on  
26 the basis of requirements of section 223(c)(1)(B) of the federal social  
27 security act and does not have earnings that demonstrate an ability to  
28 engage in substantial gainful activity as set forth in section 223(d)(4)  
29 of the federal social security act. In the event that a member no longer  
30 meets the requirements of this subdivision, such member's accidental  
31 disability benefit shall be calculated using the greater of fifty  
32 percent of final average salary or fifty percent of sixth-year salary as  
33 set forth in subdivision c-1 or c-2 of this section.

34 § 3. Section 510 of the retirement and social security law is amended  
35 by adding a new subdivision i to read as follows:

36 i. Notwithstanding any other provision of this article, the annual  
37 escalation provided in this section shall not apply to the ordinary  
38 disability benefit provided for in subdivisions e and f of section five  
39 hundred six of this article or the accidental disability benefit  
40 provided for in subdivisions c-1 and c-2 of section five hundred seven  
41 of this article.

42 § 4. Subdivision f of section 511 of the retirement and social securi-  
43 ty law, as amended by chapter 18 of the laws of 2012, is amended and a  
44 new subdivision g is added to read as follows:

45 f. This section shall not apply to general members in the uniformed  
46 correction force of the New York city department of correction or to  
47 uniformed personnel in institutions under the jurisdiction of the  
48 department of corrections and community supervision and security hospi-  
49 tal treatment assistants, as those terms are defined in subdivision i of  
50 section eighty-nine of this chapter, provided, however, that the  
51 provisions of this section shall apply to a New York city uniformed  
52 correction/sanitation revised plan member, except as provided in subdi-  
53 vision g of this section.

54 g. This section shall not apply to a police/fire member who receives  
55 the ordinary disability benefit provided for in subdivision e of section  
56 five hundred six of this article or the accidental disability benefit

1 provided for in subdivision c-1 of section five hundred seven of this  
 2 article, or a New York city uniformed correction/sanitation revised plan  
 3 member who receives the ordinary disability benefit provided for in  
 4 subdivision f of section five hundred six of this article or the acci-  
 5 dental disability benefit provided for in subdivision c-2 of section  
 6 five hundred seven of this article.

7 § 5. This act shall take effect immediately.

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

PROVISIONS OF PROPOSED LEGISLATION: This proposed legislation would amend Retirement and Social Security Law (RSSL) Sections 506, 507, 510 and 511 to change the calculation of Ordinary Disability Retirement (ODR) benefits and Accidental Disability Retirement (ADR) benefits for:

\* Tier III and Revised Tier III members of the New York City Police Pension Fund (POLICE),

\* Tier III and Revised Tier III members of the New York Fire Department Pension Fund (FIRE),

\* Tier VI Sanitation members of the New York City Employees' Retirement System (NYCERS), and

\* Tier VI Corrections members of NYCERS

Note: For purposes of this Fiscal Note, these members are collectively referred to as the "Uniformed Covered Groups".

For purposes of this Fiscal Note, all POLICE and FIRE members subject to Article 14 of the RSSL will be referred to as "Tier III POLICE Members" and "Tier III FIRE Members." Of those Tier III POLICE (FIRE) Members who have a date of membership prior to April 1, 2012, they will be referred to as "Original Tier III POLICE (FIRE) Members." Of those Tier III POLICE (FIRE) Members who have a date of membership on or after April 1, 2012, they will be referred to as "Revised Tier III POLICE (FIRE) Members."

The Effective Date of the proposed legislation would be the date of enactment.

IMPACT ON ODR BENEFITS PAYABLE: The current ODR benefits for the Uniformed Covered Groups are equal to the greater of:

\* 33 1/3% of Final Average Salary (FAS), or

\* 2.0% of FAS multiplied by years of credited service (not in excess of 22 years),

\* Reduced by 50% of the Primary Social Security Disability benefits (determined under RSSL Section 511), and

\* Reduced by 100% of Workers' Compensation benefits (if any).

Note: Final Average Salary is a Three-Year average (FAS3) for Original Tier III POLICE and FIRE members and a Five-Year average (FAS5) for all other Uniformed Covered Group members.

It is the understanding of the Office of the Actuary that POLICE, FIRE and Sanitation Members are not covered by Workers' Compensation.

Under the proposed legislation, if enacted, the ODR benefit for the Uniformed Covered Groups would be equal to the greater of:

\* 33 1/3% of the greater of FAS or Sixth-year Salary, or

\* 2.0 of the greater of FAS or Sixth-year Salary multiplied by years of credited service not in excess of 22 years, and

\* Reduced by 100% of Workers' Compensation benefits (if any).

Sixth-year Salary is defined as the sum of (1) the standard rate that would be payable to a disabled Uniformed Covered Group member upon six years of employment, excluding any longevity adjustments and (2) the average overtime compensation paid to the disabled member. If the disabled member has less than six years of service, the average overtime compensation would be calculated by adding (1) the overtime compensation

earned by the member in the years prior to the year of disability, (2) the annualized overtime compensation earned by the member in the year of disability and (3) the annualized rate of overtime compensation earned by the member in the year of disability projected for years (up to six) following the year of disability, so that there are six years in total, and then dividing that amount by six.

In addition, the proposed legislation would not apply the Escalation available under RSSL Section 510 to ODR benefits for Uniformed Covered Group members. However, such ODR benefits would still be eligible for Cost-of-Living Adjustments (COLA) under Chapter 125 of the Laws of 2000.

Finally, the proposed legislation would provide that in no event would the benefit payable in any year in the future to a member retired under ODR be less than the benefit the member would be entitled to in that year, under the provisions in effect prior to the enactment of this proposed legislation.

If enacted, a Uniformed Covered Group member who joined his/her respective retirement system before the Effective Date of the proposed legislation would have the option, at the time of disability retirement, to elect to receive the ODR benefits in effect prior to this proposed legislation.

**IMPACT ON ADR BENEFITS PAYABLE:** The current ADR benefits for the Uniformed Covered Groups are equal to:

- \* 50% of FAS

- \* Reduced by 50% of the Primary Social Security Disability benefits or Primary Social Security benefits, whichever begins first, (determined under RSSL Section 511), and

- \* Reduced by 100% of Workers' Compensation benefits (if any).

Note: Final Average Salary is a Three-Year average (FAS3) for Original Tier III POLICE and FIRE members and a Five-Year average (FAS5) for all other Uniformed Covered Group members.

Under the proposed legislation, if enacted, the ADR benefit for the Uniformed Covered Groups would depend on whether the member is entitled to Social Security Disability benefits (or would be entitled had the member met the quarters of coverage requirement).

If the member is not entitled to Social Security Disability benefits, the ADR benefit would be equal to:

- \* 50% of the greater of FAS or Sixth-year Salary

- \* Reduced by 100% of Workers' Compensation benefits (if any).

If the member is entitled to Social Security benefits (or would be entitled had the member met the quarters of coverage requirement), the ADR benefit would be equal to:

- \* 75% of the greater of FAS or Sixth-Year Salary

- \* Reduced by 100% of Workers' Compensation benefits (if any).

In addition, the proposed legislation would not apply the Escalation available under RSSL Section 510 to ADR benefits for Uniformed Covered Group members. However, such ADR benefits would still be eligible for Cost-of-Living Adjustments (COLA) under Chapter 125 of the Laws of 2000.

Finally, the proposed legislation would provide that in no event would the benefit payable in any year in the future to a member retired under ADR be less than the benefit the member would have been entitled to in that year, under the provisions in effect prior to the enactment of this proposed legislation.

If enacted, a Uniformed Covered Group member who joined his/her respective retirement system before the Effective Date of the proposed legislation would have the option, at the time of disability retirement,

to elect to receive the ADR benefits in effect prior to this proposed legislation.

**FINANCIAL IMPACT - CHANGES IN BENEFITS - ACTUARIAL PRESENT VALUES:** Based on the census data and the actuarial assumptions and methods noted herein, if the Effective Date is on or before June 30, 2015, then this would change the Actuarial Present Value (APV) of benefits (APVB), APV of member contributions, the Unfunded Actuarial Accrued Liability (UAAL) and APV of future employer contributions as of June 30, 2013 for the Uniformed Covered Groups.

**FINANCIAL IMPACT - CHANGES IN PROJECTED APV OF FUTURE EMPLOYER CONTRIBUTIONS AND PROJECTED EMPLOYER CONTRIBUTIONS:** For purposes of this Fiscal Note, it is assumed that the changes in APVB, APV of member contributions, UAAL and APV of future employer contributions would be reflected for the first time in the June 30, 2013 actuarial valuations of POLICE, FIRE and NYCERS.

Under the One-Year Lag Methodology (OYLM), the first year that changes in benefits for the Uniformed Covered Groups could impact employer contributions to POLICE, FIRE and NYCERS would be Fiscal Year 2015.

In accordance with ACNY Section 13.638.2(k-2), new UAAL attributable to benefit changes are to be amortized as determined by the Actuary but generally over the remaining working lifetime of those impacted by the benefit changes.

As of June 30, 2013, the remaining working lifetime is approximately 18 years for the Tier III POLICE Members, 24 years for the Tier III FIRE members, 21 years for Tier VI Sanitation members and 20 years for Tier VI Corrections members. Recognizing that this period will decrease over time as these groups of members matures and that virtually all of the FIRE, Sanitation and Corrections members that would be impacted by the benefit changes are new entrants, the Actuary would likely choose to amortize the new UAAL attributable to this proposed legislation over a 15-year period (14 payments under the OYLM Methodology).

The following Table 1 presents an estimate of the increases due to the changes in ODR and ADR provisions for the Uniformed Covered Groups in the APV of future employer contributions and in employer contributions to POLICE, FIRE and NYCERS for Fiscal Years 2015 through 2019 that would occur based on the applicable actuarial assumptions and methods noted herein:

Table 1

Estimated Financial Impact If Certain Revisions are Made to Provisions for ODR and ADR Benefits for the Uniform Covered Groups\* (Assumes 25% of ADR Retirees Qualify for Social Security Disability Benefits)  
(\$ Millions)

Fiscal Year	Increase in APV of Future Employer Contributions	Increase in Employer Contributions
2015		
*POLICE	\$59.6	\$7.2
*FIRE	1.9	0.2
*Sanitation	2.0	0.3
*Corrections	<u>4.5</u>	<u>0.6</u>
*Total	\$68.0	\$8.3



## 2016

*POLICE	\$86.2	\$10.0
*FIRE	8.2	0.9
*Sanitation	3.9	0.5
*Corrections	<u>7.3</u>	<u>0.8</u>
*Total	\$105.6	\$12.2

## 2017

*POLICE	\$111.4	\$12.5
*FIRE	14.3	1.5
*Sanitation	5.5	0.5
*Corrections	<u>9.8</u>	<u>1.0</u>
*Total	\$141.0	\$15.5

## 2018

*POLICE	\$134.3	\$14.6
*FIRE	20.1	2.1
*Sanitation	7.3	0.7
*Corrections	<u>12.7</u>	<u>1.3</u>
*Total	\$174.4	\$18.7

## 2019

*POLICE	\$153.6	\$16.3
*FIRE	25.6	2.6
*Sanitation	8.7	0.8
*Corrections	<u>15.8</u>	<u>1.6</u>
*Total	\$203.7	\$21.3

\*Note that the current assumption used in the actuarial valuations is that no ADR retirees qualify for Social Security Disability Benefits.

The following Table 2 presents an estimate of the increases due to the changes in ODR and ADR provisions for the Uniformed Covered Groups in the APV of future employer costs and in employer costs to POLICE, FIRE and NYCERS for Fiscal Years 2015 through 2019 assuming that 25% of ADR retirees will qualify for Social Security Disability benefits. The actual cost will depend on the number of members who retire under ADR that qualify for Social Security Disability benefits at the time of disability retirement. The actual costs will be greater/less to the extent that the percentage is greater/less than 25%.

Table 2

Estimated Financial Impact If Certain Revisions are Made to Provisions for ODR and ADR Benefits for the Uniform Covered Groups\* (Assumes 25% of ADR Retirees Qualify for Social Security Disability Benefits)  
(\$ Millions)

Fiscal Year	Increase in APV of Future Employer Costs	Increase in Employer Costs
2015		
*POLICE	\$85.3	\$10.3
*FIRE	2.6	0.3
*Sanitation	2.3	0.3

*Corrections	<u>5.1</u>	<u>0.6</u>
*Total	\$95.3	\$11.5
2016		
*POLICE	\$122.4	\$14.2
*FIRE	11.5	1.2
*Sanitation	4.4	0.5
*Corrections	<u>8.3</u>	<u>0.9</u>
*Total	\$146.6	\$16.8
2017		
*POLICE	\$157.1	\$17.6
*FIRE	20.0	2.1
*Sanitation	6.2	0.6
*Corrections	<u>11.2</u>	<u>1.1</u>
*Total	\$194.5	\$21.4
2018		
*POLICE	\$188.7	\$20.5
*FIRE	28.0	2.9
*Sanitation	8.2	0.8
*Corrections	<u>14.4</u>	<u>1.4</u>
*Total	\$239.3	\$25.6
2019		
*POLICE	\$215.3	\$22.9
*FIRE	35.7	3.6
*Sanitation	9.7	1.0
*Corrections	<u>17.9</u>	<u>1.8</u>
*Total	\$278.6	\$29.3

\* Note that the assumption used is 25% of ADR retirees qualify for Social Security Disability Benefits.

The estimated increases in employer contributions and employer costs shown in Table 1 and Table 2 are based upon the following projection assumptions:

\* Level workforce (i.e., new employees are hired to replace those who leave active status).

\* Projected salary increases consistent with those used in projections presented to the New York City Office of Management and Budget (NYCOMB) for use in the January 2015 Financial Plan (Updated Preliminary Projections).

\* New entrant salaries consistent with those used in the Updated Preliminary Projections.

These "open group" projections include future new entrants introduced into the census data models to project the future workforces.

OTHER COSTS: Not measured in this Fiscal Note are the following:

\* The initial, additional administrative costs of POLICE, FIRE, NYCERS and other New York City agencies to implement the proposed legislation.

\* The impact of this proposed legislation on Other Postemployment Benefit (OPEB) costs.

CENSUS DATA: The starting census data used for the calculations presented herein are the census data used in the Updated Preliminary June 30, 2013 (Lag) actuarial valuation of POLICE, FIRE and NYCERS used under the OYLM to determine the Updated Preliminary Fiscal Year 2015 employer contributions.

The census data used for the estimates of additional employer contributions presented herein are based on average salaries of new entrants utilized in the Updated Preliminary June 30, 2013 (Lag) actuarial valuations used to determine Updated Preliminary Fiscal Year 2015 employer contributions of POLICE, FIRE and NYCERS.

The 3,601 Original Tier III POLICE Members as of June 30, 2013 had an average age of approximately 28, average service of approximately 2.2 years and an average salary of approximately \$63,000.

The 1,916 Revised Tier III POLICE Members as of June 30, 2013 had an average age of approximately 27, average service of approximately 0.6 years and an average salary of approximately \$55,000.

Overall, the 5,517 Tier III POLICE Members as of June 30, 2013 had an average age of approximately 28, average service of approximately 1.7 years, and an average salary of approximately \$60,000.

The 169 Tier III FIRE Members as of June 30, 2013 (including the one Tier III member who has a date of membership prior to April 1, 2012) had an average age of approximately 27, average service of approximately 0.5 years and an average salary of approximately \$48,200.

The 382 Tier VI Sanitation Members as of June 30, 2013 had an average age of approximately 35, average service of approximately 1.0 years and an average salary of approximately \$47,500.

The 877 Tier VI Corrections Members as of June 30, 2013 had an average age of approximately 32, average service of approximately 0.5 years and an average salary of approximately \$46,000.

**ACTUARIAL ASSUMPTIONS AND METHODS:** The additional employer contributions presented herein have been calculated based on the actuarial assumptions and methods in effect for the June 30, 2013 (Lag) actuarial valuations used to determine Updated Preliminary Fiscal Year 2015 employer contributions of POLICE, FIRE and NYCERS including the General Wage Increase assumption of 3.0% per year which was used to project the Sixth-year Salary for future years.

It was further assumed that all individuals who become members of his/her respective retirement system before the Effective Date of the proposed legislation would elect to be covered by the new ADR and ODR benefit provisions provided for in this proposed legislation.

Neither this Fiscal Note nor the actuarial valuation methodology used to determine employer contributions to POLICE, FIRE and NYCERS reflect a calculation of the value of an offset for Workers' Compensation benefits. For POLICE, FIRE and Sanitation this is because it is the understanding of the Office of the Actuary that POLICE, FIRE and Sanitation members are not covered by such benefits.

It is the understanding of the Office of the Actuary that Corrections members are covered by Workers' Compensation benefits. However, since both ADR and ODR benefits under both the current provisions and proposed legislation are offset by Workers' Compensation benefits, any Workers' Compensation benefits paid would not impact the costs shown.

Employer contributions under current methodology have been estimated assuming the additional APVB would be financed through future normal contributions including an amortization of the new UAAL attributable to this proposed legislation over a 15-year period (14 payments under the OYLM Methodology).

New entrants were projected to replace the members expected to leave the active population to maintain a steady-state population.

The following Table 3a presents the total number of active employees of POLICE used in the projections, assuming a level work force, and the

cumulative number (i.e., net of withdrawals) of Revised Tier III Members as of each June 30 from 2013 through 2017.

Table 3a

Surviving Actives from Census on June 30, 2013  
and  
Cumulative New Revised Tier III POLICE Members from 2013  
Used in the Projections\*

June 30	Tier I & II	Original Tier III	Revised Tier III	Total
2013	29,258	3,601	1,916	34,775
2014	26,784	3,500	4,491	34,775
2015	24,565	3,406	6,804	34,775
2016	22,571	3,315	8,889	34,775
2017	20,937	3,225	10,613	34,775

\* Total active members included in the projections assume a level work force based on the June 30, 2013 (Lag) actuarial valuation census data.

The following Table 3b presents the total number of active employees of FIRE used in the projections, assuming a level work force, and the cumulative number (i.e., net of withdrawals) of Tier III Members as of each June 30 from 2013 through 2017.

Table 3b

Surviving Actives from Census on June 30, 2013  
and  
Cumulative New Tier III FIRE Members from 2013

Used in the Projections\*

June 30	Tier I & II	Tier III	Total
2013	10,013	169	10,182
2014	9,486	696	10,182
2015	8,988	1,194	10,182
2016	8,509	1,673	10,182
2017	8,055	2,127	10,182

\* Total active members included in the projections assume a level work force based on the June 30, 2013 (Lag) actuarial valuation census data.

The following Table 3c presents the total number of active employees of Sanitation used in the projections, assuming a level work force, and the cumulative number (i.e., net of withdrawals) of Tier VI Members as of each June 30 from 2013 through 2017.

Table 3c

Surviving Actives from Census on June 30, 2013  
and  
Cumulative New Tier VI Sanitation Members from 2013  
Used in the Projections\*

June 30	Tier I, II & IV	Tier VI	Total
2013	6,579	382	6,961
2014	6,150	811	6,961

2015	5,858	1,103	6,961
2016	5,495	1,466	6,961
2017	5,239	1,722	6,961

\* Total active members included in the projections assume a level work force based on the June 30, 2013 (Lag) actuarial valuation census data.

The following Table 3d presents the total number of active employees of Corrections used in the projections, assuming a level work force, and the cumulative number (i.e., net of withdrawals) of Tier VI Members as of each June 30 from 2013 through 2017.

Table 3d  
Surviving Actives from Census on June 30, 2013  
and  
Cumulative New Tier VI Corrections Members from 2013  
Used in the Projections\*

June 30	Tier I, II & III	Tier VI	Total
2013	7,798	877	8,675
2014	7,278	1,397	8,675
2015	6,865	1,810	8,675
2016	6,414	2,261	8,675
2017	5,919	2,756	8,675

\* Total active members included in the projections assume a level work force based on the June 30, 2013 (Lag) actuarial valuation census data.

For purposes of estimating the impact of the Tier III Escalation for retired Members, consistent with an underlying Consumer Price Inflation (CPI) assumption of 2.5% per year, Tier III Escalation of 2.5% per year has been assumed.

This compares with the current Chapter 125 of the Laws of 2000 auto COLA assumption of 1.5% per year (i.e., 50% of CPI adjusted to recognize 1.0% minimum and 3.0% maximum) on the first \$18,000 of benefit.

**ECONOMIC VALUES OF BENEFITS:** The actuarial assumptions used to determine the financial impacts of the proposed legislation discussed in this Fiscal Note are those appropriate for budgetary models and determining annual employer contributions to POLICE, FIRE and NYCERS.

However, the economic assumptions (current and proposed) that are used for determining employer contributions do not develop risk-adjusted, economic values of benefits. Such risk-adjusted, economic values of benefits would likely differ significantly from those developed by the budgetary models.

**STATEMENT OF ACTUARIAL OPINION:** I, Sherry S. Chan, am the Chief Actuary for the New York City Retirement Systems. I am an Associate of the Society of Actuaries and a Member of the American Academy of Actuaries. I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

**FISCAL NOTE IDENTIFICATION:** This estimate is intended for use only during the 2015 Legislative Session. It is Fiscal Note 2015-30, dated June 8, 2015.

**NEW YORK STATE SENATE  
INTRODUCER'S MEMORANDUM IN SUPPORT  
submitted in accordance with Senate Rule VI. Sec 1**

**BILL NUMBER:** S5705B

**SPONSOR:** KRUEGER

**TITLE OF BILL:** An act to amend the retirement and social security law, in relation to disability benefits for certain members of the New York city police pension fund, the New York city fire department pension fund and the New York city employees' retirement system

**PURPOSE OR GENERAL IDEA OF BILL:** This bill seeks to improve the status of uniformed workers disabled on the job.

**SUMMARY OF SPECIFIC PROVISIONS:**

Section 1 amends section 506 of the retirement. and social security law by adding five new subdivisions e, f, g, h and i.

Section 2 amends Section 507 of the retirement and social security law by adding six new subdivisions c--1, c-2, c-3, c-4, c-5, and c-6.

Section 3 amends Section 510 of the retirement and social security law by adding a new subdivision i.

Section 4 amends Subdivision f of section 511 of the retirement. and social security law, as amended by chapter 18 of the laws of 2012, and adds a new subdivision g.

Section 5 is the effective date.

**JUSTIFICATION:** Prior to July 2009 for police officers and firefighters, and prior to 2012 for sanitation workers and correction officers a worker disabled on the job received a tax-free accidental disability retirement benefit. equal to 75 percent of final salary, in addition to any Social Security benefit, including Social Security Disability Insurance.

Following state changes, all of the City's uniformed forces pensions now receive a tax-free accidental disability retirement. benefit of 50 percent of pay based on a three or five-year average (Tiers 3 and 6). This is offset by one-half of any benefits they receive from Social Security.

This bill would count a higher salary in the disability package and remove the Social Security offset. Additionally, the bill will replace Tiers 3 and 6 COLA with Tier 2 COLA.

**PRIOR LEGISLATIVE HISTORY:** New Bill.

FISCAL IMPLICATIONS: New York City has estimated a financial impact of \$47 million through FY 2019.

EFFECTIVE DATE: This act shall take effect immediately.

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# STATE OF NEW YORK

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7854--B

2015-2016 Regular Sessions

## IN ASSEMBLY

May 28, 2015

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Introduced by M. of A. SEPULVEDA -- read once and referred to the Committee on Governmental Employees -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the retirement and social security law, in relation to disability benefits for certain members of the New York city police pension fund, the New York city fire department pension fund and the New York city employees' retirement system

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

1 Section 1. Section 506 of the retirement and social security law is  
2 amended by adding five new subdivisions e, f, g, h and i to read as  
3 follows:

4 e. Notwithstanding the provisions of subdivisions a and b of this  
5 section, the ordinary disability benefit for a police/fire member who  
6 joined the New York city police pension fund or the New York city fire  
7 department pension fund on or after the effective date of this subdivi-  
8 sion, or a police/fire member who has elected to receive such benefit  
9 pursuant to subdivision g of this section, shall be:

10 1. Except as provided in paragraph three of this subdivision, a  
11 pension equal to (i) the greater of (A) two percent of final average  
12 salary or sixth-year salary, whichever is greater, times years of cred-  
13 ited service not in excess of the maximum years of service for computing  
14 service retirement, or (B) thirty-three and one-third percent of final  
15 average salary or sixth-year salary, whichever is greater, (ii) less one  
16 hundred percent of any workers' compensation benefits payable;

17 2. A cost-of-living adjustment for such pension, which shall be  
18 computed in the same manner as provided for by section 13-696 of the  
19 administrative code of the city of New York; and

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

LBD11379-08-5



1 3. If the ordinary disability benefit as calculated pursuant to para-  
2 graphs one and two of this subdivision is less than the ordinary disa-  
3 bility benefit as calculated pursuant to subdivision b of this section  
4 for any year that such police/fire member is eligible for such benefit,  
5 then the ordinary disability benefit calculated pursuant to subdivision  
6 b of this section shall be payable.

7 f. Notwithstanding the provisions of subdivisions a and b of this  
8 section, the ordinary disability benefit for a New York city uniformed  
9 correction/sanitation revised plan member who joined the New York city  
10 employees' retirement system on or after the effective date of this  
11 subdivision, or a New York city uniformed correction/sanitation revised  
12 plan member who has elected to receive such benefit pursuant to subdivi-  
13 sion h of this section, shall be:

14 1. Except as provided in paragraph three of this subdivision, a  
15 pension equal to (i) the greater of (A) two percent of final average  
16 salary or sixth-year salary, whichever is greater, times years of cred-  
17 ited service not in excess of the maximum years of service for computing  
18 service retirement, or (B) thirty-three and one-third percent of final  
19 average salary or sixth-year salary, whichever is greater, (ii) less one  
20 hundred percent of any workers' compensation benefits payable;

21 2. A cost-of-living adjustment for such pension, which shall be  
22 computed in the same manner as provided for by section 13-696 of the  
23 administrative code of the city of New York; and

24 3. If the ordinary disability benefit as calculated pursuant to para-  
25 graphs one and two of this subdivision is less than the ordinary disa-  
26 bility benefit as calculated pursuant to subdivision b of this section  
27 for any year that such New York city uniformed correction/sanitation  
28 revised plan member is eligible for such benefit, then the ordinary  
29 disability benefit calculated pursuant to subdivision b of this section  
30 shall be payable.

31 g. Notwithstanding the provisions of subdivisions a and b of this  
32 section, a police/fire member who joined the New York city police  
33 pension fund or the New York city fire department pension fund before  
34 the effective date of this subdivision and is eligible for the ordinary  
35 disability benefit described in subdivision b of this section may at the  
36 time of retirement make an election to receive the ordinary disability  
37 benefit described in subdivision e of this section. Such election shall  
38 be duly executed and filed with the administrative head of the pension  
39 fund to which the member belongs and shall be irrevocable. If no such  
40 election is made, such member shall receive the ordinary disability  
41 benefit described in subdivision b of this section.

42 h. Notwithstanding the provisions of subdivisions a and b of this  
43 section, a New York city uniformed correction/sanitation revised plan  
44 member who joined the New York city employees' retirement system before  
45 the effective date of this subdivision and is eligible for the ordinary  
46 disability benefit described in subdivision b of this section may at the  
47 time of retirement make an election to receive the ordinary disability  
48 benefit described in subdivision f of this section. Such election shall  
49 be duly executed and filed with the administrative head of the New York  
50 city employees' retirement system and shall be irrevocable. If no such  
51 election is made, such member shall receive the ordinary disability  
52 benefit described in subdivision b of this section.

53 i. For the purposes of this section, "sixth-year salary" shall mean  
54 the sum of the standard rate payable to a police officer, firefighter,  
55 correction officer or sanitation worker upon six years of employment as  
56 a police officer, firefighter, correction officer or sanitation worker,

1 excluding any longevity adjustments, and the average overtime compen-  
2 sation paid or payable to such police officer, firefighter, correction  
3 officer or sanitation worker. For the purposes of this subdivision,  
4 "overtime compensation" shall have the same meaning as such term is  
5 defined in subdivision twenty-four of section five hundred one of this  
6 article. If such police officer, firefighter, correction officer or  
7 sanitation worker has been a member of the New York city police pension  
8 fund, the New York city fire department fund or the New York city  
9 employees' retirement system for less than six years upon the date of  
10 his or her retirement, the average overtime compensation shall be calcu-  
11 lated as follows:

12 1. If the period of employment prior to the date of retirement is less  
13 than one year, the projected first year overtime compensation shall be  
14 based upon a twelve month projection of the overtime compensation paid  
15 in the portion of the year worked. The average overtime compensation  
16 shall be the projected first year overtime compensation.

17 2. If the period of employment prior to the date of retirement is more  
18 than one year but less than two years, the projected second year over-  
19 time compensation shall be based upon a twelve month projection of the  
20 overtime compensation paid in the portion of the second year worked.  
21 The average overtime compensation shall be one-sixth the sum of (i) the  
22 projected second year overtime compensation multiplied by five and (ii)  
23 the actual overtime compensation paid in the first year of employment.

24 3. If the period of employment prior to the date of retirement is more  
25 than two years but less than three years, the projected third year over-  
26 time compensation shall be based upon a twelve month projection of the  
27 overtime compensation paid in the portion of the third year worked. The  
28 average overtime compensation shall be one-sixth the sum of (i) the  
29 projected third year overtime compensation multiplied by four and (ii)  
30 the actual overtime compensation paid in the first two years of employ-  
31 ment.

32 4. If the period of employment prior to the date of retirement is more  
33 than three years but less than four years, the projected fourth year  
34 overtime compensation shall be based upon a twelve month projection of  
35 the overtime compensation paid in the portion of the fourth year worked.  
36 The average overtime compensation shall be one-sixth the sum of (i) the  
37 projected fourth year overtime compensation multiplied by three and (ii)  
38 the actual overtime compensation paid in the first three years of  
39 employment.

40 5. If the period of employment prior to the date of retirement is more  
41 than four years but less than five years, the projected fifth year over-  
42 time compensation shall be based upon a twelve month projection of the  
43 overtime compensation paid in the portion of the fifth year worked. The  
44 average overtime compensation shall be one-sixth the sum of (i) the  
45 projected fifth year overtime compensation multiplied by two and (ii)  
46 the actual overtime compensation paid in the first four years of employ-  
47 ment.

48 6. If the period of employment prior to the date of retirement is more  
49 than five years but less than six years, the projected sixth year over-  
50 time compensation shall be based upon a twelve month projection of the  
51 overtime compensation paid in the portion of the sixth year worker. The  
52 average overtime compensation shall be one-sixth the sum of (i) the  
53 projected sixth year overtime compensation and (ii) the actual overtime  
54 compensation paid in the first five years of employment.

1 § 2. Section 507 of the retirement and social security law is amended  
2 by adding six new subdivisions c-1, c-2, c-3, c-4, c-5 and c-6 to read  
3 as follows:

4 c-1. Notwithstanding the provisions of subdivisions a and c of this  
5 section, the accidental disability benefit for a police/fire member who  
6 joined the New York city police pension fund or the New York city fire  
7 department pension fund on or after the effective date of this subdivi-  
8 sion, or a police/fire member who has elected to receive such benefit  
9 pursuant to subdivision c-3 of this section, shall be:

10 1. Except as provided in paragraph three of this subdivision, a  
11 pension equal to (i) the greater of (A) fifty percent of final average  
12 salary, (B) fifty percent of sixth-year salary, or (C) for members who  
13 meet the requirements set forth in subdivision c-6 of this section, the  
14 greater of seventy-five percent of final average salary or seventy-five  
15 percent of sixth-year salary, (ii) less one hundred percent of any work-  
16 ers' compensation benefits payable; and

17 2. A cost-of-living adjustment for such pension, which shall be  
18 computed in the same manner as provided for by section 13-696 of the  
19 administrative code of the city of New York.

20 If the accidental disability benefit as calculated pursuant to para-  
21 graphs one and two of this subdivision is less than the accidental disa-  
22 bility benefit as calculated pursuant to subdivision c of this section  
23 for any year that such police/fire member is eligible for such benefit,  
24 then the accidental disability benefit calculated pursuant to subdivi-  
25 sion c of this section shall be payable.

26 c-2. Notwithstanding the provisions of subdivisions a and c of this  
27 section, the accidental disability benefit for a New York city uniformed  
28 correction/sanitation revised plan member who joined the new York city  
29 employees' retirement system on or after the effective date of this  
30 subdivision, or a New York city uniformed correction/sanitation revised  
31 plan member who has elected to receive such benefit pursuant to subdivi-  
32 sion c-4 of this section, shall be:

33 1. Except as provided in paragraph three of this subdivision, a  
34 pension equal to (i) the greater of (A) fifty percent of final average  
35 salary, (B) fifty percent of sixth-year salary, or (C) for members who  
36 meet the requirements set forth in subdivision c-6 of this section, the  
37 greater of seventy-five percent of final average salary or seventy-five  
38 percent of sixth-year salary, (ii) less one hundred percent of any work-  
39 ers' compensation benefits payable; and

40 2. A cost-of-living adjustment for such pension, which shall be  
41 computed in the same manner provided for by section 13-696 of the admin-  
42 istrative code of the city of New York.

43 If the accidental disability benefit as calculated pursuant to para-  
44 graphs one and two of this subdivision is less than the accidental disa-  
45 bility benefit as calculated pursuant to subdivision c of this section  
46 for any year that such New York city uniformed correction/sanitation  
47 revised plan member is eligible for such benefit, then the accidental  
48 disability benefit calculated pursuant to subdivision c of this section  
49 shall be payable.

50 c-3. Notwithstanding the provisions of subdivisions a and c of this  
51 section, a police/fire member who joined the New York city police  
52 pension fund or the New York city fire department pension fund before  
53 the effective date of this subdivision and is eligible for the acci-  
54 dental disability benefit described in subdivision c of this section may  
55 at the time of retirement make an election to receive the accidental  
56 disability benefit described in subdivision c-1 of this section. Such

1 election shall be duly executed and filed with the administrative head  
2 of the pension fund to which the member belongs and shall be irrev-  
3 ocable. If no such election is made, such member shall receive the acci-  
4 dental disability benefit described in subdivision c of this section.

5 c-4. Notwithstanding the provisions of subdivisions a and c of this  
6 section, a New York city uniformed correction/sanitation revised plan  
7 member who joined the New York city employees' retirement system before  
8 the effective date of this subdivision and is eligible for the acci-  
9 dental disability benefit described in subdivision c of this section may  
10 at the time of retirement make an election to receive the accidental  
11 disability benefit described in subdivision c-2 of this section. Such  
12 election shall be duly executed and filed with the administrative head  
13 of the New York city employees' retirement system and shall be irrev-  
14 ocable. If no such election is made, such member shall receive the acci-  
15 dental disability benefit described in subdivision c of this section.

16 c-5. For the purposes of this section, "sixth-year salary" shall have  
17 the same meaning as such term is defined in subdivision i of section  
18 five hundred six of this article.

19 c-6. For the purposes of subdivisions c-1 and c-2 of this section, the  
20 accidental disability benefit shall be calculated using the greater of  
21 seventy-five percent of final average salary or seventy-five percent of  
22 sixth-year salary if such police/fire member or New York city uniformed  
23 correction/sanitation revised plan member is (i) entitled to disability  
24 insurance benefits pursuant to section 223 of the federal social securi-  
25 ty act, or (ii) is ineligible for such disability insurance benefits on  
26 the basis of requirements of section 223(c)(1)(B) of the federal social  
27 security act and does not have earnings that demonstrate an ability to  
28 engage in substantial gainful activity as set forth in section 223(d)(4)  
29 of the federal social security act. In the event that a member no longer  
30 meets the requirements of this subdivision, such member's accidental  
31 disability benefit shall be calculated using the greater of fifty  
32 percent of final average salary or fifty percent of sixth-year salary as  
33 set forth in subdivision c-1 or c-2 of this section.

34 § 3. Section 510 of the retirement and social security law is amended  
35 by adding a new subdivision i to read as follows:

36 i. Notwithstanding any other provision of this article, the annual  
37 escalation provided in this section shall not apply to the ordinary  
38 disability benefit provided for in subdivisions e and f of section five  
39 hundred six of this article or the accidental disability benefit  
40 provided for in subdivisions c-1 and c-2 of section five hundred seven  
41 of this article.

42 § 4. Subdivision f of section 511 of the retirement and social securi-  
43 ty law, as amended by chapter 18 of the laws of 2012, is amended and a  
44 new subdivision g is added to read as follows:

45 f. This section shall not apply to general members in the uniformed  
46 correction force of the New York city department of correction or to  
47 uniformed personnel in institutions under the jurisdiction of the  
48 department of corrections and community supervision and security hospi-  
49 tal treatment assistants, as those terms are defined in subdivision i of  
50 section eighty-nine of this chapter, provided, however, that the  
51 provisions of this section shall apply to a New York city uniformed  
52 correction/sanitation revised plan member, except as provided in subdi-  
53 vision g of this section.

54 g. This section shall not apply to a police/fire member who receives  
55 the ordinary disability benefit provided for in subdivision e of section  
56 five hundred six of this article or the accidental disability benefit

1 provided for in subdivision c-1 of section five hundred seven of this  
 2 article, or a New York city uniformed correction/sanitation revised plan  
 3 member who receives the ordinary disability benefit provided for in  
 4 subdivision f of section five hundred six of this article or the acci-  
 5 dental disability benefit provided for in subdivision c-2 of section  
 6 five hundred seven of this article.

7 § 5. This act shall take effect immediately.

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

PROVISIONS OF PROPOSED LEGISLATION: This proposed legislation would amend Retirement and Social Security Law (RSSL) Sections 506, 507, 510 and 511 to change the calculation of Ordinary Disability Retirement (ODR) benefits and Accidental Disability Retirement (ADR) benefits for:

\* Tier III and Revised Tier III members of the New York City Police Pension Fund (POLICE),

\* Tier III and Revised Tier III members of the New York Fire Department Pension Fund (FIRE),

\* Tier VI Sanitation members of the New York City Employees' Retirement System (NYCERS), and

\* Tier VI Corrections members of NYCERS

Note: For purposes of this Fiscal Note, these members are collectively referred to as the "Uniformed Covered Groups".

For purposes of this Fiscal Note, all POLICE and FIRE members subject to Article 14 of the RSSL will be referred to as "Tier III POLICE Members" and "Tier III FIRE Members." Of those Tier III POLICE (FIRE) Members who have a date of membership prior to April 1, 2012, they will be referred to as "Original Tier III POLICE (FIRE) Members." Of those Tier III POLICE (FIRE) Members who have a date of membership on or after April 1, 2012, they will be referred to as "Revised Tier III POLICE (FIRE) Members."

The Effective Date of the proposed legislation would be the date of enactment.

IMPACT ON ODR BENEFITS PAYABLE: The current ODR benefits for the Uniformed Covered Groups are equal to the greater of:

\* 33 1/3% of Final Average Salary (FAS), or

\* 2.0% of FAS multiplied by years of credited service (not in excess of 22 years),

\* Reduced by 50% of the Primary Social Security Disability benefits (determined under RSSL Section 511), and

\* Reduced by 100% of Workers' Compensation benefits (if any).

Note: Final Average Salary is a Three-Year average (FAS3) for Original Tier III POLICE and FIRE members and a Five-Year average (FAS5) for all other Uniformed Covered Group members.

It is the understanding of the Office of the Actuary that POLICE, FIRE and Sanitation Members are not covered by Workers' Compensation.

Under the proposed legislation, if enacted, the ODR benefit for the Uniformed Covered Groups would be equal to the greater of:

\* 33 1/3% of the greater of FAS or Sixth-year Salary, or

\* 2.0 of the greater of FAS or Sixth-year Salary multiplied by years of credited service not in excess of 22 years, and

\* Reduced by 100% of Workers' Compensation benefits (if any).

Sixth-year Salary is defined as the sum of (1) the standard rate that would be payable to a disabled Uniformed Covered Group member upon six years of employment, excluding any longevity adjustments and (2) the average overtime compensation paid to the disabled member. If the disabled member has less than six years of service, the average overtime compensation would be calculated by adding (1) the overtime compensation



earned by the member in the years prior to the year of disability, (2) the annualized overtime compensation earned by the member in the year of disability and (3) the annualized rate of overtime compensation earned by the member in the year of disability projected for years (up to six) following the year of disability, so that there are six years in total, and then dividing that amount by six.

In addition, the proposed legislation would not apply the Escalation available under RSSL Section 510 to ODR benefits for Uniformed Covered Group members. However, such ODR benefits would still be eligible for Cost-of-Living Adjustments (COLA) under Chapter 125 of the Laws of 2000.

Finally, the proposed legislation would provide that in no event would the benefit payable in any year in the future to a member retired under ODR be less than the benefit the member would be entitled to in that year, under the provisions in effect prior to the enactment of this proposed legislation.

If enacted, a Uniformed Covered Group member who joined his/her respective retirement system before the Effective Date of the proposed legislation would have the option, at the time of disability retirement, to elect to receive the ODR benefits in effect prior to this proposed legislation.

IMPACT ON ADR BENEFITS PAYABLE: The current ADR benefits for the Uniformed Covered Groups are equal to:

- \* 50% of FAS

- \* Reduced by 50% of the Primary Social Security Disability benefits or Primary Social Security benefits, whichever begins first, (determined under RSSL Section 511), and

- \* Reduced by 100% of Workers' Compensation benefits (if any).

Note: Final Average Salary is a Three-Year average (FAS3) for Original Tier III POLICE and FIRE members and a Five-Year average (FAS5) for all other Uniformed Covered Group members.

Under the proposed legislation, if enacted, the ADR benefit for the Uniformed Covered Groups would depend on whether the member is entitled to Social Security Disability benefits (or would be entitled had the member met the quarters of coverage requirement).

If the member is not entitled to Social Security Disability benefits, the ADR benefit would be equal to:

- \* 50% of the greater of FAS or Sixth-year Salary

- \* Reduced by 100% of Workers' Compensation benefits (if any).

If the member is entitled to Social Security benefits (or would be entitled had the member met the quarters of coverage requirement), the ADR benefit would be equal to:

- \* 75% of the greater of FAS or Sixth-Year Salary

- \* Reduced by 100% of Workers' Compensation benefits (if any).

In addition, the proposed legislation would not apply the Escalation available under RSSL Section 510 to ADR benefits for Uniformed Covered Group members. However, such ADR benefits would still be eligible for Cost-of-Living Adjustments (COLA) under Chapter 125 of the Laws of 2000.

Finally, the proposed legislation would provide that in no event would the benefit payable in any year in the future to a member retired under ADR be less than the benefit the member would have been entitled to in that year, under the provisions in effect prior to the enactment of this proposed legislation.

If enacted, a Uniformed Covered Group member who joined his/her respective retirement system before the Effective Date of the proposed legislation would have the option, at the time of disability retirement,

to elect to receive the ADR benefits in effect prior to this proposed legislation.

**FINANCIAL IMPACT - CHANGES IN BENEFITS - ACTUARIAL PRESENT VALUES:** Based on the census data and the actuarial assumptions and methods noted herein, if the Effective Date is on or before June 30, 2015, then this would change the Actuarial Present Value (APV) of benefits (APVB), APV of member contributions, the Unfunded Actuarial Accrued Liability (UAAL) and APV of future employer contributions as of June 30, 2013 for the Uniformed Covered Groups.

**FINANCIAL IMPACT - CHANGES IN PROJECTED APV OF FUTURE EMPLOYER CONTRIBUTIONS AND PROJECTED EMPLOYER CONTRIBUTIONS:** For purposes of this Fiscal Note, it is assumed that the changes in APVB, APV of member contributions, UAAL and APV of future employer contributions would be reflected for the first time in the June 30, 2013 actuarial valuations of POLICE, FIRE and NYCERS.

Under the One-Year Lag Methodology (OYLM), the first year that changes in benefits for the Uniformed Covered Groups could impact employer contributions to POLICE, FIRE and NYCERS would be Fiscal Year 2015.

In accordance with ACNY Section 13.638.2(k-2), new UAAL attributable to benefit changes are to be amortized as determined by the Actuary but generally over the remaining working lifetime of those impacted by the benefit changes.

As of June 30, 2013, the remaining working lifetime is approximately 18 years for the Tier III POLICE Members, 24 years for the Tier III FIRE members, 21 years for Tier VI Sanitation members and 20 years for Tier VI Corrections members. Recognizing that this period will decrease over time as these groups of members matures and that virtually all of the FIRE, Sanitation and Corrections members that would be impacted by the benefit changes are new entrants, the Actuary would likely choose to amortize the new UAAL attributable to this proposed legislation over a 15-year period (14 payments under the OYLM Methodology).

The following Table 1 presents an estimate of the increases due to the changes in ODR and ADR provisions for the Uniformed Covered Groups in the APV of future employer contributions and in employer contributions to POLICE, FIRE and NYCERS for Fiscal Years 2015 through 2019 that would occur based on the applicable actuarial assumptions and methods noted herein:

Table 1

Estimated Financial Impact If Certain Revisions are Made to Provisions for ODR and ADR Benefits for the Uniform Covered Groups\* (Assumes 25% of ADR Retirees Qualify for Social Security Disability Benefits)  
(\$ Millions)

Fiscal Year	Increase in APV of Future Employer Contributions	Increase in Employer Contributions
2015		
*POLICE	\$59.6	\$7.2
*FIRE	1.9	0.2
*Sanitation	2.0	0.3
*Corrections	<u>4.5</u>	<u>0.6</u>
*Total	\$68.0	\$8.3

## 2016

*POLICE	\$86.2	\$10.0
*FIRE	8.2	0.9
*Sanitation	3.9	0.5
*Corrections	<u>7.3</u>	<u>0.8</u>
*Total	\$105.6	\$12.2

## 2017

*POLICE	\$111.4	\$12.5
*FIRE	14.3	1.5
*Sanitation	5.5	0.5
*Corrections	<u>9.8</u>	<u>1.0</u>
*Total	\$141.0	\$15.5

## 2018

*POLICE	\$134.3	\$14.6
*FIRE	20.1	2.1
*Sanitation	7.3	0.7
*Corrections	<u>12.7</u>	<u>1.3</u>
*Total	\$174.4	\$18.7

## 2019

*POLICE	\$153.6	\$16.3
*FIRE	25.6	2.6
*Sanitation	8.7	0.8
*Corrections	<u>15.8</u>	<u>1.6</u>
*Total	\$203.7	\$21.3

\*Note that the current assumption used in the actuarial valuations is that no ADR retirees qualify for Social Security Disability Benefits.

The following Table 2 presents an estimate of the increases due to the changes in ODR and ADR provisions for the Uniformed Covered Groups in the APV of future employer costs and in employer costs to POLICE, FIRE and NYCERS for Fiscal Years 2015 through 2019 assuming that 25% of ADR retirees will qualify for Social Security Disability benefits. The actual cost will depend on the number of members who retire under ADR that qualify for Social Security Disability benefits at the time of disability retirement. The actual costs will be greater/less to the extent that the percentage is greater/less than 25%.

Table 2

Estimated Financial Impact If Certain Revisions are Made to Provisions for ODR and ADR Benefits for the Uniform Covered Groups\* (Assumes 25% of ADR Retirees Qualify for Social Security Disability Benefits) (\$ Millions)

Fiscal Year	Increase in APV of Future Employer Costs	Increase in Employer Costs
2015		
*POLICE	\$85.3	\$10.3
*FIRE	2.6	0.3
*Sanitation	2.3	0.3



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*Corrections	<u>5.1</u>	<u>0.6</u>
*Total	\$95.3	\$11.5
2016		
*POLICE	\$122.4	\$14.2
*FIRE	11.5	1.2
*Sanitation	4.4	0.5
*Corrections	<u>8.3</u>	<u>0.9</u>
*Total	\$146.6	\$16.8
2017		
*POLICE	\$157.1	\$17.6
*FIRE	20.0	2.1
*Sanitation	6.2	0.6
*Corrections	<u>11.2</u>	<u>1.1</u>
*Total	\$194.5	\$21.4
2018		
*POLICE	\$188.7	\$20.5
*FIRE	28.0	2.9
*Sanitation	8.2	0.8
*Corrections	<u>14.4</u>	<u>1.4</u>
*Total	\$239.3	\$25.6
2019		
*POLICE	\$215.3	\$22.9
*FIRE	35.7	3.6
*Sanitation	9.7	1.0
*Corrections	<u>17.9</u>	<u>1.8</u>
*Total	\$278.6	\$29.3

\* Note that the assumption used is 25% of ADR retirees qualify for Social Security Disability Benefits.

The estimated increases in employer contributions and employer costs shown in Table 1 and Table 2 are based upon the following projection assumptions:

\* Level workforce (i.e., new employees are hired to replace those who leave active status).

\* Projected salary increases consistent with those used in projections presented to the New York City Office of Management and Budget (NYCOMB) for use in the January 2015 Financial Plan (Updated Preliminary Projections).

\* New entrant salaries consistent with those used in the Updated Preliminary Projections.

These "open group" projections include future new entrants introduced into the census data models to project the future workforces.

OTHER COSTS: Not measured in this Fiscal Note are the following:

\* The initial, additional administrative costs of POLICE, FIRE, NYCERS and other New York City agencies to implement the proposed legislation.

\* The impact of this proposed legislation on Other Postemployment Benefit (OPEB) costs.

CENSUS DATA: The starting census data used for the calculations presented herein are the census data used in the Updated Preliminary June 30, 2013 (Lag) actuarial valuation of POLICE, FIRE and NYCERS used under the OYLM to determine the Updated Preliminary Fiscal Year 2015 employer contributions.

The census data used for the estimates of additional employer contributions presented herein are based on average salaries of new entrants utilized in the Updated Preliminary June 30, 2013 (Lag) actuarial valuations used to determine Updated Preliminary Fiscal Year 2015 employer contributions of POLICE, FIRE and NYCERS.

The 3,601 Original Tier III POLICE Members as of June 30, 2013 had an average age of approximately 28, average service of approximately 2.2 years and an average salary of approximately \$63,000.

The 1,916 Revised Tier III POLICE Members as of June 30, 2013 had an average age of approximately 27, average service of approximately 0.6 years and an average salary of approximately \$55,000.

Overall, the 5,517 Tier III POLICE Members as of June 30, 2013 had an average age of approximately 28, average service of approximately 1.7 years, and an average salary of approximately \$60,000.

The 169 Tier III FIRE Members as of June 30, 2013 (including the one Tier III member who has a date of membership prior to April 1, 2012) had an average age of approximately 27, average service of approximately 0.5 years and an average salary of approximately \$48,200.

The 382 Tier VI Sanitation Members as of June 30, 2013 had an average age of approximately 35, average service of approximately 1.0 years and an average salary of approximately \$47,500.

The 877 Tier VI Corrections Members as of June 30, 2013 had an average age of approximately 32, average service of approximately 0.5 years and an average salary of approximately \$46,000.

**ACTUARIAL ASSUMPTIONS AND METHODS:** The additional employer contributions presented herein have been calculated based on the actuarial assumptions and methods in effect for the June 30, 2013 (Lag) actuarial valuations used to determine Updated Preliminary Fiscal Year 2015 employer contributions of POLICE, FIRE and NYCERS including the General Wage Increase assumption of 3.0% per year which was used to project the Sixth-year Salary for future years.

It was further assumed that all individuals who become members of his/her respective retirement system before the Effective Date of the proposed legislation would elect to be covered by the new ADR and ODR benefit provisions provided for in this proposed legislation.

Neither this Fiscal Note nor the actuarial valuation methodology used to determine employer contributions to POLICE, FIRE and NYCERS reflect a calculation of the value of an offset for Workers' Compensation benefits. For POLICE, FIRE and Sanitation this is because it is the understanding of the Office of the Actuary that POLICE, FIRE and Sanitation members are not covered by such benefits.

It is the understanding of the Office of the Actuary that Corrections members are covered by Workers' Compensation benefits. However, since both ADR and ODR benefits under both the current provisions and proposed legislation are offset by Workers' Compensation benefits, any Workers' Compensation benefits paid would not impact the costs shown.

Employer contributions under current methodology have been estimated assuming the additional APVB would be financed through future normal contributions including an amortization of the new UAAL attributable to this proposed legislation over a 15-year period (14 payments under the OYLM Methodology).

New entrants were projected to replace the members expected to leave the active population to maintain a steady-state population.

The following Table 3a presents the total number of active employees of POLICE used in the projections, assuming a level work force, and the

cumulative number (i.e., net of withdrawals) of Revised Tier III Members as of each June 30 from 2013 through 2017.

Table 3a

Surviving Actives from Census on June 30, 2013  
and  
Cumulative New Revised Tier III POLICE Members from 2013  
Used in the Projections\*

June 30	Tier I & II	Original Tier III	Revised Tier III	Total
2013	29,258	3,601	1,916	34,775
2014	26,784	3,500	4,491	34,775
2015	24,565	3,406	6,804	34,775
2016	22,571	3,315	8,889	34,775
2017	20,937	3,225	10,613	34,775

\* Total active members included in the projections assume a level work force based on the June 30, 2013 (Lag) actuarial valuation census data.

The following Table 3b presents the total number of active employees of FIRE used in the projections, assuming a level work force, and the cumulative number (i.e., net of withdrawals) of Tier III Members as of each June 30 from 2013 through 2017.

Table 3b

Surviving Actives from Census on June 30, 2013  
and  
Cumulative New Tier III FIRE Members from 2013

Used in the Projections\*

June 30	Tier I & II	Tier III	Total
2013	10,013	169	10,182
2014	9,486	696	10,182
2015	8,988	1,194	10,182
2016	8,509	1,673	10,182
2017	8,055	2,127	10,182

\* Total active members included in the projections assume a level work force based on the June 30, 2013 (Lag) actuarial valuation census data.

The following Table 3c presents the total number of active employees of Sanitation used in the projections, assuming a level work force, and the cumulative number (i.e., net of withdrawals) of Tier VI Members as of each June 30 from 2013 through 2017.

Table 3c

Surviving Actives from Census on June 30, 2013  
and  
Cumulative New Tier VI Sanitation Members from 2013  
Used in the Projections\*

June 30	Tier I, II & IV	Tier VI	Total
2013	6,579	382	6,961
2014	6,150	811	6,961

2015	5,858	1,103	6,961
2016	5,495	1,466	6,961
2017	5,239	1,722	6,961

\* Total active members included in the projections assume a level work force based on the June 30, 2013 (Lag) actuarial valuation census data.

The following Table 3d presents the total number of active employees of Corrections used in the projections, assuming a level work force, and the cumulative number (i.e., net of withdrawals) of Tier VI Members as of each June 30 from 2013 through 2017.

Table 3d  
Surviving Actives from Census on June 30, 2013  
and  
Cumulative New Tier VI Corrections Members from 2013  
Used in the Projections\*

June 30	Tier I, II & III	Tier VI	Total
2013	7,798	877	8,675
2014	7,278	1,397	8,675
2015	6,865	1,810	8,675
2016	6,414	2,261	8,675
2017	5,919	2,756	8,675

\* Total active members included in the projections assume a level work force based on the June 30, 2013 (Lag) actuarial valuation census data.

For purposes of estimating the impact of the Tier III Escalation for retired Members, consistent with an underlying Consumer Price Inflation (CPI) assumption of 2.5% per year, Tier III Escalation of 2.5% per year has been assumed.

This compares with the current Chapter 125 of the Laws of 2000 auto COLA assumption of 1.5% per year (i.e., 50% of CPI adjusted to recognize 1.0% minimum and 3.0% maximum) on the first \$18,000 of benefit.

**ECONOMIC VALUES OF BENEFITS:** The actuarial assumptions used to determine the financial impacts of the proposed legislation discussed in this Fiscal Note are those appropriate for budgetary models and determining annual employer contributions to POLICE, FIRE and NYCERS.

However, the economic assumptions (current and proposed) that are used for determining employer contributions do not develop risk-adjusted, economic values of benefits. Such risk-adjusted, economic values of benefits would likely differ significantly from those developed by the budgetary models.

**STATEMENT OF ACTUARIAL OPINION:** I, Sherry S. Chan, am the Chief Actuary for the New York City Retirement Systems. I am an Associate of the Society of Actuaries and a Member of the American Academy of Actuaries. I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

**FISCAL NOTE IDENTIFICATION:** This estimate is intended for use only during the 2015 Legislative Session. It is Fiscal Note 2015-30, dated June 8, 2015.

**NEW YORK STATE ASSEMBLY  
MEMORANDUM IN SUPPORT OF LEGISLATION  
submitted in accordance with Assembly Rule III, Sec 1(f)**

BILL NUMBER: A7854B

SPONSOR: Sepulveda

TITLE OF BILL: An act to amend the retirement and social security law, in relation to disability benefits for certain members of the New York city police pension fund, the New York city fire department pension fund and the New York city employees' retirement system

PURPOSE OR GENERAL IDEA OF BILL: This bill seeks to improve the status of uniformed workers disabled on the job.

SUMMARY OF SPECIFIC PROVISIONS:

Section 1 amends section 506 of the retirement and social security law by adding five new subdivisions e, f, g, h and i.

Section 2 amends Section 507 of the retirement and social security law by adding six new subdivisions c-1, c-2, c-3, c-4, c-5, and c-6.

Section 3 amends Section 510 of the retirement and social security law by adding a new subdivision i.

Section 4 amends Subdivision f of section 511 of the retirement and social security law, as amended by chapter 18 of the laws of 2012, and adds a new subdivision g.

Section 5 is the effective date.

JUSTIFICATION: Prior to July 2009 for police officers and firefighters, and prior to 2012 for sanitation workers and correction officers a worker disabled on the job received a tax-free accidental disability retirement benefit equal to 75 percent of final salary, in addition to any Social Security benefit, including Social Security Disability Insurance.

Following state changes, all of the City's uniformed forces pensions now receive a tax-free accidental disability retirement benefit of 50 percent of pay based on a three or five-year average (Tiers 3 and 6). This is offset by one-half of any benefits they receive from Social Security.

This bill would count a higher salary in the disability package and remove the Social Security offset. Additionally, the bill will replace Tiers 3 and 6 COLA with Tier 2 COLA.

PRIOR LEGISLATIVE HISTORY: New Bill.

FISCAL IMPLICATIONS: New York City has estimated a financial impact of \$47 million through FY 2019.

EFFECTIVE DATE: This act shall take effect immediately.

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