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# Albany Considers Bills to Slow Retirement of City's Police

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**W**ith an unprecedented number of police officers leaving the New York City Police Department (NYPD), the state legislature is considering bills that aim to encourage some retirement-eligible officers to remain on the force. Individually the current proposals may be insufficient to retain significant numbers of experienced personnel—and could even accelerate retirements in future years. In combination the proposals could be a more effective retention incentive, but they would do so at a cost to the city that could reach $70 million annually or higher. Some formulation of the bills is likely to be passed before the end of the current legislative session.

The rising number of police retirements is being spurred by two events. Police hiring spiked in the early 1980s, and many of those recruits are now becoming eligible to retire. The Office of the Actuary, which is responsible for determining the city's annual pension contributions, estimated that approximately 4,000 officers had worked for 20 or more years and were eligible to retire as of July 1, 2001. The high levels of police overtime—from the September 11 disaster as well as initiatives such as Operation Condor—are also a retirement incentive for officers who have reached the 20-year mark since their pension amount is generally based on their earnings in the year before retirement. With the extraordinary amounts of overtime unlikely to be repeated in the coming years, many eligible officers are naturally tempted to take retirement now.

According to the police department, nearly 3,000 police officers retired in calendar year 2001—twice as many as in 2000. Another 807 members resigned with less than five years on the job. NYPD officials expect that through the entire fiscal year ending next June 30, approximately 2,600 officers will have retired. Although NYPD has expanded its efforts to recruit new officers, it is still facing a major retention problem.

Under current law, police officers become eligible to retire with a pension equal to half their final year earnings—including overtime—after completing 20 years of service. Currently, the method of calculating the final average salary (FAS) used to determine retirement benefits for most members of the police and fire pension funds is based upon the earnings during the year immediately prior to retirement, including overtime (for those hired prior to July 1973 the calculation is based on the salary earned at the date of retirement). In general, the FAS may not exceed 120 percent of the salary earned during the 12 months prior to the period used to calculate the salary base. Two legislative proposals—one to enhance the so-called Variable Supplement Fund (VSF) benefits, and the other to alter the period used for calculating the final average salary—would change the financial calculus for officers considering retirement.

*Variable Supplement Fund proposal.* Variable Supplement Funds were first established in 1970. Since then, the funds have provided certain city retirees with annual lump sum payments in addition to their regular pension checks. Police and Fire Retirement Systems members are eligible to receive supplemental benefits from their VSFs upon retirement after 20 or more years of service. Payments are based on a formula established in law. They amount to $9,500 in 2002 and will increase by $500 each year until 2007, when the payout will reach a cap of $12,000. Under current law, these funds are not considered pension or retirement system funds, but instead constitute "defined supplemental payments."

One VSF proposal (S.5852A/A.10373) would allow police officers and firefighters to continue to work after they have reached 20 years of service while at the same time accumulating their VSF benefits until the date of their actual retirement. They would receive the accrued VSF benefits for the "extra years" in a lump sum. (The proposed legislation would also allow those with more than 20 years of service retiring because of a disability to receive a one-time lump sum benefit at retirement. Current law precludes this.)

For example, under the proposed legislation a member of the police department who retires with 20 years of service on January 1, 2002, but continues to work for another three years, is entitled to three years of retroactive payments for calendar years 2002 through 2004, which total approximately $30,000. At the end of the three-year period, the officer would receive this sum and begin collecting regular retirement benefits (including the scheduled annual VSF benefit). The lump-sum VSF benefit, like the current annual VSF benefit, would be the same amount for any eligible retiree, independent of the earnings base used in calculating pension benefits.

The actuary's office has estimated that this legislation would cost the city an additional $51 million annually, assuming there are no VSF reserves to offset the additional expense.

*The "best 12-month" proposal.* This proposal, as originally introduced, (S.6473/ A.10407A) would amend the state Retirement and Social Security Law to allow members of the police and fire pension funds to base their retirement benefits on the highest salary earned in any 12-month period of their careers—making it possible for officers to essentially lock in pensions based on recent high overtime earnings without having to retire now.

In a review of the original proposed legislation, the actuary's office concluded that it contained some serious flaws. In their view, if the intent of the legislation is to retain employees, allowing the use of the highest 12-month salary could be counterproductive, particularly for those employees who have not yet reached retirement age. If the employee is able to choose the highest 12-month salary to calculate his or her FAS, the resulting additional benefits may be sufficient to make retirement more affordable and, therefore, actually result in *increased* retirements at the 20-year point in future years. Thus, while it may alleviate the incentive to retire immediately for some officers, in future years it could actually create an incentive to retire as soon as one is eligible.

The actuary's office estimates that if enacted, this proposal would increase city contributions to the police and fire pension funds by approximately $90.5 million annually. In addition, it would be extremely difficult to administer, since it would require much more extensive record-keeping in order to calculate the highest average 12-month earnings based on any 365-day period in the member's career.

*"Best 12-month" variations.* To address the problems of cost and administration, city officials also are reviewing two alternative versions of the 12-month legislation. The first one would allow members eligible for retirement (not because of disability) to opt to use calendar year 2001 as the salary base for retirement calculations if it would result in a higher final average salary than under current law. Only members who attain 20 years of service on or before December 31, 2002, would be eligible. The resulting final average salary would still be capped at 120 percent of the salary earned in the preceding 12 months before the period used to calculate the salary base. The actuary's office estimates that city pension contributions would increase by $6.2 million annually if this proposal is enacted.

The second version of the 12-month legislation would allow retirement-eligible members to use either their calendar year 2001 or fiscal year 2002 earnings for retirement calculations. Like the first version, this one would also be limited to members who attain 20 years of service on or before December 31, 2002, and would also be subject to the 120 percent cap. The estimated additional city contribution to the fire and police pension funds would be $8.4 million annually. If disability retirees were also included, the proposal would increase city contributions by a total of approximately $19 million annually.

The large difference in cost between the original 12-month proposal and the two alternatives is due to the fact that the alternatives would only apply to members who will be eligible for retirement by December 31, 2002.

| Example of Pension Benefits Under Current Law and Proposed Changes | | |
|---|---|---|
| *Officer with 20 years in 2002, continues to work for three more years* | | |
| | Earnings | Pension Benefits |
| Total earnings in FY 2001 (including overtime) | $75,000 | |
| **Earnings in FY 2002** | | |
| Salary | $63,000 | |
| Overtime | $32,000 | |
| Total earnings in FY 2002 | $95,000 | |
| **FY 2002 FAS, Current Law** (no more than 120% of FY 2001 earnings) | **$90,000** | **$45,000** |
| **Earnings in FY 2005** | | |
| Salary (increasing at 5 percent per year) | $72,931 | |
| Overtime (18 percent of salary)* | $13,128 | |
| **FY 2005 FAS, Current Law** | **$86,059** | **$43,030** |
| **FY 2005 FAS, 12-Month Revised Proposal** (FY 2002 FAS) | **$90,000** | **$45,000** |
| Difference (present value for 30 years at 8 percent)** | | $23,958 |
| VSF Proposal: Lump sum of retroactive payments*** | | $25,250 |
| FY 2005 VSF Payment, Current Law (1/2 of scheduled VSF payment for 2005) | | $5,500 |

SOURCE: IBO.
NOTES: For purposes of illustration, earnings exclude longevity pay, shift differentials, and other adjustments.
*The city actuary estimates that police officers on average earn the equivalent of 18 percent of their base salary in overtime during their last year before retirement.
** Present value measures the value today of a stream of future payments. The discount rate used is the pension funds' anticipated investment return.
***Payment would be decreased by the amount of any automatic cost-of-living adjustment.

Based on current law, and with the large amount of overtime earned in the current fiscal year, a police officer already eligible to retire with a final average salary of $90,000 would lose money if he or she remained on the force for another three years, even assuming a salary increase of 5 percent a year. The amount of overtime earned in fiscal year 2002 increases earnings enough to make retirement now the most attractive option.

Under the revised 12-month proposal, however, the officer may choose to continue to work for a few extra years and use fiscal year 2002 earnings as the base for his or her pension calculation if it produces the highest FAS. The difference between current law and the revised 12-month proposal, calculated over the remainder of the retiree's lifetime (and discounted appropriately), amounts to almost $24,000.

***Retention and rewards.*** The revised 12-month proposals could help remove the incentive to leave now for those who are eligible to retire and might otherwise be inclined to stay on the force—but whose overtime earnings as a result of September 11th and other factors make it in their interest to retire now. In addition, it would reward those who served during and after the attack.

By itself, however, neither of the "best 12-months" variants does anything to address retention in the future. In contrast, the VSF benefit would be available to all future retirees—at the cost, however, of also rewarding those who may already have planned to stay beyond 20 years. In combination, the two proposals may be effective in stemming the likely tide of retirements this year. But doing so will come at a cost that could reach $70 million annually, if, as expected, one of the 12-month alternatives passes in Albany. The total could reach twice that if the original 12-month proposal is enacted.

More effective alternatives for improving retention in the future might include raising the eligibility age, or providing steadily increasing pension benefits beyond the 20-year point—for example, by adding an extra percentage point per year up to 25 years of service. On the other end of officers' careers, union officials have long argued that police officers' starting salaries in the city are too low to be competitive, and that recruitment could be improved if pay increased. No solution will be cost-free, and the alternative is allowing uniformed police force strength to decline.

*Written by Marcia Murphy*