

Your Retirement Plan

**Sheriffs, Undersheriffs and
Deputy Sheriffs**

**For Tier 3, 4 and 5 Members
(Covered by Article 14-B:
Sections 551, 552 and 553)**

New York State Office of the State Comptroller
Thomas P. DiNapoli



New York State and Local
Employees' Retirement System



Important Information for Tier 6 Employees' Retirement System (ERS) Members

Tier 6 was established through legislation signed into law on March 16, 2012 (Chapter 18, Laws of 2012). The benefits described in this booklet are available to Tier 6 ERS members with the following changes:

Tier Status

You are in Tier 6 if you joined ERS on or after April 1, 2012.

Member Contributions

You are required to contribute 3 percent of your gross earnings toward your retirement benefits during the fiscal year 2012-13. Beginning April 1, 2013, you are required to contribute a specific percentage of your annual wage as shown below. Future salary changes may affect your contribution rates. New York State Correction Officers' contributions are limited to 30 years of service.

Annual Wage	Contribution Rate
\$45,000 or less	3%
\$45,000.01 to \$55,000	3.5%
\$55,000.01 to \$75,000	4.5%
\$75,000.01 to \$100,000	5.75%
More than \$100,000	6%

Additional Service Credit for Sick Leave (Section 41[j])

Certain eligible members may receive service credit for a maximum of 100 days of unused, unpaid sick leave at retirement.

Final Average Salary (FAS)

Your FAS is the average of the highest five consecutive years of reportable salary subject to limits. Each year of salary used in the FAS calculation cannot exceed the average of the previous four years by more than 10 percent.

In addition to those payments listed in this booklet, the following payments cannot be included in your FAS calculation:

- Payment for unused vacation;
- Wages reported from more than two separate employers;

- Overtime in excess of \$15,000*; and
- Earned compensation which exceeds the Governor's annual salary, currently \$179,000.

* For fiscal year 2012-13. The maximum reportable overtime increases each fiscal year based on the Consumer Price Index on December 31st of the previous year.

Service Retirement Benefit

Your service retirement benefit is the same as the benefit provided to Tier 5 members.

If you retire under circumstances that provide a reduced benefit, the following reductions apply. The percentage of the benefit reduction is prorated based on your exact age at retirement.

Age at Retirement	Percentage of Reduction
55	52.0
56	45.5
57	39.0
58	32.5
59	26.0
60	19.5
61	13.0
62	6.5
63	0

Vested Retirement Benefit

If you leave public employment before you are eligible for a service retirement benefit, but have ten years of credited service, you can apply for and receive your full vested retirement benefit at age 63, or a reduced benefit between ages 55 and 63.

Disability and Death Benefits

Your disability and death benefits are the same as the benefits provided to Tier 5 members.

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Employees' Retirement System

<p>This publication provides a general summary of membership benefits, rights and responsibilities, and is not a substitute for any New York State or federal law. For specific information about your benefits, please contact us.</p>

A Message From the Comptroller

As a member of the Retirement System, you are covered by a plan that provides important benefits. This summary explains some of those benefits and the services available to you as a member of our system, including:



- Benefits you will receive at retirement if you meet the service and age requirements (service retirement benefits);
- Benefits you may receive if you become permanently disabled (disability retirement benefits);
- Benefits your beneficiary may receive if you die while working for a public employer or after you retire (death benefits);
- Benefits you may receive at a later date, even if you leave public service before you become eligible to retire (vested benefits).

I am joined by a staff of dedicated professionals in my commitment to helping you make informed decisions about your future. I encourage you to contact us with any questions or suggestions you might have.

Sincerely,

A handwritten signature in black ink that reads "Tom DiNapoli". The signature is fluid and cursive, with a large initial "T" and "D".

Thomas P. DiNapoli
State Comptroller

Contents

About Your Membership	3
Service Credit	8
Final Average Salary (FAS)	14
Service Retirement Benefits	16
Choosing a Payment Option	19
Items That May Affect Your Pension	22
Vested Retirement Benefit	27
Disability Retirement Benefits	29
Death Benefits	40
World Trade Center Presumption	46
Receiving Your Benefits	47
How to Stay Informed	49
About This Summary	51

About Your Membership

RETIREMENT SYSTEM MEMBERSHIP

Permanent, full-time employees of employers that participate in the New York State and Local Employees' Retirement System (ERS) must become members of the Retirement System.

Under any of the following four scenarios, however, membership is optional:

- You are appointed to a temporary or provisional position;
- You work less than 30 hours per week, or less than the standard number of hours for full-time employment as established by your employer for your position;
- Your job is supposed to last for less than one year, or you work on a less than 12 months per year basis;
- Your annual salary is less than New York State's minimum wage, multiplied by 2,000 hours.

TIER STATUS

When you join the Retirement System, you are assigned to a tier depending on your date of membership. You are a Tier 3 member if you joined the New York State and Local Employees' Retirement System on July 27, 1976, through August 31, 1983. If you joined on September 1, 1983, through December 31, 2009, you are a Tier 4 member. You are a Tier 5 member if you joined on or after January 1, 2010.

Special Plan Coverage

To be covered by the special plans discussed here, your employer must adopt the benefits and you must:

- Be a deputy sheriff whose regular duties include at least 50 percent criminal law enforcement, a sheriff, or an undersheriff; and
- Elect coverage within one year of being appointed to an eligible title if your employer already offers this plan or within one year of your employer adopting this plan if you are already in a covered title. Your election must be in writing and filed with the Office of the State Comptroller before the period to elect this coverage expires.

Withdrawing From a Special Plan

You may withdraw your election to participate in a special plan after one year of coverage by filing written notice of your withdrawal with the Office of the State Comptroller. Once your withdrawal is acknowledged, you will be covered by the non-elective retirement plan provided for other county employees who are not covered by the special plan.

CONTRIBUTING TOWARD YOUR RETIREMENT

You are required to contribute 3 percent of your reportable earnings toward your retirement benefits. Effective October 1, 2000, contributions from Tier 3 and Tier 4 members will be discontinued when you have accrued either ten years of service credit or have been a member of the Retirement System for ten years after your date of membership. Tier 5 members are required to contribute 3 percent of your reportable earnings toward your retirement benefits until you retire.

If you are employed by more than one participating employer, once you join the Retirement System, all salary and service earned in connection with all employment must be reported to this System, even if your membership is only mandatory with one.

Under Internal Revenue Code Section 414(h), your required 3 percent contributions are tax-deferred until they are distributed to you. These contributions are reportable for federal income tax only when you withdraw or retire from the Retirement System. Therefore, 3 percent contributions for Tier 3, 4 and 5 members are:

- Not reported as wages for federal income tax;
- Reported as wages for New York State and local income taxes;
- Reported as wages for Social Security;
- Reported as wages to the New York State and Local Employees' Retirement System, and used in the calculation of all benefits paid by the Retirement System;
- Calculated on your full gross salary, before any salary reductions for any other tax-deferred plan.

BECOMING ELIGIBLE FOR A BENEFIT

Once you have accrued the required amount of credited service, you will have earned the right to receive a pension, even if you discontinue your public employment.

- Tier 3 and 4 members need five years of credited service.
- Tier 5 members need ten years of credited service.

You can begin receiving your vested retirement benefit when you reach age 55. The amount of your vested benefit is based on your service, age at retirement and the salary you earned when you were an active member.

Vesting is automatic — you do not have to fill out any paperwork or file an application to become vested. However, you do need to file an application to begin receiving your vested benefit.

WITHDRAWING YOUR CONTRIBUTIONS AND/OR YOUR MEMBERSHIP

If you are a Tier 3 or 4 member and leave public employment with at least five, but less than ten, years of credited service, you may choose to:

- End your membership and withdraw your accumulated contributions (with interest compounded at 5 percent per year); or
- Leave your contributions in your account and qualify for a retirement benefit when you are 55.

To help you decide which would be more beneficial, visit our website to project your pension using the “vested retirement” choice. Or, you can contact our Call Center to request a benefit projection. This is especially helpful if you have an outstanding loan balance, because you will receive a projection and the amount your benefit would be reduced if you choose not to pay off the loan balance.

If you are a Tier 5 member who leaves public employment with less than ten years of credited service, you may end your membership and withdraw your accumulated contributions (with interest compounded at 5 percent per year).

If you choose to withdraw, or you do not qualify for a retirement benefit, you should file the Withdrawal Application (RS5014) no earlier than 15 days after you leave public employment. If you do qualify for a vested retirement benefit and you do not withdraw your membership, make sure to apply for a retirement benefit when you reach 55.

Once you have ten or more years of credited service, you cannot withdraw from the Retirement System.

ENDING YOUR MEMBERSHIP

Once you join, there are only five ways your membership can end:

- If you leave public employment before you have ten years of credited service and voluntarily withdraw your contributions;
- If you do not have at least five years of credited service (ten for Tier 5 members) and seven years have elapsed since you last worked in public employment;
- If you transfer your membership to another New York State public retirement system;
- If you retire; or
- If you die.

Service Credit

FULL- AND PART-TIME SERVICE CREDIT

Full-Time Employment

If you join the Retirement System on the day you begin employment with a participating employer in the Retirement System, you work on a full-time, continuous basis and you earn at least the annual equivalent of New York State's minimum wage for your full public career, your retirement service credit is calculated by subtracting your beginning date of employment from the date you leave work. Full-time is defined by your employer, but must be at least six hours per day.

Part-Time Employment

Part-time employment is credited as the lesser of:

$$\begin{aligned} & \text{number of days reported} \div 260 \text{ days} \\ & \text{or} \\ & \text{annual salary reported} \div \\ & (\text{State's hourly minimum wage} \times 2,000) \end{aligned}$$

Employers report days worked and salary to us.

LEAVES OF ABSENCE

Sick leave at half pay is credited at half time. Since service is usually not credited for any period of time you do not receive a salary, credit is not given for:

- Leaves of absence without pay;
- Authorized, unpaid medical leaves of absence; or
- Unpaid leave under the federal Family and Medical Leave Act.

Workers' Compensation

You will not receive credit while on Workers' Compensation leave, unless your employer continues to pay you and reports your earnings to us. In that case, even if the Workers' Compensation carrier later reimburses your employer, your service credit will not be taken away.

CREDITABLE SERVICE

Creditable service under the special plans includes most service performed as a sheriff or undersheriff while a member of the Retirement System. Deputy sheriff service is creditable only if at least 50 percent of your service involves criminal law enforcement. Credit is given for certain military service.

You are also eligible to receive credit for service you earned while working in the following titles:

- Member or officer of the New York State Police;
- Paid firefighter; or
- Police officer or officer of any organized fire department or police force or department of any county, city, town, village, fire or police district.

Members enrolled in Section 551 or 551(e) can also receive credit for service as a New York State correction officer or county correction officer, sheriff, undersheriff or deputy sheriff with another New York county provided that county offers a similar 25-year plan.

Service performed in titles other than those listed above will count toward your vested, disability, and death benefits, but not toward your 20- or 25-year service retirement plan.

CREDIT FOR PREVIOUS OR MILITARY SERVICE

You may be able to obtain credit for previous public employment. It is very important that you claim all the service you are entitled to receive as early as possible, because records documenting your previous service may be lost or destroyed with the passage of time.

Please note that certain types of credit listed below may not provide additional benefits under your special plan. Contact us to verify what service would be creditable.

Prior Service

Prior service is any period of time you received salary from a participating employer before that employer elected to participate in the Retirement System.

To receive this credit, you must earn at least two years of credited service as a Retirement System member.

Service Before Your Date of Membership

You may receive credit for working for a participating public employer in New York State before you joined the Retirement System.

Military Service

You may be able to receive credit for some or all of your military service. To determine your eligibility and the cost, if any, please send us a copy of your Certificate of Release or Discharge from Active Duty (DD-214).

Service From a Previous Membership

If you previously were a member of this System, or another public retirement system in New York State, your service may be recredited and your date of membership and tier changed. The Retirement System will initiate reinstatement to Tier 3, 4 or 5, or to an earlier date within these tiers. We will send you information about your eligibility and give you the opportunity to purchase credit for your withdrawn service. If your previous Tier 3, 4 or 5 membership was with another retirement system, please write to our Member & Employer Services Bureau. For reinstatement to Tier 1 or Tier 2, you must send us a completed Application to Reinstate a Former Tier 1 or 2 Membership (RS5506).

APPLYING FOR PREVIOUS OR MILITARY SERVICE CREDIT

To receive credit for any type of previous or military service, send a written request (which must be received before your effective date of retirement) to our Member & Employer Services Bureau. Please include as much information as you can about the period of employment for which you are seeking credit. We will determine your eligibility to receive the credit and any cost involved.

Requesting credit for your previous public employment as early in your career as possible ensures that:

- If there is a cost, it may be less expensive than if you wait to purchase it at a later date.
- Your retirement benefit will be processed more quickly if your service credit is in order.

Please note that if you are requesting previous service credit to establish eligibility for a vested retirement benefit, you should request credit while you are on the payroll of a participating employer. If you receive a statement of the cost after you leave the payroll, you must make payment within 30 days of notification. You can request this service once you are off the payroll, but you must pay the cost (if any) and return to the payroll of a participating employer for the service to be credited and to become vested.

ADDITIONAL SERVICE CREDIT FOR SICK LEAVE (SECTION 41-j)

Section 41-j of the Retirement Social Security Law (RSSL) provides an optional sick leave benefit. If your employer has chosen to offer this optional benefit, you may receive service credit for your unused, unpaid sick leave at retirement. To be eligible for this benefit, you must retire directly from public employment or within a year after separating from service. The additional credit is determined by dividing your total unused, unpaid sick leave days, which cannot exceed 165, by 260. Contact your employer or refer to your Member Annual Statement to determine if this benefit is available to you.

Credit for your unused sick leave at retirement cannot be used to:

- Qualify for vesting. For example, if you have four and one-half years of service credit and you need five years to be vested, your sick leave credit cannot be used to reach the five years.

- Qualify for a better retirement benefit calculation. For example, if you have 19½ years of service credit but your pension will improve substantially if you have 20 years, your sick leave credit cannot be used to reach the 20 years.
- Increase your pension beyond the maximum amount payable under your retirement plan.
- Meet the service credit requirement to retire in a special 20- or 25-year plan.

Final Average Salary (FAS)

Your pension is based on your years of credited service and your final average salary (FAS). FAS is the average of the wages you earned during any 36 consecutive months of service when your earnings were highest. This is usually the last three years of employment.

The calculation of your FAS can include, but is not limited to, the following types of payments. In some cases, certain restrictions may apply.

- Regular salary;
- Overtime* earned in the FAS period;
- Holiday pay;
- Noncompensatory overtime* earned for each year in the FAS period;
- Longevity payment (maximum of three), if earned in the FAS period; and
- Up to 30 days vacation, if the FAS is based on the 36 months immediately preceding retirement.

* For Tier 5 members, the total amount of overtime and noncompensatory overtime is limited to \$15,000 for calendar year 2010. Thereafter, the maximum reportable overtime payment will increase by 3 percent each calendar year.

The following types of payments are **not** considered regular compensation and, in most cases, will not be included in your FAS:

- Unused sick leave;
- Payments made as a result of working your vacation;
- Any form of termination pay;
- Payments made in anticipation of retirement;
- Lump sum payments for deferred compensation; and
- Any payments made for time not worked.

If the wages in any year included in the FAS period exceed the average of the previous two years by more than 10 percent, the amount in excess of 10 percent is excluded from the computation of your FAS.

Service Retirement Benefits

25-YEAR SERVICE RETIREMENT BENEFIT (SECTION 551)

Eligibility

You are eligible to retire at any age after completing 25 years of creditable service.

The Benefit

With 25 years of service, you will receive a retirement benefit of 50 percent of your FAS. If you are at least 55 at retirement and an alternative regular plan would provide a greater benefit, the greater benefit will be paid.

Filing

Your Application for Service Retirement (RS6037) must be on file with the Office of the State Comptroller at least 15 days, but not more than 90 days, before the date on which your retirement will occur.

ADDITIONAL BENEFITS UNDER THE 25-YEAR PLAN (SECTION 551[e])

Additional Credit for Sheriff Service

If your employer adopted Section 551(e), you may receive additional retirement benefits for each year of creditable sheriff service over 25 years.

This benefit provides an additional 1/60th (1.66 percent) of your FAS for each completed year of creditable sheriff service over 25, up to a maximum of 15 years. Your total benefit cannot exceed three-quarters (75 percent) of your FAS.

Additional Credit for any Allowable Service

If your employer adopted this benefit, on completion of 25 years of sheriff service, you may receive additional retirement benefits for any service performed before your sheriff service.

This benefit provides an additional 1/60th (1.66 percent) of your FAS for each completed year of creditable service over 25, up to a maximum of 15 years. Your total benefit cannot exceed three-quarters (75 percent) of your FAS.

20-YEAR SERVICE RETIREMENT BENEFIT (SECTION 552)

Eligibility

You are eligible to retire at any age after completing 20 years of creditable service. You may also receive a service retirement benefit at age 62 even if you do not have 20 years of creditable service.

The Benefit

With 20 years of service, you will receive a retirement benefit of 50 percent of your FAS. If you are age 62 with less than 20 years of service, your benefit is 1/40th (2.5 percent) of your FAS for each year of creditable service, plus an additional pension for any other creditable service not covered by this plan. In either case, your total benefit cannot exceed 50 percent of your FAS.

If you are at least 55 at retirement and an alternative regular plan would provide a greater benefit, the greater benefit will be paid.

Filing

Your Application for Service Retirement (RS6037) must be on file with the Office of the State Comptroller at least 15 days, but not more than 90 days, before the date on which your retirement will occur. The 15-day filing requirement is waived if you are over age 70 at retirement.

ADDITIONAL BENEFITS UNDER THE 20-YEAR PLAN (SECTION 553)

Additional Credit for Sheriff Service

If your employer adopted Section 553, you may receive additional retirement benefits for each year of creditable sheriff service over 20 years.

This benefit provides an additional 1/60th (1.66 percent) of your FAS for each year of creditable sheriff service over 20, up to a maximum of 15 years. Your total benefit cannot exceed three-quarters (75 percent) of your FAS.

Additional Credit for any Allowable Service (Section 553[b])

If your employer adopted this benefit, on completion of 20 years of sheriff service, you may receive additional retirement benefits for any allowable service credit performed before your sheriff service.

This benefit provides an additional 1/60th (1.66 percent) of your FAS for each year of creditable service over 20, up to a maximum of 15 years. Your total benefit cannot exceed three-quarters (75 percent) of your FAS.

Choosing a Payment Option

RECEIVING YOUR BENEFIT

At retirement, you must decide how you want your retirement benefit paid. You can choose from several options, all of which will provide you with a monthly benefit for life. For example, you may elect to have your retirement benefit paid to you as a Single Life Allowance, providing you with the maximum amount payable during your lifetime, with nothing payable to a beneficiary upon your death. Or, you may elect to receive a smaller monthly benefit to provide for a possible payment to a designated beneficiary after your death.

FILING YOUR OPTION ELECTION

You must file your Option Election form (unless notified otherwise, as in the case of disability retirement) before the first day of the month following your retirement date. You have up to 30 days after your pension benefit becomes payable to change your selection. If you are a disability retiree, you may change your option selection up to 30 days after your disability application is approved, or up to 30 days after your retirement date, whichever is later.

If your election is not timely, by law, we must process your retirement as if you had selected the Single Life Allowance (Option 0).

AVAILABLE OPTIONS

Single Life Allowance (Option 0)

This is the basic retirement benefit. It provides for the maximum benefit payment to you each month for the rest of your life. Under this selection, all payments cease upon your death. When you die (even if it is only one year, or sooner, after retiring), nothing will be paid to any beneficiary.

Joint Allowance — Full*

This option will provide you with a reduced monthly benefit for your lifetime, and is based on your and your beneficiary's birth dates. After your death, your beneficiary will receive the same monthly amount (without COLA) for life. If your beneficiary dies before you, all benefit payments will cease upon your death.

Joint Allowance — Partial*

This option will provide you with a reduced monthly benefit for your lifetime, and is based on your and your beneficiary's birth dates. After your death, your beneficiary will receive a specific percentage of your benefit (without COLA) which you select (either 75, 50, or 25 percent) for his or her lifetime. If your beneficiary dies before you, all payments will cease upon your death.

Pop-Up/Joint Allowance — Full or Half*

These options will provide you with a reduced monthly lifetime benefit. If you die before your beneficiary, we will continue paying the same monthly amount or one-half that amount (without COLA), depending on which option you elect, to your beneficiary for life.

If your beneficiary dies first, your benefit will be increased to the amount you would have received if you had selected the Single Life Allowance at retirement, and all payments will cease upon your death.

Five Year Certain and Ten Year Certain

These options will provide you with a reduced monthly benefit for your lifetime, with the additional guarantee that if you live for less than five years or ten years after retirement, depending upon which option you elect, payments in the same amount you were receiving (without COLA) will be made to your beneficiary for the balance of the five- or ten-year period. You may change your beneficiary within the five- or ten-year period.

Alternative Options

If the options described here do not meet your needs, we will consider written requests for other payment methods. These requests must be outlined in detail by you and then approved by us for legal and actuarial soundness.

* If you elect this option, you must submit proof of your beneficiary's birth date. You can designate only one beneficiary and you cannot change your designation after your retirement. If your beneficiary is your spouse at the time of your death, he or she will be eligible for 50 percent of your COLA.

Items That May Affect Your Pension

IRS PENSION LIMITATION

Internal Revenue Code Section 401(a)(17) limits the amount of salary that qualified pension plans, including the New York State and Local Retirement System, may use in calculating benefits. It affects members who first join on or after April 1, 1996 and currently excludes earnings over \$245,000 (effective April 1, 2010) in the State's fiscal year (April 1st – March 31st). The amount is set by federal law and is periodically adjusted for inflation.

BORROWING AGAINST YOUR CONTRIBUTIONS

If you are in active service, with at least one year of member service credit, you may take a loan from the Retirement System. To apply, you must file a Loan Application (RS5025-A) with us.

However, before you apply, you should be aware of the federal tax laws pertaining to Retirement System loans. **Your loan will be taxable if:**

- The loan amount exceeds federal limits.
- You have a loan with a deferred compensation (457) or tax-sheltered annuity (403-b) plan through your current employer that causes your loan to exceed the federal limits for nontaxable loans. Exceeding these limits could result in significant tax consequences for you.

- You do not make payments on your loan at least once every three months or do not complete payment within five years from the date the loan was issued.
- You retire or withdraw from the Retirement System and have one or more outstanding loan balances when you retire or withdraw.

If your loan is taxable, or becomes taxable as described above, you must include it on your federal income tax return for the year the loan is granted or becomes taxable. If you are under 59½ at the time, you may be required to pay a 10 percent penalty tax in addition to any ordinary federal income tax you owe. Please consider consulting a tax advisor before applying for a taxable loan from the Retirement System.

If you already have an outstanding Retirement System loan and want to take a new loan, please contact our Call Center and connect with our automated information line to determine if refinancing your current loan or carrying multiple loans would be better for you. Although your payment may be larger if you choose multiple loans, you may reduce or eliminate your tax liability.

Example

Contribution Balance: \$ 18,630
 Previous Loan Balance: \$ 8,760
 New Loan Requested: \$ 3,000

	Refinanced Loans	Multiple Loans
Taxable Amount	\$ 5,190	\$ 0
Minimum Payroll Deduction (Repayment Amount)	\$ 112	\$ 236

In this example, if the member chooses to refinance, the taxable amount of the loan is greater than the loan requested. But, if the member chooses multiple loans, the new loan is not taxable.

The following rules apply when borrowing against your contributions:

- Each loan must be for a minimum of \$1,000, so you must have an account balance of at least \$1,334. The total of all your loans may not be more than 75 percent of your contributions.
- You must repay each outstanding loan through payroll deductions in an amount sufficient to repay the loan, interest and insurance premium within five years. The minimum deduction to repay your outstanding loan balances must be at least 2 percent of your salary.
- You may borrow only once in any 12-month period.
- Prior to retirement, and 30 days after issuance, loans are fully insured in case you die before repaying them.

Please note: Any outstanding loan balance when you retire will **permanently reduce** your pension. You cannot pay off your loan once you retire. The amount of your pension reduction will be based on your age, the loan balance at retirement, and type of retirement (regular service or disability).

These are examples of how your service retirement benefit will be permanently reduced by an outstanding loan balance at retirement. The approximate reductions are for calendar year 2010. The amount of the reduction changes annually.

Age at Retirement	Outstanding Loan Balance	Annual Pension Reduction
55	\$5,000	\$334
	\$10,000	\$667
62	\$5,000	\$378
	\$10,000	\$757

COST-OF-LIVING ADJUSTMENTS (COLA)

Once you meet the eligibility requirements, including age and number of years retired, your retirement benefit will permanently increase each year. You will begin receiving COLA when you are:

- Age 62 or older and retired for five or more years; or
- Age 55 or older and retired for ten years; or
- Receiving a disability pension for five or more years.

When you die, if you selected an option that pays a lifetime benefit to your beneficiary, and the beneficiary is your spouse at the time of death, he or she will be eligible to receive half of the COLA amount you would have been entitled to receive.

DIVORCE

The New York State Court of Appeals has determined that retirement benefits are marital property and subject to equitable distribution. Equitable distribution is the division of marital assets between spouses after the marriage has ended. This division must be stated in the form of a Domestic Relations Order (DRO) if we are to pay a portion of your pension to your ex-spouse. A DRO gives us specific direction on how your retirement benefits should be divided. However, it does not allow for a distribution of your pension until you actually retire, die or terminate membership.

If you are divorced, it is especially important to review your beneficiary designations to ensure your benefits will be distributed according to your wishes. Effective July 7, 2008, beneficiary designations for certain benefits are revoked when a divorce, annulment or judicial separation becomes final. An exception is if the terms of a DRO specify otherwise. Beneficiary designations may be revoked for the Ordinary Death Benefit, Cash Refund Initial Value option (Tier 1), Cash Refund Contribution option (Tiers 1 and 2) and Five and Ten Year Certain options. The Survivor Benefit beneficiary designations made by retirees who chose the Single Life Allowance option or certain alternative options may also be revoked.

For more information on how your pension benefits can be affected by divorce, consult your attorney, contact our Matrimonial Bureau, read our guide to Domestic Relations Orders and review our Divorce FAQs.

Vested Retirement Benefit

ELIGIBILITY

You are eligible for a vested retirement benefit if you leave public employment before age 55 and you have met the minimum service requirement. Tier 3 and 4 members must have five years of credited member service. Tier 5 members must have ten years of service credit. When you reach 55, this will entitle you to a retirement benefit based on your service and salary earned when you were an active member.

Tier 3 and 4 members with less than 30 years of service credit may receive their full vested benefit at age 62, or may choose early retirement with a reduced retirement benefit between ages 55 and 62. Under Article 15, with 30 or more years of service, Tier 3 and 4 members can retire as early as age 55 without a benefit reduction.

Tier 5 members may retire as early as age 55 and receive a reduced retirement benefit, or delay retirement until age 62 and collect their full benefit.

YOUR VESTED BENEFIT

If you retire with less than 20 years of service credit, your vested retirement benefit will equal 1/60th (1.66 percent) of your FAS, multiplied by your years of service. If you retire with 20 or more years of service credit, your benefit will equal 1/50th (2 percent) of your FAS multiplied by your years of service. However, there is a guarantee that the benefit cannot be less than the actuarial equivalent of your accumulated contributions, with interest.

The retirement benefit is payable for your lifetime. You may elect one of several payment options to provide for a continuing payment to a designated beneficiary of your choosing after your death.

FILING

To receive your vested retirement benefit at the earliest possible date, file a retirement application no earlier than 90 days before your 55th birthday. If we receive your retirement application after your 55th birthday, your vested retirement will be effective on the date the application is received.

Remember, it is up to you to file a retirement application when you become eligible and wish to receive your benefit.

Disability Retirement Benefits

ORDINARY DISABILITY (SECTION 555)

Eligibility

If you are unable to perform your duties because of permanent physical or mental incapacity, and have ten or more years of service credit, you may be eligible for an ordinary disability retirement benefit.

The Benefit

If approved, this is a benefit equal to the greater of:

- 1/60th (1.66 percent) of your FAS for each year of credited service; or
- 1/60th (1.66 percent) of your FAS for each year of credited service, plus 1/60th of your FAS for each year of service you might have earned before attaining age 60, but not more than 1/3 of your FAS.

If you are 60 or older at the effective date of your disability retirement, your ordinary disability benefit will equal the benefit that would have been payable to you as a service retirement, not to exceed 1/3 of your FAS.

The disability retirement benefit is payable for your lifetime. You may elect one of several payment options to provide for a continuing payment to a designated beneficiary of your choosing after your death.

Filing

You, your employer or someone authorized with your power of attorney may file your application for ordinary disability retirement benefits. Your application for ordinary disability retirement must be submitted while you are in service or within 90 days from the date you:

- Are last paid on the payroll; or
- Are last on an authorized medical leave of absence for up to two years (which may be extended for an additional two years); or
- Last receive Workers' Compensation or other similar employer-funded benefits for up to two years (which may be extended for an additional two years); or
- Are terminated from employment, even if you are receiving Workers' Compensation or other similar employer-funded benefits.

After filing an application, you may be asked to undergo one or more medical examinations. If approved, your ordinary disability retirement will be effective on the date the application was filed or the day after your last day on the payroll, whichever is later.

If you are eligible, applications for ordinary disability, accidental disability, performance of duty disability and regular service retirement benefits may be submitted simultaneously.

TIER 3 ORDINARY DISABILITY (ARTICLE 14)

Eligibility

You may be eligible for an ordinary disability retirement benefit if you have been awarded primary Social Security disability benefits and have a minimum of five years of service credit.

The Benefit

This is a benefit equal to the greater of:

- 1/3 of your FAS; or
- 2 percent of your FAS for each year of credited service to a maximum of 30 years.

In either case, the benefit is reduced by 50 percent of the CO-ESC Social Security disability benefit. CO-ESC is the part of your Social Security disability benefit based on your public employment in New York State. If a Workers' Compensation benefit is payable, the ordinary disability benefit is reduced by the amount of the Workers' Compensation benefit. This benefit is subject to 100 percent escalation for changes in the cost of living. It can increase or decrease at a rate equal to the consumer price index (CPI) or 3 percent, whichever is less, but can never fall below the original amount paid.

The disability retirement benefit is payable for your lifetime. You may elect one of several payment options to provide for a continuing payment to a designated beneficiary of your choosing after your death.

Filing

You, or someone authorized with your power of attorney (but not your employer) may file your application for ordinary disability retirement benefits. To ensure timely filing, you should file an application for this benefit before you receive a determination on your application for Social Security disability benefits. However, you must be eligible for Social Security disability benefits to qualify for Article 14 ordinary disability retirement benefits.

You must submit your application for ordinary disability retirement while you are in active service. When filing for this benefit, “active service” is defined as while you are:

- Being paid on the payroll; or
- On an authorized medical leave of absence; or
- Receiving Workers’ Compensation or other similar employer-funded benefits since last being paid on the payroll, as long as you have not resigned or are not terminated from employment while receiving those benefits.

If you are not in active service on the date of filing for this benefit, we will review your Social Security disability approval to determine the benefit start date. If the date is retroactive to a point when you were in active service, your application will meet the filing requirement.

ACCIDENTAL DISABILITY (SECTION 556)

This benefit is available only to members who entered service before January 1, 1985.

Eligibility

Regardless of the amount of service credit you may have, if you become permanently incapacitated (physically or mentally) and unable to perform your job as the natural and proximate result of an on-the-job accident not due to your own willful negligence, you may be eligible for the benefit.

Notice of Accident

To be eligible for this benefit, you must file an application for an accidental disability retirement benefit within one year following the alleged accident. Otherwise, you must have filed a written notice of the accident with:

- The Retirement System within 90 days of the accident; or
- Your employer within 30 days of the date of the accident, if your employer is covered by the Workers' Compensation Law or if the accident occurred on or after September 1, 1980.

The written notice must detail the time and place of the accident, the particulars thereof, the nature and extent of your injuries, and the alleged incapacity.

The Benefit

If approved, the accidental disability retirement benefit is a lifetime pension of $\frac{2}{3}$ (66.67 percent) of your FAS.

You must apply for Workers' Compensation benefits if you are eligible. Regardless of tier, the accidental disability benefit will be reduced by the total amount of Workers' Compensation benefits that you are eligible to receive.

The disability retirement benefit is payable for your lifetime. You may elect one of several payment options to provide for a continuing payment to a designated beneficiary of your choosing after your death.

Filing

You, your employer or someone authorized with your power of attorney may file your application for accidental disability retirement. The application must be filed while you are still in service or within two years of your discontinuance from service.

When filing for this benefit, "in service" is defined as while you are:

- Being paid on the payroll; or
- On an authorized medical leave of absence for up to two years (which may be extended for an additional two years); or
- Receiving Workers' Compensation or other similar employer-funded benefits for up to two years (which may be extended for an additional two years) since last being paid on the payroll, as long as you have not resigned or are not terminated from employment while receiving those benefits.

If you are eligible, applications for ordinary disability, accidental disability, performance of duty disability and regular service retirement benefits may be submitted simultaneously.

TIER 3 ACCIDENTAL DISABILITY (ARTICLE 14)

Eligibility

If you are permanently disabled as the direct result of an on-the-job accident not caused by your own willful negligence, and are awarded primary Social Security benefits, you may be eligible for an accidental disability retirement benefit.

The Benefit

If approved, your accidental disability retirement benefit will be a pension equal to 2 percent of your FAS for each year of service credit you would have earned if you had been able to work until you reached age 65 (not to exceed 30 years of service).

This benefit is reduced by 50 percent of the CO-ESC Social Security disability benefit. CO-ESC is the part of your Social Security disability benefit based on your public employment in New York State. If a Workers' Compensation benefit is payable, the disability benefit is reduced by the amount of the Workers' Compensation benefit. This benefit is also subject to 100 percent escalation for changes in the cost of living. It can increase or decrease at a rate equal to the consumer price index (CPI) or 3 percent, whichever is less, but can never fall below the original amount paid.

The disability retirement benefit is payable for your lifetime. You may elect one of several payment options to provide for a continuing payment to a designated beneficiary of your choosing after your death.

Filing

You, or someone authorized with your power of attorney (but not your employer) may file your application for accidental disability retirement benefits. To ensure timely filing, you should file the application for this accidental disability retirement before you receive a determination on your application for Social Security disability benefits. However, you must be eligible for Social Security disability benefits to qualify for Article 14 accidental disability retirement benefits.

The application must be filed while you are still in active service. When filing for this benefit, “active service” is defined as while you are:

- Being paid on the payroll; or
- On an authorized medical leave of absence.

If you are not in active service on the date of filing for this benefit, we will review your Social Security disability approval to determine the benefit start date. If the date is retroactive to a point when you were in active service, your application will meet the filing requirement.

PERFORMANCE OF DUTY DISABILITY

Eligibility

Regardless of the amount of service credit you have, if you become permanently incapacitated, either physically or mentally, and unable to perform your job as the natural and proximate result of an on-the-job incident or occurrence that was not due to your own willful negligence, you may be eligible for a performance of duty disability retirement benefit.

You may be eligible for the performance of duty disability benefit if you contract heart disease and, upon entry into service, you passed a physical examination that failed to reveal any evidence of heart disease. It will not be automatically presumed that any heart disease is the result of the performance of your duties and that you immediately qualify for the benefit.

Notice of Occurrence

To be eligible for this benefit, you must file an application for a performance of duty disability retirement benefit within one year following the alleged incident or occurrence. Otherwise, you must have filed a written notice of the incident or occurrence with:

- The Retirement System within 90 days of the incident or occurrence; or
- Your employer within 30 days of the date of the incident or occurrence, if your employer is covered by the Workers' Compensation Law or if the incident or occurrence took place after September 1, 1980.

The written notice must detail the time and place of the incident or occurrence, the particulars thereof, the nature and extent of your injuries, and the alleged incapacity.

The Benefit

If approved, the benefit payable is a lifetime pension equal to one-half (50 percent) of your FAS.

The disability retirement benefit is payable for your lifetime. You may elect one of several payment options to provide for a continuing payment to a designated beneficiary of your choosing after your death.

Filing

You, your employer or someone authorized with your power of attorney may file your application for performance of duty disability retirement.

The application must be filed while you are still in service or within two years of your discontinuance from service. When filing for this benefit, “in service” is defined as while you are:

- Being paid on the payroll; or
- On an authorized medical leave of absence for up to two years (which may be extended for an additional two years); or
- Receiving Workers’ Compensation or other similar employer-funded benefits for up to two years (which may be extended for an additional two years) since last being paid on the payroll, as long as you have not resigned or are not terminated from employment while receiving those benefits.

After filing an application, you may be asked to undergo one or more medical examinations.

If you are eligible, applications for ordinary disability, accidental disability, performance of duty disability and regular service retirement benefits may be submitted simultaneously.

SPECIAL DISABILITY BENEFITS

Counties can elect to provide a performance of duty disability benefit for their sheriffs, undersheriffs and deputy sheriffs who become disabled as the result of an act by an inmate or other person confined in an institution under the jurisdiction of the county. You may also be eligible for this benefit if you become disabled due to HIV, tuberculosis or hepatitis contracted as a result of performing your job.

If approved, your benefit would equal 75 percent of your final average salary, less any Workers' Compensation benefits you are receiving or are eligible to receive. Contact your employer to determine if these benefits are available to you.

Death Benefits

ORDINARY DEATH BENEFIT

Your beneficiary may be entitled to an ordinary death benefit if your death is not attributable to an on-the-job accident. The first \$50,000 of this benefit is paid in the form of group term life insurance, which is currently exempt from federal income tax. Your accumulated contributions (if any) are also payable to your beneficiary.

Eligibility

An ordinary death benefit may be payable to your designated beneficiary if you have completed at least one year of service since last joining the Retirement System and your death occurs:

- While you are on the payroll;
- While you are on an authorized medical leave without pay;
- While you are receiving Workers' Compensation or other employer-funded benefits for up to two years (which may be extended for an additional two years) following the last date you were paid on the payroll, provided your employment has not been terminated by resignation, employer action or any other means while receiving those benefits; or
- Within 12 months of the last date you were receiving salary, on an authorized medical leave of absence or receiving Workers' Compensation or other employer-funded benefits provided you were not otherwise gainfully employed during that period.

The Benefit

Members who joined before January 1, 2001 were given a choice between two death benefits. If you chose death benefit one and you die while in active service, your beneficiary will be paid the greater of the two death benefits; if you die after retirement, and meet the eligibility criteria, your beneficiary will receive the post-retirement death benefit.

Members who join on or after January 1, 2001 will automatically be covered by death benefit two, the greater benefit in almost all cases. Death benefit two is equal to your salary multiplied by your years of service, not to exceed three years of salary. For example, if you die after one year of service, your beneficiary would receive a benefit equal to one year of your salary; if you die after two years, your beneficiary would receive a benefit equal to two years of your salary; and, if you die after three or more years of service, your beneficiary would receive a benefit equal to three years of your salary. The salary is limited by Section 130 of the Civil Service Law.

If you are in service at age 61, your death benefit will be reduced by 3 percent and will be further reduced by 3 percent each year you continue to be in service. It will not be reduced below 70 percent of the original benefit payable.

Death benefit two provides a post-retirement death benefit if you:

- Retire directly from service; or
- Are a vested member and file for retirement within one year of leaving covered employment.

The post-retirement death benefit is calculated at retirement. During your first year of retirement, the benefit is 50 percent of the ordinary death benefit payable at retirement; during your second year of retirement, the benefit is 25 percent. During your third year and thereafter, the benefit will be 10 percent of the ordinary death benefit that would have been payable at age 60, if any, or at retirement, whichever was earlier.

Example:

Age at Retirement = 62

Salary = \$30,000

$\$30,000 \times 3 =$ \$ 90,000

Reduction for working until age 62: \$ 5,400

Ordinary Death Benefit at Retirement: \$ 84,600

- 1st year of retirement
(50 percent of ordinary death benefit): \$ 42,300
- 2nd year of retirement
(25 percent of ordinary death benefit): \$ 21,150
- After 2nd year of retirement
(10 percent of benefit at age 60): \$ 9,000

Effective May 9, 2008, if you were age 60 or older when you joined the Retirement System and you retired on or after October 16, 1992, the post-retirement death benefit payable after your second year of retirement will be 10 percent of your last year's salary times your years of member service credit, up to three years.

For example, with a last year's salary of \$30,000:

- If you have one year of member service:
 $\$30,000 \times 10\% = \$3,000$;
- If you have two years of member service:
 $\$30,000 \times 10\% \times 2 = \$6,000$;
- If you have three or more years of member service:
 $\$30,000 \times 10\% \times 3 = \$9,000$.

Filing

Your family or employer should notify us of your death as soon as possible, and we will send the appropriate forms to your beneficiary.

OUT-OF-SERVICE DEATH BENEFIT

If you are a vested member with at least ten years of credited service and you die more than one year after leaving public employment, 50 percent of the death benefit may still be payable. This vested benefit is also payable if you die within one year of leaving covered service but were gainfully employed during that time.

ACCIDENTAL DEATH BENEFIT

Eligibility

Regardless of your years of service credit, if you die as the natural and proximate result of an on-the-job accident, not due to your own willful negligence, an accidental death benefit may be paid on your behalf.

The Tier 4 and 5 (Article 15) Benefit

This is a pension equal to one-half of your wages during your last year of active service and is paid to your beneficiaries, in this order:

- To your surviving spouse, provided he or she has not renounced survivorship rights in a separation agreement, until remarriage; or
- To your surviving children, until they reach age 25; or
- To your dependent parent or parents, as determined under regulations established by the Comptroller; or

- To any other person who qualified as a dependent on your final federal income tax return for the year preceding death, until that person reaches age 21.

The benefit will be divided equally among the beneficiaries in any one category if you have more than one child, parent or other dependent.

If you joined before July 26, 1986, as soon as there are no eligible beneficiaries (as outlined above) and the sum of the accidental death benefit payments we have paid as of that date does not exceed the ordinary death benefit that would have been paid at the time of your death, we will pay the difference in a lump sum to the last person receiving the accidental death benefit. If there are no surviving beneficiaries, we will pay the difference to the executor of your will or, if there is no will, the person who would have been executor on the date the last eligible beneficiary died or became ineligible.

If you joined on or after July 26, 1986, and there are no other eligible beneficiaries, payment of the benefit would cease upon your spouse's death or remarriage.

The Tier 3 (Article 14) Benefit

This is a pension equal to one-half of your FAS. Each April, the benefit may change depending on the amount of the increase or decrease in the Consumer Price Index, or by 3 percent, whichever is less. The benefit will never be reduced below the amount initially paid. It is paid to your beneficiaries, in this order:

- To your surviving spouse, provided he or she has not renounced survivorship rights in a separation agreement, until remarriage; or

- To your surviving children, until they reach age 25; or
- To your dependent parent or parents, as determined under regulations established by the Comptroller; or
- To any other person who qualified as a dependent on your final federal income tax return, or the return filed in the year immediately preceding the year of your death, until this person reaches age 21.

If the total of all the accidental death benefit payments is not more than the amount of the ordinary death benefit, the difference will be paid to the last eligible beneficiary or beneficiaries. If none exist, the benefit will be paid to the executors of your will, or the persons who would be the executors if you die without making a will. The application for the accidental death benefit must be filed within two years of your date of death.

Filing

Your family or employer should notify us of your death as soon as possible so we can forward the appropriate forms to your beneficiary. The application for the accidental death benefit must be filed within 60 days of your date of death.

World Trade Center Presumption

If you participated in the World Trade Center rescue, recovery or clean up efforts, and you were a member of the Retirement System at that time, you should be aware of the benefits provided by the World Trade Center Presumption law.

- You may be eligible for an accidental disability retirement benefit if you become permanently disabled and unable to perform your job due to a qualifying condition.
- You may be eligible to reclassify your service or disability retirement benefit to an accidental disability retirement benefit if you develop a qualifying condition after you retire.
- Certain family beneficiaries may be eligible to receive an accidental death benefit if you die from a qualifying condition.

There are specific eligibility requirements and filing deadlines for these benefits. For more information, visit our World Trade Center Presumption page.

Receiving Your Benefits

APPLYING FOR BENEFITS

To apply for benefits, you must file the appropriate application form with the Office of the State Comptroller in a timely manner. Forms are available from our website, our Call Center or your employer. Specific filing instructions are detailed in each benefit description. If you need help, you can call or write to us, or make an appointment to speak with an Information Representative at one of our 16 consultation sites throughout New York State.

Filing With the Office of the State Comptroller

Many retirement benefit applications and other documents are required by law to be filed with the Office of the State Comptroller within specific time limits. For a form to be considered as “filed with the Comptroller,” it must be received by our Albany office, one of our consultation sites, or another office of the State Comptroller. **Giving your employer the form does not mean that you have “filed with the Comptroller.”**

As an alternative to visiting our offices to file these time-sensitive documents personally, you can fulfill the filing requirements by mailing the document to us. We will consider it filed when it is delivered to us by the Post Office. If you are concerned about meeting a filing deadline, you can mail the document via “Certified Mail — Return Receipt Requested.” When we receive the document, it will be considered as having been filed on the same date it was mailed.

To meet a filing deadline (such as an application for retirement benefits or an option election form), you can also send the document to us via fax. Although we will consider the form as filed on the date the transmission is received, you must still mail us the original document to continue the process and properly complete the filing requirement.

Filing Multiple Applications

Should you become ill or disabled and unable to perform your duties, depending on the circumstances, you may be eligible to file applications without prejudice for disability and regular service retirement benefits simultaneously. Filed without prejudice means we will process all filed applications and, if more than one benefit is approved, you will be given the opportunity to choose your pension from the approved benefits.

CHALLENGING A DETERMINATION

We can pay only those benefits authorized by law, and cannot pay you any benefits if you do not meet all the eligibility requirements established by law. If you believe that your benefit has been incorrectly denied or improperly calculated, you may request a hearing and redetermination to be held before a hearing officer.

Your request must be in writing and directed to the Hearing Administration Bureau within four months of the determination date. We will send you an acknowledgment letter and an explanation of the hearing process when we receive your written request. If you have questions regarding the hearing process, please email our Hearing Administration Bureau at Hearings@osc.state.ny.us or call us at 1-866-805-0990 or 518-474-7736 in the Albany, New York area.

How to Stay Informed

Your retirement benefits are an important part of a solid financial plan. They can help you and your beneficiaries achieve financial security in retirement or in the event of disability or death. Use these tips to help you understand your benefits and stay informed.

- Enroll in *Retirement Online*, and access your personal retirement-related information quickly, easily and securely on our website.
- Sign up for *E-News*, our free email newsletter, for the latest retirement news. It includes a special section dedicated to pre-retirement planning.
- Read the member newsletters we publish for current retirement information and updates on your benefits.
- Review your Member Annual Statement carefully and correct any errors quickly.
- Visit our website frequently to learn about your benefits, download forms, read informative booklets and brochures, and get tips on preparing for retirement.
- Attend a pre-retirement presentation to learn about the retirement process, find out what you can expect and discuss post-retirement issues. At your employer's request, we offer these presentations designed for members within five years of retirement eligibility.
- Visit any of our 16 consultation sites where you can meet with an Information Representative to discuss special concerns or request specific information.

- Notify us if your mailing address changes, so you can stay up-to-date about benefits. This is especially important if you leave public employment before you are eligible to retire.
- Contact us with any questions you have about your benefits.

Email: Visit our website at
www.osc.state.ny.us/retire
and click on “Contact Us”

Phone: 1-866-805-0990 or
518-474-7736 if you live in
the Albany, New York area

Fax: 518-402-4433
(Please include your name,
retirement registration number,
phone number and the person or
department you wish to reach.)

Mail: New York State and
Local Retirement System
110 State Street
Albany, NY 12244-0001

About This Summary

This retirement plan summary describes the benefits available to Tier 3, 4 and 5 sheriffs, undersheriffs and certain deputy sheriffs who elect the 25-year plan (Section 551), the additional benefits of Section 551(e), the 20-year plan (Section 552), or the additional benefits of Section 553 provided by the New York State Retirement and Social Security Law (RSSL) as enacted by the New York State Legislature.

Throughout this presentation, you will find references to “Sections” and “Articles” that refer to the RSSL. The New York State and Local Retirement System, headed by the Comptroller of the State of New York, administers these plans. Our main office is in Albany, New York.

This is a general summary of membership benefits, rights and responsibilities, and is not a substitute for any New York State or federal law. For specific information about your benefits, please contact us.

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