

SUMMARY OF THE 2009 TIER V LEGISLATION

The Pension Tier we know as Tier II was first signed into law in 1973, and from 1976 until 2009, every Governor of the State of New York signed successive bills extending Tier II for 2 more years until Governor Paterson took office. In the Spring of 2009 both Houses of the Legislature passed the usual Tier II extender bill, but Governor Paterson vetoed it without any plan for where newly-hired police and fire employees would be placed in the Pension System. Tier III was about to expire as well, and while there is a Tier IV, it specifically excludes police and fire from membership.

Governor Paterson vetoed the Tier II extender with the obvious intent of forcing negotiation of a new Tier V, and his initial ideas on Tier V (“Pension Reform”), were very unfavorable for new police officers. The Governor’s initial Tier V proposal provided for a 25 year half-pay pension with 50 year minimum retirement age, 3% contribution by the Member and a final average salary limited to base pay only.

Governor Paterson next signed a piece of legislation extending Tier III for another two years, which meant that if we didn’t negotiate a new Tier V, then newly-hired police officers would go into Tier III. The Tier III pension plan provides for the following benefits:

- A 22 year retirement at ½ pay (no additional 1/60^{ths});
- 3% contribution per year for as long as the Member remains employed;
- Offset of 50% of the Member's Social Security benefits upon reaching the age of 62;
- 1-3% COLA (which is only maximized by those who work 25 years); and
- Disability Retirement limited to 50% of final average salary and offset by Worker's Compensation benefits and Social Security.

With Tier III as the drop-back and Tier II as the goal, we began negotiating with the Governor's Office on a new Tier V. While the final version of Tier V that was just signed into law by Governor Paterson several days ago does not bring new hires all the way back up to Tier II, it is significantly better than his original Tier V proposals or Tier III.

The important points to be aware of concerning the new Tier V bill signed by the Governor include the following:

1. It has no impact on anyone who was already a Member of the Retirement System as of July 1, 2009.

2. If your collective bargaining agreement obligates the municipality to provide bargaining unit members with a specific retirement plan (such as 384-d, 384-e, etc.), then your new hires should receive those same benefits.
3. If your collective bargaining agreement does not so provide, then new hires go into Tier V, which provides the following benefits:
 - 20-year $\frac{1}{2}$ pay pension
 - 10 year vesting instead of 5 years
 - Overtime includable in final average salary limited to 15% of Member's annual wages not classified as overtime compensation. This should not be a huge problem because all members of the Retirement System regardless of Tier are subject to the Kingston Rule which limits each year of final average salary to not more than 20% of the average of the two previous years. The overtime limitation of 15% contained in Tier V does not include pay raises, step increases and promotions, so many Members will reach the 20% limitation they would otherwise have been subject to anyway.

4. Tier V specifically incorporates all of the provisions of Tier I and Tier II except to the extent that they are inconsistent with Tier V. That means that the disability retirement benefits provided under Tier I and Tier II (75% Accidental and 50% Performance-of-Duty) are available to Tier V Members.

The foregoing represents our understanding and interpretation of what the new Tier V legislation means. The law was hastily put together and drafted, so as it moves forward through interpretation and application by the Comptroller's Office and the Courts, there may be some wrinkles to iron out. The following chart should be helpful to your new hires as they come on the job.