

# STATE OF NEW YORK

5902--C

2019-2020 Regular Sessions

## IN SENATE

May 16, 2019

Introduced by Sen. GOUNARDES -- 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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the retirement and social security law, the education law and the administrative code of the city of New York, in relation to providing cost-of-living adjustments

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

Section 1. Subdivision a of section 78-a of the retirement and social security law, as added by chapter 125 of the laws of 2000, is amended to read as follows:

a. [A] Effective on the first day of September, two thousand nineteen, a cost-of-living adjustment shall be payable on the basis provided for in this section to: (i) all pensioners who have attained age ~~[sixty-two]~~ fifty-five and have been retired for five years; (ii) ~~[all pensioners who have attained age fifty-five and have been retired for ten years; (iii)]~~ all disability pensioners regardless of age who have been retired for five years; and ~~[(iv)]~~ (iii) all recipients of an accidental death benefit regardless of age who have been receiving such benefit for five years.

§ 2. Subdivision a of section 378-a of the retirement and social security law, as added by chapter 125 of the laws of 2000, is amended to read as follows:

a. [A] Effective on the first day of September, two thousand nineteen, a cost-of-living adjustment shall be payable on the basis provided for in this section to: (i) all pensioners who have attained age ~~[sixty-two]~~ fifty-five and have been retired for five years; and (ii) ~~[all pension-~~

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

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1 ~~ers who have attained age fifty five and have been retired for ten~~  
2 ~~years; and (iii)]~~ all disability pensioners regardless of age who have  
3 been retired for five years.

4 § 3. Subdivision a of section 532-a of the education law, as added by  
5 chapter 125 of the laws of 2000, is amended to read as follows:

6 a. [A] Effective on the first day of September, two thousand nineteen,  
7 a cost-of-living adjustment shall be payable on the basis provided for  
8 in this section to: (i) all pensioners who have attained age ~~[sixty-two]~~  
9 fifty-five and have been retired for five years; (ii) ~~[all pensioners~~  
10 ~~who have attained age fifty five and have been retired for ten years;~~  
11 ~~(iii)]~~ all disability pensioners regardless of age who have been retired  
12 for five years; and ~~[(iv)]~~ (iii) all recipients of an accidental death  
13 benefit regardless of age who have been receiving such benefit for five  
14 years.

15 § 4. Subdivision a of section 13-696 of the administrative code of the  
16 city of New York, as amended by chapter 288 of the laws of 2001, is  
17 amended to read as follows:

18 a. [A] Effective on the first day of September, two thousand nineteen,  
19 a cost-of-living adjustment shall be payable to retired members of the  
20 New York city employees' retirement system, the New York city teachers'  
21 retirement system, the New York city police pension fund, the New York  
22 city fire department pension fund, the New York city board of education  
23 retirement system or the relief and pension fund of the department of  
24 street cleaning provided for in subchapter one of this chapter on the  
25 basis provided for in this section to: (i) all retired members who have  
26 attained age ~~[sixty-two]~~ fifty-five and have been retired for five  
27 years; (ii) ~~[all retired members who have attained age fifty five and~~  
28 ~~have been retired for ten years; (iii)]~~ all members who retired for  
29 disability regardless of age who have been retired for five years; and  
30 ~~[(iv)]~~ (iii) all recipients of an accidental death benefit regardless of  
31 age who have been receiving such benefit for five years.

32 § 5. This act shall take effect immediately.

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

This bill would provide an increase in the defined benefit cost-of-living adjustment (COLA) for New York public retirement systems. Starting with a payment in September 2019, COLA will be payable to pensioners who have attained age fifty-five and been retired at least five years.

Insofar as this bill affects the New York State and Local Employees' Retirement System, pursuant to Section 25 of the Retirement and Social Security Law, the increased costs would be borne entirely by the State of New York and would require an itemized appropriation sufficient to pay the cost of the provision. If this bill were enacted, the increase in the present value of benefits would be approximately \$406 million.

Insofar as this bill affects the New York State and Local Police and Fire Retirement System (PFRS), the increased costs would be shared by the State of New York and the participating employers in the PFRS. If this bill were enacted, the increase in the present value of benefits would be approximately \$78 million. The estimated first year cost would be approximately \$1.9 million to the State of New York and approximately \$7.5 million to the participating employers in the PFRS.

Summary of relevant resources:

The membership data used in measuring the impact of the proposed change was the same as that used in the March 31, 2018 actuarial valuation. Distributions and other statistics can be found in the 2018 Report of the Actuary and the 2018 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2015, 2016, 2017 and 2018 Annual Report to the Comptroller on Actuarial Assumptions, and the Codes, Rules and Regulations of the State of New York: Audit and Control.

The Market Assets and GASB Disclosures are found in the March 31, 2018 New York State and Local Retirement System Financial Statements and Supplementary Information.

I am a member of the American Academy of Actuaries and meet the Qualification Standards to render the actuarial opinion contained herein.

This fiscal note does not constitute a legal opinion on the viability of the proposed change nor is it intended to serve as a substitute for the professional judgment of an attorney.

This estimate, dated May 16, 2019, and intended for use only during the 2019 Legislative Session, is Fiscal Note No. 2019-120, prepared by the Actuary for the New York State and Local Retirement System.

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

This bill would amend subdivision a of Section 532-a of the Education Law to lower the eligibility age for the cost-of-living adjustment (COLA) to all pensioners retired for service to age 55 with five years of retirement. The current COLA eligibility requirement is the earlier of: 1) age 62 and five years retired, or 2) age 55 and ten years retired. This change would first be effective in September of 2019.

The annual cost to the employers of members of the New York State Teachers' Retirement System for this benefit is estimated to be \$11.3 million or 0.07% of payroll if this bill is enacted.

Member data is from the System's most recent actuarial valuation files, consisting of data provided by the employers to the Retirement System. Data distributions and statistics can be found in the System's Comprehensive Annual Financial Report (CAFR). System assets are as reported in the System's financial statements and can also be found in the CAFR. Actuarial assumptions and methods are provided in the System's Actuarial Valuation Report.

The source of this estimate is Fiscal Note 2019-30 dated June 14, 2019 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2019 Legislative Session. I, Richard A. Young, am the Actuary for the New York State Teachers' Retirement System. I am a member of the American Academy of Actuaries and I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

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

SUMMARY OF BILL: This proposed legislation would amend Section 13-696 of the Administrative Code of the City of New York (ACCNYS) to reduce the age of eligibility for the Cost-of-Living Adjustment (COLA) from 62 to 55 for service and vested retirees who have been retired for five years from the New York City Employees' Retirement System (NYCERS), the New York City Teachers' Retirement System (NYCTRS), the New York City Board of Education Retirement System (BERS), the New York City Police Pension Fund (POLICE), and the New York City Fire Pension Fund (FIRE), collectively known as the New York City Retirement Systems and Pension Funds (NYCRS).

Effective Date: Upon enactment.

BACKGROUND: Currently, COLA is payable to service and vested retirees who have:

- (1) attained age 62 and have been retired for five years or
- (2) attained age 55 and have been retired for ten years.

Under this proposed legislation, if enacted, the COLA would be payable to such retirees who have attained age 55 and have been retired for five years.

The COLA for disability retirement and death is payable after having been retired for five years and is not affected by the proposed legislation.

**FINANCIAL IMPACT-SUMMARY:** The estimated financial impact to NYCERS for reducing the age of eligibility for COLA from 62 to 55 for service and vested retirees who have been retired for five years as described above is an increase in Present Value of Future Benefits (PVFB) of \$198.8 million and an increase in the annual employer contributions of \$116.4 million. A breakdown of the financial impact by System is shown in the table below.

|        | Additional Present<br>Value of Future Benefits<br>(\$ Millions) | Estimated First Year<br>Annual Employer<br>Contributions*<br>(\$ Millions) |
|--------|-----------------------------------------------------------------|----------------------------------------------------------------------------|
| NYCRS  |                                                                 |                                                                            |
| NYCERS | \$ 75.9                                                         | \$ 48.4                                                                    |
| NYCTRS | 52.2                                                            | 29.7                                                                       |
| BERS   | 1.1                                                             | 0.7                                                                        |
| POLICE | 63.6                                                            | 34.8                                                                       |
| FIRE   | <u>6.0</u>                                                      | <u>2.8</u>                                                                 |
| Total  | \$198.8                                                         | \$116.4                                                                    |

\*Employer contributions after the first year are estimated to be \$12 - \$13 million per year.

In accordance with ACCNY Section 13-638.2(k-2), new Unfunded Accrued Liability (UAL) 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.

For the purposes of this Fiscal Note it has been assumed that increases in UAL attributable to current retirees would be recognized immediately and that increases in UAL attributable to active members would be amortized over periods ranging from 12 to 15 years depending on the NYCERS (11 to 14 payments, respectively, under the One-Year Lag Methodology (OYLM)).

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

\* The initial, additional administrative costs to implement the proposed legislation.

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

**CONTRIBUTION TIMING:** For the purposes of this Fiscal Note, it is assumed that the changes in the PVFB and annual employer contributions would be reflected for the first time in the June 30, 2018 actuarial valuations of the NYCERS. In accordance with the OYLM used to determine employer contributions, the increase in employer contributions would first be reflected in Fiscal Year 2020.

**CENSUS DATA:** The estimates presented herein are based on the census data used in the Preliminary June 30, 2018 (Lag) actuarial valuations of NYCERS to determine the Preliminary Fiscal Year 2020 employer contributions.

**ACTUARIAL ASSUMPTIONS AND METHODS:** The changes in the PVFB and annual employer contributions presented herein have been calculated based on the same actuarial assumptions and methods in effect for the June 30,

2018 (Lag) actuarial valuations used to determine the Preliminary Fiscal Year 2020 employer contributions of NYCERS.

**RISK AND UNCERTAINTY:** The costs presented in this Fiscal Note depend highly on the actuarial assumptions and methods used and are subject to change based on the realization of potential investment, demographic, contribution, and other risks. If actual experience deviates from actuarial assumptions, the actual costs could differ from those presented herein. Costs are also dependent on the actuarial methods used, and therefore different actuarial methods could produce different results. Quantifying these risks is beyond the scope of this Fiscal Note.

**STATEMENT OF ACTUARIAL OPINION:** I, Sherry S. Chan, am the Chief Actuary for, and independent of, the New York City Retirement Systems and Pension Funds. I am a Fellow of the Society of Actuaries, an Enrolled Actuary under the Employee Retirement Income and Security Act of 1974, a Member of the American Academy of Actuaries, and a Fellow of the Conference of Consulting Actuaries. I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein. To the best of my knowledge, the results contained herein have been prepared in accordance with generally accepted actuarial principles and procedures and with the Actuarial Standards of Practice issued by the Actuarial Standards Board.

**FISCAL NOTE IDENTIFICATION:** This Fiscal Note 2019-43 dated July 25, 2019 was prepared by the Chief Actuary for the New York City Employees' Retirement System, the New York City Teachers' Retirement System, the New York City Board of Education Retirement System, the New York City Police Pension Fund, and the New York City Fire Pension Fund. This estimate is intended for use only during the 2019 Legislative Session.