

STATE OF NEW YORK

7730

2021-2022 Regular Sessions

IN ASSEMBLY

May 20, 2021

Introduced by M. of A. ABBATE -- (at request of the State Comptroller)
-- read once and referred to the Committee on Governmental Employees

AN ACT to amend the retirement and social security law, in relation to the ordinary death benefit

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

1 Section 1. The closing paragraph of paragraph 2 of subdivision a of
2 section 448 of the retirement and social security law, as amended by
3 chapter 513 of the laws of 2010, is amended to read as follows:

4 In the case of a member of the New York state teachers' retirement
5 system, commencing upon attainment of age [~~sixty-one~~] sixty-two if such
6 member's date of membership is prior to April first, two thousand twelve
7 or attainment of age sixty-three if such member's date of membership is
8 on or after April first, two thousand twelve, the benefit otherwise
9 provided pursuant to this paragraph shall be reduced while the member is
10 in service to ninety-six per centum of the benefit otherwise payable and
11 each year thereafter the benefit payable shall be reduced by an amount
12 equal to four per centum per year of the original benefit otherwise
13 payable, but not below sixty per centum of the original benefit other-
14 wise payable. In the case of a member of the New York city employees'
15 retirement system, the New York city board of education retirement
16 system or the New York city teachers' retirement system, commencing upon
17 attainment of age sixty-one, the benefit otherwise provided pursuant to
18 this paragraph shall be reduced while the member is in service to nine-
19 ty-five per centum of the benefit otherwise payable and each year there-
20 after the benefit payable shall be reduced by an amount equal to five
21 per centum per year of the original benefit otherwise payable, but not
22 below fifty per centum of the original benefit otherwise payable. In the
23 case of any member of the New York state and local employees' retirement
24 system who is permitted to retire without regard to age or a member of
25 the New York state and local police and fire retirement system, commenc-

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

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ing upon attainment of age [~~sixty-one~~] sixty-two if such member's date of membership is prior to April first, two thousand twelve or attainment of age sixty-three if such member's date of membership is on or after April first, two thousand twelve, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety-seven per centum of the benefit otherwise payable, and each year thereafter the benefit payable shall be reduced by an amount equal to three per centum per year of the original benefit otherwise payable, but not below seventy per centum of the original benefit otherwise payable. In the case of any other member of the New York state and local employees' retirement system, commencing upon attainment of age [~~sixty-one~~] sixty-two if such member's date of membership is prior to April first, two thousand twelve or attainment of age sixty-three if such member's date of membership is on or after April first, two thousand twelve, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety-six per centum of the benefit otherwise payable, and each year thereafter the benefit payable shall be reduced by an amount equal to four per centum per year of the original benefit otherwise payable, but not below sixty per centum of the original benefit otherwise payable. Upon retirement from any retirement system, the benefit in force shall be reduced by fifty per centum; upon completion of the first year of retirement, the benefit in force at the time of retirement shall be reduced by an additional twenty-five per centum, and upon commencement of the third year of retirement, the benefit shall be ten per centum of the benefit in force at age sixty, if any, or at the time of retirement if retirement preceded such age; provided, however, the benefit in retirement shall not be reduced below ten per centum of the benefit in force at age sixty, if any, or at the time of retirement if retirement preceded such age. Notwithstanding any other provision of this paragraph to the contrary, the benefit for a retiree from the New York state and local employees' retirement system shall not be reduced below ten per centum of the benefit in force at the time of retirement.

§ 2. The closing paragraph of paragraph 2 of subdivision a of section 508 of the retirement and social security law, as amended by chapter 513 of the laws of 2010, is amended to read as follows:

Notwithstanding any other provision of this paragraph, in the case of a member of the New York state teachers' retirement system, commencing upon attainment of age [~~sixty-one~~] sixty-two if such member's date of membership is prior to April first, two thousand twelve or attainment of age sixty-three if such member's date of membership is on or after April first, two thousand twelve, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety-six per centum of the benefit otherwise payable, and each year thereafter the benefit payable shall be reduced by an amount equal to four per centum per year of the original benefit otherwise payable, but not below sixty per centum of the original benefit otherwise payable. In the case of a member of the New York city employees' retirement system, the New York city board of education retirement system or the New York city teachers' retirement system, commencing upon attainment of age sixty-one, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety-five per centum of the benefit otherwise payable and each year thereafter the benefit payable shall be reduced by an amount equal to five per centum per year of the original benefit otherwise payable, but not below fifty per centum of the original benefit otherwise payable. In the case of any member of the

1 New York state and local employees' retirement system who is permitted
2 to retire without regard to age, commencing upon attainment of age
3 ~~[sixty-one]~~ sixty-two if such member's date of membership is prior to
4 April first, two thousand twelve or attainment of age sixty-three if
5 such member's date of membership is on or after April first, two thou-
6 sand twelve, the benefit otherwise provided pursuant to this paragraph
7 shall be reduced while the member is in service to ninety-seven per
8 centum of the benefit otherwise payable, and each year thereafter the
9 benefit payable shall be reduced by an amount equal to three per centum
10 per year of the original benefit otherwise payable, but not below seven-
11 ty per centum of the original benefit otherwise payable. In the case of
12 any other member of the New York state and local employees' retirement
13 system, commencing upon attainment of age ~~[sixty-one]~~ sixty-two if such
14 member's date of membership is prior to April first, two thousand twelve
15 or attainment of age sixty-three if such member's date of membership is
16 on or after April first, two thousand twelve, the benefit otherwise
17 provided pursuant to this paragraph shall be reduced while the member is
18 in service to ninety-six per centum of the benefit otherwise payable,
19 and each year thereafter the benefit payable shall be reduced by an
20 amount equal to four per centum per year of the original benefit other-
21 wise payable, but not below sixty per centum of the original benefit
22 otherwise payable. Upon retirement from any retirement system, the bene-
23 fit in force shall be reduced by fifty per centum; upon completion of
24 the first year of retirement, the benefit in force at the time of
25 retirement shall be reduced by an additional twenty-five per centum, and
26 upon commencement of the third year of retirement, the benefit shall be
27 ten per centum of the benefit in force at age sixty, if any, or at the
28 time of retirement if retirement preceded such age; provided, however,
29 the benefit in retirement shall not be reduced below ten per centum of
30 the benefit in force at age sixty, if any, or at the time of retirement
31 if retirement preceded such age. Notwithstanding any other provision of
32 this paragraph to the contrary, the benefit for a retiree from the New
33 York state and local employees' retirement system shall not be reduced
34 below ten per centum of the benefit in force at the time of retirement.

35 § 3. The closing subparagraph of paragraph 2 of subdivision a of
36 section 606 of the retirement and social security law, as amended by
37 chapter 513 of the laws of 2010, is amended to read as follows:

38 In the case of a member of the New York state teachers' retirement
39 system, commencing upon attainment of age ~~[sixty-one]~~ sixty-two if such
40 member's date of membership is prior to April first, two thousand twelve
41 or attainment of age sixty-three if such member's date of membership is
42 on or after April first, two thousand twelve, the benefit otherwise
43 provided pursuant to this paragraph shall be reduced while the member is
44 in service to ninety-six per centum of the benefit otherwise payable,
45 and each year thereafter the benefit payable shall be reduced by an
46 amount equal to four per centum per year of the original benefit other-
47 wise payable, but not below sixty per centum of the original benefit
48 otherwise payable. In the case of a member of the New York city employ-
49 ees' retirement system, the New York city board of education retirement
50 system or the New York city teachers' retirement system, commencing upon
51 attainment of age sixty-one, the benefit otherwise provided pursuant to
52 this paragraph shall be reduced while the member is in service to nine-
53 ty-five per centum of the benefit otherwise payable and each year there-
54 after the benefit payable shall be reduced by an amount equal to five
55 per centum per year of the original benefit otherwise payable, but not
56 below fifty per centum of the original benefit otherwise payable. In the

1 case of any member of the New York state and local employees' retirement
2 system who is permitted to retire without regard to age, commencing upon
3 attainment of age [~~sixty-one~~] sixty-two if such member's date of member-
4 ship is prior to April first, two thousand twelve or attainment of age
5 sixty-three if such member's date of membership is on or after April
6 first, two thousand twelve, the benefit otherwise provided pursuant to
7 this paragraph shall be reduced while the member is in service to nine-
8 ty-seven per centum of the benefit otherwise payable, and each year
9 thereafter the benefit payable shall be reduced by an amount equal to
10 three per centum per year of the original benefit otherwise payable, but
11 not below seventy per centum of the original benefit otherwise payable.
12 In the case of any other member of the New York state and local employ-
13 ees' retirement system, commencing upon attainment of age [~~sixty-one~~]
14 sixty-two if such member's date of membership is prior to April first,
15 two thousand twelve or attainment of age sixty-three if such member's
16 date of membership is on or after April first, two thousand twelve, the
17 benefit otherwise provided pursuant to this paragraph shall be reduced
18 while the member is in service to ninety-six per centum of the benefit
19 otherwise payable, and each year thereafter the benefit payable shall be
20 reduced by an amount equal to four per centum per year of the original
21 benefit otherwise payable, but not below sixty per centum of the
22 original benefit otherwise payable. Upon retirement, from any retirement
23 system, the benefit in force shall be reduced by fifty per centum; upon
24 completion of the first year of retirement, the benefit in force at the
25 time of retirement shall be reduced by an additional twenty-five per
26 centum, and upon commencement of the third year of retirement, the bene-
27 fit shall be ten per centum of the benefit in force at age sixty, if
28 any, or at the time of retirement if retirement preceded such age;
29 provided, however, the benefit in retirement shall not be reduced below
30 ten per centum of the benefit in force at age sixty, if any, or at the
31 time of retirement if retirement preceded such age. Notwithstanding any
32 other provision of this paragraph to the contrary, the benefit for a
33 retiree from the New York state and local employees' retirement system
34 shall not be reduced below ten per centum of the benefit in force at the
35 time of retirement.

36 § 4. Notwithstanding any other provision of law to the contrary, the
37 provisions of this act shall not be subject to section 25 of the retire-
38 ment and social security law.

39 § 5. This act shall take effect on the first of April next succeeding
40 the date on which it shall have become a law.

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

This bill would delay reductions in the ordinary death benefits paya-
ble to beneficiaries of the New York State and Local Employees' Retirement
System (ERS) and New York State and Local Police and Fire Retirement
System (PFRS), ensuring that no reduction applies before a member
becomes eligible for an unreduced retirement benefit. Currently, annual
reductions of 4% (ERS age-based plans) or 3% (all other plans) are
applied to ordinary death benefits immediately when a member attains age
61. This bill would delay the reductions until age 62 for members in
Tiers 1-5, and age 63 for members in Tier 6.

Insofar as this bill affects the ERS, if this legislation is enacted
during the 2021 legislative session, there would be an increase in the
present value of future costs of approximately \$19.4 million which would
be shared by the State of New York and all of the participating employ-
ers in the ERS. The estimated first year cost would be approximately

\$954,000 to the State of New York and approximately \$1.37 million to the participating employers in the ERS.

Insofar as this bill affects PFRS, if this legislation is enacted during the 2021 legislative session, we anticipate that the cost will be negligible.

Summary of relevant resources:

Membership data as of March 31, 2020 was used in measuring the impact of the proposed change, the same data used in the April 1, 2020 actuarial valuation. Distributions and other statistics can be found in the 2020 Report of the Actuary and the 2020 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2020 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, 2020 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 April 1, 2021, and intended for use only during the 2021 Legislative Session, is Fiscal Note No. 2021-113, prepared by the Actuary for the New York State and Local Retirement System.

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

This bill (legislative bill draft 10525-03-1) would amend Section 448, Section 508 and Section 606 of the Retirement and Social Security Law to change the age at which reductions to the ordinary death benefit commence for active members of the New York State Teachers' Retirement System who die in service. Currently, the ordinary death benefit is reduced by four percent per year commencing at age 61. This bill would change the age at which reductions commence to age 62 for members with a date of membership prior to April 1, 2012 and to age 63 for members with a date of membership on or after April 1, 2012. This bill would apply to active member deaths on or after the effective date of this bill.

The annual cost to the employers of members of the New York State Teachers' Retirement System for this benefit is estimated to be \$1.1 million or .01% 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 Annual Report. System assets are as reported in the System's financial statements, and can also be found in the System's Annual Report. Actuarial assumptions and methods are provided in the System's Actuarial Valuation Report.

The source of this estimate is Fiscal Note 2021-52 dated May 12, 2021 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2021 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.