S T A T E O F N E W Y O R K

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2009-2010 Regular Sessions

I N A S S E M B L Y

January 21, 2009

Introduced by M. of A. ABBATE, BENEDETTO, BOYLAND, CAHILL, COLTON, McENENY, SCHROEDER -- Multi-Sponsored by -- M. of A. AUBRY, CHRISTENSEN, CLARK, HOOPER, JOHN, KELLNER, ORTIZ, PERRY, PHEFFER, J. RIVERA, N. RIVERA, SWEENEY, WEINSTEIN, WEISENBERG -- read once and referred to the Committee on Governmental Employees

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 f 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:

f. Commencing September first, two thousand, all retired members who have retired prior to the calendar year nineteen hundred ninety-seven and who meet the eligibility criteria set forth in subdivision a of this section shall be paid an adjusted benefit in monthly installments on the basis provided for in this subdivision. Said adjusted benefit shall be equal to a percentage of the change in consumer price index (all urban consumers, CPI-U, U.S. city average, all items, 1982-84=100), published by the United States bureau of labor statistics, measured from the year of retirement through calendar year nineteen hundred ninety-seven according to the following schedule:

Year of retirement	Percentage
1968 through 1996	50%
1966 and 1967	55%
1965	60%
1964	65%
1963	70%
1962	80%

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

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1961	90%
prior to 1961	100%

Said adjusted benefit shall be computed on a base benefit amount not to exceed eighteen thousand dollars of the retirement allowance otherwise payable, computed without optional modification. Any benefit received pursuant to this subdivision shall be in lieu of any benefit received pursuant to section seventy-eight of this title.

COMMENCING SEPTEMBER FIRST, TWO THOUSAND NINE, ALL RETIRED MEMBERS WHO HAVE RETIRED PRIOR TO THE CALENDAR YEAR NINETEEN HUNDRED NINETY-SEVEN AND WHO MEET THE ELIGIBILITY CRITERIA SET FORTH IN SUBDIVISION A OF THIS SECTION SHALL BE PAID AN ADJUSTED BENEFIT IN MONTHLY INSTALLMENTS ON THE BASIS PROVIDED FOR IN THIS SUBDIVISION. SAID ADJUSTED BENEFIT SHALL BE EQUAL TO A PERCENTAGE OF THE CHANGE IN CONSUMER PRICE INDEX (ALL URBAN CONSUMERS, CPI-U, U.S. CITY AVERAGE, ALL ITEMS, 1982-84=100), PUBLISHED BY THE UNITED STATES BUREAU OF LABOR STATISTICS, MEASURED FROM THE YEAR OF RETIREMENT THROUGH CALENDAR YEAR NINETEEN HUNDRED NINETY-SEVEN ACCORDING TO THE FOLLOWING SCHEDULE:

YEAR OF RETIREMENT	PERCENTAGE
1973 THROUGH 1996	50%
1971 AND 1972	55%
1970	60%
1969	65%
1968	70%
1967	80%
1966	90%
PRIOR TO 1966	100%

SAID ADJUSTED BENEFIT COMMENCING SEPTEMBER FIRST, TWO THOUSAND NINE, SHALL BE COMPUTED ON THE BASE BENEFIT AMOUNT OF THE RETIREMENT ALLOWANCE OTHERWISE PAYABLE, COMPUTED WITHOUT OPTIONAL MODIFICATION, SET FORTH HEREIN ABOVE. ANY BENEFIT RECEIVED PURSUANT TO THIS SUBDIVISION SHALL BE IN LIEU OF ANY BENEFIT RECEIVED PURSUANT TO SECTION SEVENTY-EIGHT OF THIS TITLE.

S 2. Subdivision f 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:

f. Commencing September first, two thousand, all retired members who have retired prior to the calendar year nineteen hundred ninety-seven and who meet the eligibility criteria set forth in subdivision a of this section shall be paid an adjusted benefit in monthly installments on the basis provided for in this subdivision. Said adjusted benefit shall be equal to a percentage of the change in consumer price index (all urban consumers, CPI-U, U.S. city average, all items, 1982-84=100), published by the United States bureau of labor statistics, measured from the year of retirement through calendar year nineteen hundred ninety-seven according to the following schedule:

Year of retirement	Percentage
1968 through 1996	50%
1966 and 1967	55%
1965	60%
1964	65%
1963	70%
1962	80%
1961	90%
prior to 1961	100%

Said adjusted benefit shall be computed on a base benefit amount not to exceed eighteen thousand dollars of the retirement allowance otherwise payable, computed without optional modification. Any benefit received pursuant to this subdivision shall be in lieu of any benefit received pursuant to section three hundred seventy-eight of this title.

COMMENCING SEPTEMBER FIRST, TWO THOUSAND NINE, ALL RETIRED MEMBERS WHO HAVE RETIRED PRIOR TO THE CALENDAR YEAR NINETEEN HUNDRED NINETY-SEVEN AND WHO MEET THE ELIGIBILITY CRITERIA SET FORTH IN SUBDIVISION A OF THIS SECTION SHALL BE PAID AN ADJUSTED BENEFIT IN MONTHLY INSTALLMENTS ON THE BASIS PROVIDED FOR IN THIS SUBDIVISION. SAID ADJUSTED BENEFIT SHALL BE EQUAL TO A PERCENTAGE OF THE CHANGE IN CONSUMER PRICE INDEX (ALL URBAN CONSUMERS, CPI-U, U.S. CITY AVERAGE, ALL ITEMS, 1982-84=100), PUBLISHED BY THE UNITED STATES BUREAU OF LABOR STATISTICS, MEASURED FROM THE YEAR OF RETIREMENT THROUGH CALENDAR YEAR NINETEEN HUNDRED NINETY-SEVEN ACCORDING TO THE FOLLOWING SCHEDULE:

YEAR OF RETIREMENT	PERCENTAGE
1973 THROUGH 1996	50%
1971 AND 1972	55%
1970	60%
1969	65%
1968	70%
1967	80%
1966	90%
PRIOR TO 1966	100%

SAID ADJUSTED BENEFIT COMMENCING SEPTEMBER FIRST, TWO THOUSAND NINE, SHALL BE COMPUTED ON THE BASE BENEFIT AMOUNT OF THE RETIREMENT ALLOWANCE OTHERWISE PAYABLE, COMPUTED WITHOUT OPTIONAL MODIFICATION, SET FORTH HEREIN ABOVE. ANY BENEFIT RECEIVED PURSUANT TO THIS SUBDIVISION SHALL BE IN LIEU OF ANY BENEFIT RECEIVED PURSUANT TO SECTION THREE HUNDRED SEVENTY-EIGHT OF THIS TITLE.

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

f. Commencing September first, two thousand, all retired members who have retired prior to the calendar year nineteen hundred ninety-seven and who meet the eligibility criteria set forth in subdivision a of this section shall be paid an adjusted benefit in monthly installments on the basis provided for in this subdivision. Said adjusted benefit shall be equal to a percentage of the change in consumer price index (all urban consumers, CPI-U, U.S. city average, all items, 1982-84=100), published by the United States bureau of labor statistics, measured from the year of retirement through calendar year nineteen hundred ninety-seven according to the following schedule:

Year of retirement	Percentage
1968 through 1996	50%
1966 and 1967	55%
1965	60%
1964	65%
1963	70%
1962	80%
1961	90%
prior to 1961	100%

Said adjusted benefit shall be computed on a base benefit amount not to exceed eighteen thousand dollars of the retirement allowance otherwise payable, computed without optional modification excluding any annuity derived from voluntary contributions made by members, except those made

pursuant to elections under subdivision one of section five hundred eleven-a or paragraph c of subdivision three of section five hundred sixteen of this article. Any benefits received pursuant to this subdivision shall be in lieu of any benefits received pursuant to section five hundred thirty-two of this article, unless such benefits are in excess of those provided by this section, in which case such benefits shall be paid by the retirement system pursuant to such provision.

COMMENCING SEPTEMBER FIRST, TWO THOUSAND NINE, ALL RETIRED MEMBERS WHO HAVE RETIRED PRIOR TO THE CALENDAR YEAR NINETEEN HUNDRED NINETY-SEVEN AND WHO MEET THE ELIGIBILITY CRITERIA SET FORTH IN SUBDIVISION A OF THIS SECTION SHALL BE PAID AN ADJUSTED BENEFIT IN MONTHLY INSTALLMENTS ON THE BASIS PROVIDED FOR IN THIS SUBDIVISION. SAID ADJUSTED BENEFIT SHALL BE EQUAL TO A PERCENTAGE OF THE CHANGE IN CONSUMER PRICE INDEX (ALL URBAN CONSUMERS, CPI-U, U.S. CITY AVERAGE, ALL ITEMS, 1982-84=100), PUBLISHED BY THE UNITED STATES BUREAU OF LABOR STATISTICS, MEASURED FROM THE YEAR OF RETIREMENT THROUGH CALENDAR YEAR NINETEEN HUNDRED NINETY-SEVEN ACCORDING TO THE FOLLOWING SCHEDULE:

YEAR OF RETIREMENT	PERCENTAGE
1973 THROUGH 1996	50%
1971 AND 1972	55%
1970	60%
1969	65%
1968	70%
1967	80%
1966	90%
PRIOR TO 1966	100%

SAID ADJUSTED BENEFIT, COMMENCING SEPTEMBER FIRST, TWO THOUSAND NINE, SHALL BE COMPUTED ON THE BASE BENEFIT AMOUNT OF THE RETIREMENT ALLOWANCE OTHERWISE PAYABLE, COMPUTED WITHOUT OPTIONAL MODIFICATION, SET FORTH HEREIN ABOVE. ANY BENEFIT RECEIVED PURSUANT TO THIS SUBDIVISION SHALL BE IN LIEU OF ANY BENEFIT RECEIVED PURSUANT TO SECTION FIVE HUNDRED THIRTY-TWO OF THIS ARTICLE.

S 4. Subdivision f of section 13-696 of the administrative code of the city of New York, as added by chapter 125 of the laws of 2000, is amended to read as follows:

f. Commencing September first, two thousand, all retired members who have retired prior to the calendar year nineteen hundred ninety-seven and who meet the eligibility criteria set forth in subdivision a of this section shall be paid an adjusted benefit in monthly installments on the basis provided for in this subdivision. Said adjusted benefit shall be equal to a percentage of the change in consumer price index (all urban consumers, CPI-U, U.S. city average, all items, 1982-84=100), published by the United States bureau of labor statistics, measured from the year of retirement through calendar year nineteen hundred ninety-seven according to the following schedule:

Year of retirement	Percentage
1968 through 1996	50%
1966 and 1967	55%
1965	60%
1964	65%
1963	70%
1962	80%
1961	90%
prior to 1961	100%

Said adjusted benefit shall be computed on a base benefit amount not to exceed eighteen thousand dollars of the annual fixed retirement allowance otherwise payable, computed without optional modification. Any benefit received pursuant to this subdivision shall be in lieu of any benefit received pursuant to chapter three hundred ninety of the laws of nineteen hundred ninety-eight, and any preceding provision of law providing for supplementation.

COMMENCING SEPTEMBER FIRST, TWO THOUSAND NINE, ALL RETIRED MEMBERS WHO HAVE RETIRED PRIOR TO THE CALENDAR YEAR NINETEEN HUNDRED NINETY-SEVEN AND WHO MEET THE ELIGIBILITY CRITERIA SET FORTH IN SUBDIVISION A OF THIS SECTION SHALL BE PAID AN ADJUSTED BENEFIT IN MONTHLY INSTALLMENTS ON THE BASIS PROVIDED FOR IN THIS SUBDIVISION. SAID ADJUSTED BENEFIT SHALL BE EQUAL TO A PERCENTAGE OF THE CHANGE IN CONSUMER PRICE INDEX (ALL URBAN CONSUMERS, CPI-U, U.S. CITY AVERAGE, ALL ITEMS, 1982-84=100), PUBLISHED BY THE UNITED STATES BUREAU OF LABOR STATISTICS, MEASURED FROM THE YEAR OF RETIREMENT THROUGH CALENDAR YEAR NINETEEN HUNDRED NINETY-SEVEN ACCORDING TO THE FOLLOWING SCHEDULE:

YEAR OF RETIREMENT	PERCENTAGE
1973 THROUGH 1996	50%
1971 AND 1972	55%
1970	60%
1969	65%
1968	70%
1967	80%
1966	90%
PRIOR TO 1966	100%

SAID ADJUSTED BENEFIT, COMMENCING SEPTEMBER FIRST, TWO THOUSAND NINE, SHALL BE COMPUTED ON THE BASE BENEFIT AMOUNT OF THE RETIREMENT ALLOWANCE OTHERWISE PAYABLE, COMPUTED WITHOUT OPTIONAL MODIFICATION, SET FORTH HEREIN ABOVE. ANY BENEFIT RECEIVED PURSUANT TO THIS SUBDIVISION SHALL BE IN LIEU OF ANY BENEFIT RECEIVED PURSUANT TO SECTION 13-695 OF THIS ARTICLE.

S 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 2009, additional payments will be made for those members who retired after 1960 and prior to 1973.

Insofar as this bill affects the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System, if this bill were enacted there would be an estimated first year cost of approximately $490,000 to the State of New York, $550,000 to participating employers in the New York State and Local Employees' Retirement System and $470,000 to the participating employers in the New York State and Local Police and Fire Retirement System.

This estimate, dated December 9, 2008 and intended for use only during the 2009 Legislative Session, is Fiscal Note No. 2009-58, prepared by the Actuary for the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System.