# STATE OF NEW YORK

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2019-2020 Regular Sessions

# IN SENATE

April 30, 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 -- recommitted to the Committee on Civil Service and Pensions in accordance with Senate Rule 6, sec. 8 -- 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, in relation to investment of moneys of retirement funds in foreign equity securities

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

Section 1. Subdivision 8 of section 177 of the retirement and social security law, as amended by chapter 594 of the laws of 1993, is amended to read as follows:

8. The trustees of a fund shall have the power to invest the moneys thereof in foreign equity securities provided that (a) any such equity security is registered on a national securities exchange, as provided in an act of congress of the United States, entitled the "Securities Exchange Act of 1934", approved June sixth, nineteen hundred thirty-four, as amended, or otherwise registered pursuant to said act and, if such equity security is so otherwise registered, price quotations therefor are furnished through a nationwide automated quotation system approved by the National Association of Securities Dealers, Inc. or is registered on a foreign exchange organized and regulated pursuant to the laws of the jurisdiction of such exchange and (b) the corporation has

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

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averaged at least one billion dollars in annual sales for the three consecutive years preceding the year in which the investment is made or has market capitalization of at least one billion dollars at the time the investment is made. Investments in such foreign equities shall be included together with a fund's investments in other equity securities for purposes of the percentage limitations set forth in the foregoing subdivisions of this section, and not more than [~~ten~~] twenty per centum of the assets of any fund shall be invested in the aggregate in such foreign equities.

§ 2. This act shall take effect immediately.

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

SUMMARY OF BILL: This proposed legislation, as it relates to the New York City Pension Funds and Retirement Systems (NYCRS), would amend section 177(8) of the Retirement and Social Security Law (RSSL) to increase the current foreign equities investment cap from 10% of the fund's assets in the aggregate to 20% of the fund's assets in the aggregate.

Effective Date: Upon enactment.

FINANCIAL IMPACT - SUMMARY: This legislation, as it relates to any costs in the potential reallocation of current NYCRS investments, is expected to have minimal to no impact on member or employer contributions. The cost of a retirement program is based on the benefits paid plus any expenses to administer the program. The cost is funded by contributions and investment income, the latter of which is driven by the rate of return on the assets. To the extent that this proposed legislation increases or decreases this rate of return, it would decrease or increase the employer contributions, respectively.

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

ACTUARIAL ASSUMPTIONS AND METHODS: The estimates presented herein have been calculated based on the 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 NYCRS.

RISK AND UNCERTAINTY: The costs presented in this Fiscal Note depend highly on the realization of the actuarial assumptions used, as well as certain demographic characteristics of the Plan and other exogenous factors such as investment, demographic, contribution, and other risks. If actual experience deviates from actuarial assumptions, the actual costs could differ from those presented herein. As a reference, increasing the current discount rate (i.e. the assumed rate of return on the Plan's assets of 7.0%) by 1.0% would reduce the unfunded liability by approximately $23.3 billion, while decreasing it by 1.0% would increase the unfunded liability by approximately $27.8 billion. 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.

Not measured in this Fiscal Note are the following:

* The initial, additional administrative costs to each of the retirement systems and other New York City agencies to implement the proposed legislation.

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

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 2020-01 dated January 24, 2020 was prepared by the Chief Actuary for the New York City Retirement Systems and Pension Funds. This estimate is intended for use only during the 2020 Legislative Session.

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

This bill would amend the Retirement and Social Security Law to allow the 8 public retirement systems of New York State to invest up to 20 percent of their assets in eligible Foreign Equity Securities. The current limit on foreign equities is 10 percent.

If this bill is enacted, 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, we assume that there would be some investment changes. Any increases in investment earnings will result in decreases in employer contributions. Similarly, any decreases in investment earnings will result in increases in employer contributions

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, 2019 actuarial valuation. Distributions and other statistics can be found in the 2019 Report of the Actuary and the 2019 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2015, 2016, 2017, 2018, and 2019 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, 2019 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 February 24, 2020, and intended for use only during the 2020 Legislative Session, is Fiscal Note No. 2020-65, 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 8 of Section 177 of the Retirement and Social Security Law to increase to 20% the percentage of assets which may be invested by the New York State Teachers' Retirement System in foreign equity securities. The current limit is 10%.

If this bill is enacted, any cost or savings to the employers of members of the New York State Teachers' Retirement System would depend on the investment performance of any assets that are invested in foreign equity securities due to this change in the investment restrictions.

Additional investment income results in lower required employer contributions, and vice-versa.

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 2020-15 dated March 2, 2020 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2020 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.