STATE OF NEW YORK

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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 -- 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

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 g 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:

g. Notwithstanding any other provision of law, **effective the first day of September, two thousand twenty-one,** the surviving spouse of a deceased retired member who retired under an option which provides that benefits are to be continued for life to the surviving spouse after the death of the retired member, shall be entitled to receive benefits pursuant to this section. Said benefits shall be [~~fifty~~] **one hundred** percent of the monthly benefits which the pensioner would be receiving pursuant to this section if living, and shall commence (i) with a payment for the month of September, two thousand **twenty-one**, or (ii) the month following the death of the deceased retired member, whichever is later.

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

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§ 2. Subdivision g 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:

g. Notwithstanding any other provision of law, **effective the first day of September, two thousand twenty-one,** the surviving spouse of a deceased retired member who retired under an option which provides that benefits are to be continued for life to the surviving spouse after the death of the retired member, shall be entitled to receive benefits pursuant to this section. Said benefits shall be [~~fifty~~] **one hundred** percent of the monthly benefits which the pensioner would be receiving pursuant to this section if living, and shall commence (i) with a payment for the month of September, two thousand **twenty-one**, or (ii) the month following the death of the deceased retired member, whichever is later.

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

g. Notwithstanding any other provision of law, **effective the first day of September, two thousand twenty-one,** the surviving spouse of a deceased retired member who retired under an option which provides that benefits are to be continued for life to the surviving spouse after the death of the retired member, shall be entitled to receive benefits pursuant to this section. Said benefits shall be [~~fifty~~] **one hundred** percent of the monthly benefits which the pensioner would be receiving pursuant to this section if living, and shall commence (i) with a payment for the month of September, two thousand **twenty-one**, or (ii) the month following the death of the deceased retired member, whichever is later.

§ 4. Subdivision g 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:

g. Notwithstanding any other provision of law, **effective the first day of September, two thousand twenty-one,** the surviving spouse of a deceased retired member of the New York city employees' retirement system, the New York city teachers' retirement system, the New York city police pension fund, the New York city fire department pension fund or the New York city board of education retirement system who retired under an option which provides that benefits are to be continued for life to the surviving spouse after the death of the member, shall be entitled to receive a benefit pursuant to this section. Said benefit shall be [~~fifty~~] **one hundred** percent of the monthly benefit which the pensioner would be receiving if living, and shall commence (i) with a payment for the month of September, two thousand **twenty-one**, or (ii) the month following the death of the deceased retired member, whichever is later.

§ 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 2021, the cost-of-living benefit payable to a surviving spouse who is eligible for COLA will be increased from fifty percent to one hundred percent of the benefit that the pensioner would have received.

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 $1.1 billion.

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 $115 million. The estimated first year cost would be approximately $2.5 million to the State of New York and approximately $10 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, 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 11, 2020, and intended for use only during the 2020 Legislative Session, is Fiscal Note No. 2020-49, prepared by the Actuary for the New York State and Local Retirement System.

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

SUMMARY OF BILL: This proposed legislation, as it relates to the City of New York, would amend Section 13-696 of the Administrative Code of the City of New York (ACCNY) to increase the Cost-of-Living Adjustment (COLA), effective September 1, 2021, to an eligible surviving spouse from 50% to 100% of the COLA the pensioner would be receiving if still alive for 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: The COLA currently provides for an annual increase equal to a percentage of the annual retirement allowance otherwise payable, computed without optional modification on the first $18,000 of retirement allowance. That percentage is equal to 50% of the increase in the consumer price index (CPI) in the one-year period ending on the March 31 prior to the COLA effective on the ensuing September 1. The percentage is rounded to the next higher one-tenth of one percent and shall not be less than 1% nor more than 3%.

The surviving spouse of a deceased retired member who retired under an option which provides that benefits are to be continued for life to the surviving spouse after the death of the retired member is currently entitled to receive a COLA equal to 50% of the COLA the pensioner would

be receiving if living. This proposed legislation would change from 50% to 100% the percentage of COLA a surviving spouse receives after the death of the retired member.

FINANCIAL IMPACT - SUMMARY: The estimated financial impact to NYCRS for increasing the surviving spouse COLA from 50% to 100% of the retired member's COLA as described above is an increase in Present Value of Future Benefits (PVFB) of $574.1 million and an increase in the first year annual employer contributions of $541.0 million. A breakdown of the financial impact by NYCRS is shown in the table below.

NYCRS	Additional Present Value of Future Benefits ($ Millions)	Estimated First Year Annual Employer Contributions* ($ Millions)
NYCERS	$337.4	$316.2
NYCTRS	177.9	169.8
BERS	19.9	18.7
POLICE	26.7	24.9
FIRE	12.2	11.4
Total	$574.1	$541.0

* Employer contributions after the first year are estimated to be $4 - $5 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 are generally amortized 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 NYCRS (11 to 14 payments, respectively, under One-Year Lag Methodology (OYLM)).

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, 2019 actuarial valuations of the NYCRS. In accordance with the OYLM used to determine employer contributions, the increase in employer contributions would first be reflected in Fiscal Year 2021.

CENSUS DATA: The estimates presented herein are based on the census data used in the Preliminary June 30, 2019 (Lag) actuarial valuations of NYCRS to determine the Preliminary Fiscal Year 2021 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, 2019 (Lag) actuarial valuations used to determine the Preliminary Fiscal Year 2021 employer contributions of NYCRS. Also, assumptions for active members electing a form of pension at retirement that would continue a payment to a surviving spouse (ranging from 20% to 35%) were made based on the distribution of current elections and the Actuary's estimate of future elections.

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 NYCRS and other exogenous factors such as investment, 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.

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 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 2020-55 dated June 25, 2020 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 2020 Legislative Session.