STATE OF NEW YORK

7124

2021-2022 Regular Sessions

IN ASSEMBLY

April 23, 2021

Introduced by M. of A. JOYNER -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the general municipal law and the retirement and social security law, in relation to increasing certain special accidental death benefits

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

Section 1. Subdivision c of section 208-f of the general municipal law, as amended by section 1 of item NNN of subpart B of part XXX of chapter 58 of the laws of 2020, is amended to read as follows:

c. Commencing July first, two thousand [~~twenty~~] twenty-one the special accidental death benefit paid to a widow or widower or the deceased member's children under the age of eighteen or, if a student, under the age of twenty-three, if the widow or widower has died, shall be escalated by adding thereto an additional percentage of the salary of the deceased member (as increased pursuant to subdivision b of this section) in accordance with the following schedule:

calendar year of death of the deceased member	per centum
1977 or prior	[~~256.5%~~] 267.1%
1978	[~~246.1%~~] 256.5%
1979	[~~236%~~] 246.1%
1980	[~~226.2%~~] 236%
1981	[~~216.7%~~] 226.2%
1982	[~~207.5%~~] 216.7%
1983	[~~198.5%~~] 207.5%
1984	[~~189.8%~~] 198.5%
1985	[~~181.4%~~] 189.8%
1986	[~~173.2%~~] 181.4%
1987	[~~165.2%~~] 173.2%
1988	[~~157.5%~~] 165.2%

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

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1989	[~~150.0%~~] 157.5%
1990	[~~142.7%~~] 150.0%
1991	[~~135.7%~~] 142.7%
1992	[~~128.8%~~] 135.7%
1993	[~~122.1%~~] 128.8%
1994	[~~115.7%~~] 122.1%
1995	[~~109.4%~~] 115.7%
1996	[~~103.3%~~] 109.4%
1997	[~~97.4%~~] 103.3%
1998	[~~91.6%~~] 97.4%
1999	[~~86.0%~~] 91.6%
2000	[~~80.6%~~] 86.0%
2001	[~~75.4%~~] 80.6%
2002	[~~70.2%~~] 75.4%
2003	[~~65.3%~~] 70.2%
2004	[~~60.5%~~] 65.3%
2005	[~~55.8%~~] 60.5%
2006	[~~51.3%~~] 55.8%
2007	[~~46.9%~~] 51.3%
2008	[~~42.6%~~] 46.9%
2009	[~~38.4%~~] 42.6%
2010	[~~34.4%~~] 38.4%
2011	[~~30.5%~~] 34.4%
2012	[~~26.7%~~] 30.5%
2013	[~~23.0%~~] 26.7%
2014	[~~19.4%~~] 23.0%
2015	[~~15.9%~~] 19.4%
2016	[~~12.6%~~] 15.9%
2017	[~~9.3%~~] 12.6%
2018	[~~6.1%~~] 9.3%
2019	[~~3.0%~~] 6.1%
2020	[~~0.0%~~] 3.0%
2021	0.0%

§ 2. Subdivision c of section 361-a of the retirement and social security law, as amended by section 2 of item NNN of subpart B of part XXX of chapter 58 of the laws of 2020, is amended to read as follows:

c. Commencing July first, two thousand [~~twenty~~] twenty-one the special accidental death benefit paid to a widow or widower or the deceased member's children under the age of eighteen or, if a student, under the age of twenty-three, if the widow or widower has died, shall be escalated by adding thereto an additional percentage of the salary of the deceased member, as increased pursuant to subdivision b of this section, in accordance with the following schedule:

calendar year of death of the deceased member	per centum
1977 or prior	[~~256.5%~~]267.1%
1978	[~~246.1%~~]256.5%
1979	[~~236%~~]246.1%
1980	[~~226.2%~~]236%
1981	[~~216.7%~~]226.2%
1982	[~~207.5%~~]216.7%
1983	[~~198.5%~~]207.5%
1984	[~~189.8%~~]198.5%
1985	[~~181.4%~~]189.8%
1986	[~~173.2%~~]181.4%
1987	[~~165.2%~~]173.2%

1988	[~~157.5%~~]165.2%
1989	[~~150.0%~~]157.5%
1990	[~~142.7%~~]150.0%
1991	[~~135.7%~~]142.7%
1992	[~~128.8%~~]135.7%
1993	[~~122.1%~~]128.8%
1994	[~~115.7%~~]122.1%
1995	[~~109.4%~~]115.7%
1996	[~~103.3%~~]109.4%
1997	[~~97.4%~~]103.3%
1998	[~~91.6%~~]97.4%
1999	[~~86.0%~~]91.6%
2000	[~~80.6%~~]86.0%
2001	[~~75.4%~~]80.6%
2002	[~~70.2%~~]75.4%
2003	[~~65.3%~~]70.2%
2004	[~~60.5%~~]65.3%
2005	[~~55.8%~~]60.5%
2006	[~~51.3%~~]55.8%
2007	[~~46.9%~~]51.3%
2008	[~~42.6%~~]46.9%
2009	[~~38.4%~~]42.6%
2010	[~~34.4%~~]38.4%
2011	[~~30.5%~~]34.4%
2012	[~~26.7%~~]30.5%
2013	[~~23.0%~~]26.7%
2014	[~~19.4%~~]23.0%
2015	[~~15.9%~~]19.4%
2016	[~~12.6%~~]15.9%
2017	[~~9.3%~~]12.6%
2018	[~~6.1%~~]9.3%
2019	[~~3.0%~~]6.1%
2020	[~~0.0%~~]3.0%
2021	0.0%

§ 3. This act shall take effect July 1, 2021.

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

This bill would amend both the General Municipal Law and the Retirement and Social Security Law to increase the salary used in the computation of the special accidental death benefit by 3% in cases where the date of death was before 2021.

Insofar as this bill would amend the Retirement and Social Security Law, it is estimated that there would be an additional annual cost of approximately $654,000 above the approximately $14.7 million current annual cost of this benefit. This cost would be shared by the State of New York and all participating employers of the New York State and Local Police and Fire Retirement System.

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 March 17, 2021, and intended for use only during the 2021 Legislative Session, is Fiscal Note No. 2021-102, prepared by the Actuary for the New York State and Local Retirement System.

SUMMARY OF BILL: This proposed legislation would amend General Municipal Law (GML) Section 208-f(c) to increase certain Special Accidental Death Benefits (SADB) for surviving spouses, dependent children, and certain other individuals (Eligible Beneficiaries) of former uniformed employees of the City of New York and the New York City Health and Hospitals Corporation, and for certain former employees of the Triborough Bridge and Tunnel Authority, who were members of certain New York City Retirement Systems and Pension Funds (NYCRS) and died as a natural and proximate result of an accident sustained in the performance of duty.

Effective Date: July 1, 2021.

BACKGROUND: Under the GML, the basic SADB is defined as:

The salary of the deceased member at date of death (or, in certain instances, a greater salary based on a higher rank or other status) (Final Salary), less the following payments to an Eligible Beneficiary:

* Any NYCRS death benefit as adjusted by any Supplementation or Cost-of-Living Adjustment (COLA),
* Any Social Security death benefit, and
* Any Workers' Compensation benefit.

The SADB is paid to the deceased member's surviving spouse, if alive. If the spouse is no longer alive, the SADB is paid to the deceased member's children until age eighteen or until age twenty-three if a student. If neither a spouse nor a dependent child is alive, the SADB may be paid to certain other individuals, if eligible, in accordance with certain laws related to the World Trade Center attack.

The GML also provides that the SADB is subject to escalation based on the calendar year in which the former member died. The SADB has traditionally been increased by a cumulative, incremental percentage of Final Salary based on the calendar year of the member's death.

IMPACT ON BENEFITS: With respect to the NYCRS, the proposed legislation would impact the SADB payable to certain survivors of members of the:

* New York City Employees' Retirement System (NYCERS),
* New York City Police Pension Fund (POLICE), or
* New York City Fire Pension Fund (FIRE),

and who were employed by one of the following employers in certain positions:

* New York City Police Department - Uniformed Position,
* New York City Fire Department - Uniformed Position,
* New York City Department of Sanitation - Uniformed Position,
* New York City Housing Authority - Uniformed Position,
* New York City Transit Authority - Uniformed Position,
* New York City Department of Correction - Uniformed Position,
* New York City - Uniformed Position as Emergency Medical Technician (EMT),

* New York City Health and Hospitals Corporation - Uniformed Position as EMT, or

* Triborough Bridge and Tunnel Authority - Bridge and Tunnel Position.

Under the proposed legislation, effective July 1, 2021, an additional 3.0% of Final Salary would be applied to the SADB paid due to deaths occurring in each calendar year on and after 1977. The SADB for deaths occurring prior to 1977 would receive the same escalation as deaths occurring in 1977.

FINANCIAL IMPACT - PRESENT VALUES: Based on the Eligible Beneficiaries of deceased NYCRS members who would be impacted by this proposed legislation and the actuarial assumptions and methods described herein, the enactment of this proposed legislation would increase the Present Value of Future Benefits (PVFB) by approximately $55.0 million.

FINANCIAL IMPACT - ANNUAL EMPLOYER CONTRIBUTIONS: As a result of the past four decades' practice of providing 3.0% COLAs on the SADB each year, and the likelihood that COLAs will continue to be granted in the future, the Actuary assumes that the SADB benefit will continue to increase 3.0% per year in the future in determining NYCRS employer contributions. Therefore, the costs of this proposed legislation have already been accounted for and will not result in a further increase in employer contributions. There will, however, be a decrease in employer contributions if the proposed legislation is not enacted.

In accordance with Section 13-638.2(k-2) of the Administrative Code of the City of New York (ACCNY), new Unfunded Accrued Liability 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. However, since changes in the SADB COLA paid are not known in advance, the decrease in expected pension payments due to this legislation not passing would be treated as an actuarial gain. These actuarial gains would be amortized over a 15-year period (14 payments under the One-Year Lag Methodology (OYLM)) using level dollar payments. This would result in a decrease in NYCRS annual employer contributions of approximately $6.5 million each year.

CONTRIBUTION TIMING: For the purposes of this Fiscal Note, it is assumed that the changes in the PVFB and annual employer contributions if this proposed legislation fails to pass, would be reflected for the first time in the Final June 30, 2022 actuarial valuations of NYCERS, POLICE, and FIRE. In accordance with the OYLM used to determine employer contributions, the decrease in employer contributions would first be reflected in Fiscal Year 2024.

CENSUS DATA: The estimates presented herein are based upon the census data for such Eligible Beneficiaries provided by NYCRS.

Retirement System	Number of Deceased Members with Eligible Survivors	Annual Accidental Death Benefit Prior to Proposed July 1, 2021 Increase ($ Millions)
NYCERS	77	$ 7.4
POLICE	456	54.3
FIRE	601	77.1
Total	1,134	$138.8

ACTUARIAL ASSUMPTIONS AND METHODS: The changes in the PVFB and annual employer contributions presented herein have been calculated based on the 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 NYCERS, POLICE, and FIRE.

The Actuary is proposing a set of changes for use beginning with the June 30, 2019 (Lag) actuarial valuations of NYCERS, POLICE, and FIRE to determine the Final Fiscal Year 2021 Employer Contributions (2021 A&M). If the 2021 A&M is enacted, it is estimated that it would produce PVFB and annual employer contribution results that are not materially different than the results shown above.

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 NYCERS, POLICE and FIRE 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 of NYCERS, POLICE, and FIRE and other New York City agencies to implement the proposed legislation.

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 2021-21 dated April 22, 2021 was prepared by the Chief Actuary for the New York City Employees' Retirement System, the New York City Police Pension Fund, and New York City Fire Pension Fund. This estimate is intended for use only during the 2021 Legislative Session.