STATE OF NEW YORK

7730--A

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 -- recommitted to the Committee on Governmental Employees in accordance with Assembly Rule 3, sec. 2 -- 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 the ordinary death benefit

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

Section 1. The closing paragraph of paragraph 2 of subdivision a of section 448 of the retirement and social security law, as amended by chapter 376 of the laws of 2021, is amended to read as follows:

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

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

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below fifty per centum of the original benefit otherwise payable. In the case of any member of the New York state and local employees' retirement system who is permitted to retire without regard to age or a member of the New York state and local police and fire 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-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 and the New York state teachers' 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 376 of the laws of 2021, 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 New York state and local employees' retirement system who is permitted to retire without regard to age, 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-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 and the New York state teachers' retirement system shall not be reduced below ten per centum of the benefit in force at the time of retirement.

§ 3. The closing subparagraph of paragraph 2 of subdivision a of section 606 of the retirement and social security law, as amended by chapter 376 of the laws of 2021, is amended to read as follows:

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 New York state and local employees' retirement system who is permitted to retire without regard to age, 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-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 and the New York state teachers' retirement system shall not be reduced below ten per centum of the benefit in force at the time of retirement.

§ 4. Notwithstanding any other provision of law to the contrary, the provisions of this act shall not be subject to section 25 of the retirement and social security law.

§ 5. This act shall take effect on the first of April next succeeding 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 payable to beneficiaries of the New York State and Local Employees' Retirement System (NYSLERS) and New York State and Local Police and Fire Retirement System (NYSLPFRS), ensuring that no reduction applies before a member becomes eligible for an unreduced retirement benefit. Currently, annual reductions of 4% (NYSLERS 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 NYSLERS, if this legislation is enacted during the 2022 legislative session, there would be an increase in the present value of future costs of approximately $33 million which would be shared by the State of New York and all of the Local participating employers in the NYSLERS. The estimated first year cost would be approximately $1.5 million to the State of New York and approximately $2.1 million to the Local participating employers in the NYSLERS.

Insofar as this bill affects NYSLPFRS, if this legislation is enacted during the 2022 legislative session, we anticipate that the cost would be negligible.

Summary of relevant resources:

Membership data as of March 31, 2021 was used in measuring the impact of the proposed change, the same data used in the April 1, 2021 actuarial valuation. Distributions and other statistics can be found in the 2021 Report of the Actuary and the 2021 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2020 and 2021 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, 2021 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 December 21, 2021, and intended for use only during the 2022 Legislative Session, is Fiscal Note No. 2022-25, 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 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. 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. The post-retired death benefit for affected members, which is based on the ordinary death benefit, would be increased as well.

The annual cost to the employers of members of the New York State Teachers' Retirement System for this benefit is estimated to be $1.0 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 and the Actuarial Assumptions 2021 report.

The source of this estimate is Fiscal Note 2022-11 dated January 21, 2022 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2022 Legislative Session.

I, Richard A. Young, am the Chief 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.