STATE OF NEW YORK

6030--B

2021-2022 Regular Sessions

IN SENATE

March 30, 2021

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

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 d 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:

d. The percentage referred to in this section shall be determined annually by reference to the 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, for each applicable calendar year. Said percentage shall equal fifty percent of the annual inflation, as determined from the increase in the consumer price index in the one year period ending on the March thirty-first prior to the cost-of-living adjustment effective on the ensuing September first. Said percentage shall then be rounded up to the next higher one-tenth of one percent and shall not exceed three percent nor be less than one percent **and effective the first day of September, two thousand twenty-one, shall not exceed five percent nor be less than one percent**.

§ 2. Subdivision d 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:

d. The percentage referred to in this section shall be determined annually by reference to the consumer price index (all urban consumers,

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

CPI-U, U.S. city average, all items, 1982-84=100), published by the United States bureau of labor statistics, for each applicable calendar year. Said percentage shall equal fifty percent of the annual inflation, as determined from the increase in the consumer price index in the one year period ending on the March thirty-first prior to the cost-of-living adjustment effective on the ensuing September first. Said percentage shall then be rounded up to the next higher one-tenth of one percent and shall not exceed three percent nor be less than one percent **and effective the first day of September, two thousand twenty-one, shall not exceed five percent nor be less than one percent**.

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

d. The percentage referred to in this section shall be determined annually by reference to the 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, for each applicable calendar year. Said percentage shall equal fifty percent of the annual inflation, as determined from the increase in the consumer price index in the one year period ending on the March thirty-first prior to the cost-of-living adjustment effective on the ensuing September first. Said percentage shall then be rounded up to the next higher one-tenth of one percent and shall not exceed three percent nor be less than one percent **and effective the first day of September, two thousand twenty-one, shall not exceed five percent nor be less than one percent**.

§ 4. Subdivision d 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:

d. The percentage referred to in this section shall be determined annually by reference to the 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, for each applicable calendar year. Said percentage shall equal fifty percent of the annual inflation, as determined from the increase in the consumer price index in the one year period ending on the March thirty-first prior to the cost-of-living adjustment effective on the ensuing September first. Said percentage shall then be rounded up to the next higher one-tenth of one percent and shall not exceed three percent nor be less than one percent **and effective the first day of September, two thousand twenty-one, shall not exceed five percent nor be less than one percent**.

§ 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 maximum percentage calculated for the annual cost of living increase shall increase from three (3) percent to five (5) percent.

Insofar as this bill affects the New York State and Local Employees' Retirement System, if this bill is enacted, 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. Such an appropriation would be required only when the annual inflation exceeds 6%.

Insofar as this bill affects the New York State and Local Police and Fire Retirement System (PFRS), if this bill is enacted, the increased costs would be shared by the State of New York and all of the participating employers in the PFRS. Additional employer contributions would be required only when the annual inflation exceeds 6%.

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 26, 2021, and intended for use only during the 2021 Legislative Session, is Fiscal Note No. 2021-110, prepared by the Actuary for the New York State and Local Retirement System.

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

In as much as this bill impacts members of the New York State Teachers' Retirement System (NYSTRS), this bill (legislative bill draft 10498-01-1) would amend subdivision d of Section 532-a of the Education Law to increase the maximum upper limit on the percentage used to compute the cost-of-living adjustment (COLA) for eligible retired members.

The annual COLA percentage is equal to fifty percent of the increase in the annual Consumer Price Index (CPI). The upper-limit cap on the annual COLA percentage would be increased from three percent to five percent. This benefit improvement would be effective in September of 2021.

This bill would generate a cost if the increase in the annual CPI exceeded 6.0% in a given year. The CPI last exceeded 6.0% in 1982. Periods of high inflation are possible, although it appears unlikely in the near-term. However, in the long term, this bill would result in increases to the employer contribution rate if a period of high inflation returns and the COLA rate increases beyond the current maximum.

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 and GASB disclosures are 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.

The source of this estimate is Fiscal Note 2021-37 dated May 5, 2021 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2021 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.

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 the Cost of Living Adjustment (COLA) provision contained in the Administrative Code of the City of New York (ACCNY) Section 13-696(d) to increase the maximum COLA from 3% to 5% for eligible retirees and beneficiaries of the New York City Employees' Retirement System (NYCERS), the New York City Teachers' Retirement System (TRS), 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 and applicable to the September 2021 COLA.

IMPACT ON BENEFITS: Certain NYCRS retirees and beneficiaries are eligible to receive a COLA after retirement (i.e. age 62 and retired for five years; age 55 and retired for 10 years; disabled retirees who are retired for five years; and accidental death benefit recipients who have been receiving the benefit for five years).

Currently, COLA is 50% of the Consumer Price Index (CPI), rounded to the next higher 0.1%, but not to exceed 3% and not to be less than 1%, applied to the first $18,000 of the maximum retirement allowance as adjusted with prior COLAs.

Spouses paid under a lifetime optional benefit receive 50% of the COLA that would have been payable to the retiree.

Under the proposed legislation, if enacted, the maximum COLA would be raised from 3% to 5% of the first $18,000 of the maximum retirement allowance.

FINANCIAL IMPACT - OVERVIEW: Based on the current economic assumptions and the fact that CPI has not exceeded 6% since the early 1980's, COLA is assumed to be 1.5%, which is below the current 3% maximum COLA. To illustrate the potential cost of this proposed legislation, the Office of the Actuary has estimated the financial increase to the NYCRS if the realized CPI was 8% for the period March 31, 2020 to March 31, 2021 which would result in a COLA increase as of September 1, 2021 of 4% under proposed legislation rather than 3% under current law.

FINANCIAL IMPACT - SUMMARY: The estimated financial impact of increasing the COLA maximum as described above is an increase in the Present Value of Future Benefits (PVFB) of $341.8 million and an increase in the annual employer contributions of $40.4 million. A breakdown of the financial impact by NYCRS is shown in the table below.

NYCRS	Additional Present Value of Future Benefits ($ Millions)	Estimated Annual Employer Contributions ($ Millions)
NYCERS	$146.1	$17.3
NYCTRS	103.2	12.2
BERS	11.4	1.3
POLICE	59.0	7.0
FIRE	22.1	2.6
Total	$341.8	$40.4

Enactment of this proposed legislation would increase employer contributions when COLA exceeds the current limit. For the purposes of this Fiscal Note, changes in employer contributions have been estimated assuming that the increase in the new Unfunded Accrued Liability (UAL) will be financed over the same time period used for actuarial losses in accordance with Section 13-638.2(k-2) of the ACCNY. Using this approach, the additional UAL would be amortized over a closed 15-year period (14 payments under the One-Year Lag Methodology (OYLM)).

CONTRIBUTION TIMING: For purposes of this Fiscal Note, changes in the PVFB and annual employer contributions would only be recognized in the future if the CPI increases above 6% resulting in a COLA increase not currently provided under 3% COLA maximum. In accordance with the OYLM used to determine employer contributions, the increase in employer contributions would first be reflected in the second fiscal year following the additional increase in COLA benefits.

CENSUS DATA: The estimates presented herein are based on the census data used in the June 30, 2020 (Lag) actuarial valuations of NYCRS used to determine the Preliminary Fiscal Year 2022 employer contributions.

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 each respective 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 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 initial, additional administrative costs 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 2021-55 dated July 16, 2021 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 2021 Legislative Session.