

# STATE OF NEW YORK

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6619

2021-2022 Regular Sessions

## IN SENATE

May 10, 2021

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Introduced by Sen. GOUNARDES -- (at request of the State Comptroller) --  
read twice and ordered printed, and when printed to be committed to  
the Committee on Civil Service and Pensions

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 Assem-  
bly, do enact as follows:

1 Section 1. The closing paragraph of paragraph 2 of subdivision a of  
2 section 448 of the retirement and social security law, as amended by  
3 chapter 513 of the laws of 2010, is amended to read as follows:

4 In the case of a member of the New York state teachers' retirement  
5 system, commencing upon attainment of age sixty-one, the benefit other-  
6 wise provided pursuant to this paragraph shall be reduced while the  
7 member is in service to ninety-six per centum of the benefit otherwise  
8 payable and each year thereafter the benefit payable shall be reduced by  
9 an amount equal to four per centum per year of the original benefit  
10 otherwise payable, but not below sixty per centum of the original bene-  
11 fit otherwise payable. In the case of a member of the New York city  
12 employees' retirement system, the New York city board of education  
13 retirement system or the New York city teachers' retirement system,  
14 commencing upon attainment of age sixty-one, the benefit otherwise  
15 provided pursuant to this paragraph shall be reduced while the member is  
16 in service to ninety-five per centum of the benefit otherwise payable  
17 and each year thereafter the benefit payable shall be reduced by an  
18 amount equal to five per centum per year of the original benefit other-  
19 wise payable, but not below fifty per centum of the original benefit  
20 otherwise payable. In the case of any member of the New York state and  
21 local employees' retirement system who is permitted to retire without  
22 regard to age or a member of the New York state and local police and  
23 fire retirement system, commencing upon attainment of age [~~sixty-one~~]  
24 sixty-two if such member's date of membership is prior to April first,

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

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1 two thousand twelve or attainment of age sixty-three if such member's  
2 date of membership is on or after April first, two thousand twelve, the  
3 benefit otherwise provided pursuant to this paragraph shall be reduced  
4 while the member is in service to ninety-seven per centum of the benefit  
5 otherwise payable, and each year thereafter the benefit payable shall be  
6 reduced by an amount equal to three per centum per year of the original  
7 benefit otherwise payable, but not below seventy per centum of the  
8 original benefit otherwise payable. In the case of any other member of  
9 the New York state and local employees' retirement system, commencing  
10 upon attainment of age [~~sixty-one~~] sixty-two if such member's date of  
11 membership is prior to April first, two thousand twelve or attainment of  
12 age sixty-three if such member's date of membership is on or after April  
13 first, two thousand twelve, the benefit otherwise provided pursuant to  
14 this paragraph shall be reduced while the member is in service to nine-  
15 ty-six per centum of the benefit otherwise payable, and each year there-  
16 after the benefit payable shall be reduced by an amount equal to four  
17 per centum per year of the original benefit otherwise payable, but not  
18 below sixty per centum of the original benefit otherwise payable. Upon  
19 retirement from any retirement system, the benefit in force shall be  
20 reduced by fifty per centum; upon completion of the first year of  
21 retirement, the benefit in force at the time of retirement shall be  
22 reduced by an additional twenty-five per centum, and upon commencement  
23 of the third year of retirement, the benefit shall be ten per centum of  
24 the benefit in force at age sixty, if any, or at the time of retirement  
25 if retirement preceded such age; provided, however, the benefit in  
26 retirement shall not be reduced below ten per centum of the benefit in  
27 force at age sixty, if any, or at the time of retirement if retirement  
28 preceded such age. Notwithstanding any other provision of this paragraph  
29 to the contrary, the benefit for a retiree from the New York state and  
30 local employees' retirement system shall not be reduced below ten per  
31 centum of the benefit in force at the time of retirement.

32 § 2. The closing paragraph of paragraph 2 of subdivision a of section  
33 508 of the retirement and social security law, as amended by chapter 513  
34 of the laws of 2010, is amended to read as follows:

35 Notwithstanding any other provision of this paragraph, in the case of  
36 a member of the New York state teachers' retirement system, commencing  
37 upon attainment of age sixty-one, the benefit otherwise provided pursu-  
38 ant to this paragraph shall be reduced while the member is in service to  
39 ninety-six per centum of the benefit otherwise payable, and each year  
40 thereafter the benefit payable shall be reduced by an amount equal to  
41 four per centum per year of the original benefit otherwise payable, but  
42 not below sixty per centum of the original benefit otherwise payable. In  
43 the case of a member of the New York city employees' retirement system,  
44 the New York city board of education retirement system or the New York  
45 city teachers' retirement system, commencing upon attainment of age  
46 sixty-one, the benefit otherwise provided pursuant to this paragraph  
47 shall be reduced while the member is in service to ninety-five per  
48 centum of the benefit otherwise payable and each year thereafter the  
49 benefit payable shall be reduced by an amount equal to five per centum  
50 per year of the original benefit otherwise payable, but not below fifty  
51 per centum of the original benefit otherwise payable. In the case of any  
52 member of the New York state and local employees' retirement system who  
53 is permitted to retire without regard to age, commencing upon attainment  
54 of age [~~sixty-one~~] sixty-two if such member's date of membership is  
55 prior to April first, two thousand twelve or attainment of age sixty-  
56 three if such member's date of membership is on or after April first,

1 two thousand twelve, the benefit otherwise provided pursuant to this  
2 paragraph shall be reduced while the member is in service to ninety-sev-  
3 en per centum of the benefit otherwise payable, and each year thereafter  
4 the benefit payable shall be reduced by an amount equal to three per  
5 centum per year of the original benefit otherwise payable, but not below  
6 seventy per centum of the original benefit otherwise payable. In the  
7 case of any other member of the New York state and local employees'  
8 retirement system, commencing upon attainment of age [~~sixty-one~~] sixty-  
9 two if such member's date of membership is prior to April first, two  
10 thousand twelve or attainment of age sixty-three if such member's date  
11 of membership is on or after April first, two thousand twelve, the bene-  
12 fit otherwise provided pursuant to this paragraph shall be reduced while  
13 the member is in service to ninety-six per centum of the benefit other-  
14 wise payable, and each year thereafter the benefit payable shall be  
15 reduced by an amount equal to four per centum per year of the original  
16 benefit otherwise payable, but not below sixty per centum of the  
17 original benefit otherwise payable. Upon retirement from any retirement  
18 system, the benefit in force shall be reduced by fifty per centum; upon  
19 completion of the first year of retirement, the benefit in force at the  
20 time of retirement shall be reduced by an additional twenty-five per  
21 centum, and upon commencement of the third year of retirement, the bene-  
22 fit shall be ten per centum of the benefit in force at age sixty, if  
23 any, or at the time of retirement if retirement preceded such age;  
24 provided, however, the benefit in retirement shall not be reduced below  
25 ten per centum of the benefit in force at age sixty, if any, or at the  
26 time of retirement if retirement preceded such age. Notwithstanding any  
27 other provision of this paragraph to the contrary, the benefit for a  
28 retiree from the New York state and local employees' retirement system  
29 shall not be reduced below ten per centum of the benefit in force at the  
30 time of retirement.

31 § 3. The closing subparagraph of paragraph 2 of subdivision a of  
32 section 606 of the retirement and social security law, as amended by  
33 chapter 513 of the laws of 2010, is amended to read as follows:

34 In the case of a member of the New York state teachers' retirement  
35 system, commencing upon attainment of age sixty-one, the benefit other-  
36 wise provided pursuant to this paragraph shall be reduced while the  
37 member is in service to ninety-six per centum of the benefit otherwise  
38 payable, and each year thereafter the benefit payable shall be reduced  
39 by an amount equal to four per centum per year of the original benefit  
40 otherwise payable, but not below sixty per centum of the original bene-  
41 fit otherwise payable. In the case of a member of the New York city  
42 employees' retirement system, the New York city board of education  
43 retirement system or the New York city teachers' retirement system,  
44 commencing upon attainment of age sixty-one, the benefit otherwise  
45 provided pursuant to this paragraph shall be reduced while the member is  
46 in service to ninety-five per centum of the benefit otherwise payable  
47 and each year thereafter the benefit payable shall be reduced by an  
48 amount equal to five per centum per year of the original benefit other-  
49 wise payable, but not below fifty per centum of the original benefit  
50 otherwise payable. In the case of any member of the New York state and  
51 local employees' retirement system who is permitted to retire without  
52 regard to age, commencing upon attainment of age [~~sixty-one~~] sixty-two  
53 if such member's date of membership is prior to April first, two thou-  
54 sand twelve or attainment of age sixty-three if such member's date of  
55 membership is on or after April first, two thousand twelve, the benefit  
56 otherwise provided pursuant to this paragraph shall be reduced while the

1 member is in service to ninety-seven per centum of the benefit otherwise  
2 payable, and each year thereafter the benefit payable shall be reduced  
3 by an amount equal to three per centum per year of the original benefit  
4 otherwise payable, but not below seventy per centum of the original  
5 benefit otherwise payable. In the case of any other member of the New  
6 York state and local employees' retirement system, commencing upon  
7 attainment of age [~~sixty-one~~ sixty-two if such member's date of member-  
8 ship is prior to April first, two thousand twelve or attainment of age  
9 sixty-three if such member's date of membership is on or after April  
10 first, two thousand twelve, the benefit otherwise provided pursuant to  
11 this paragraph shall be reduced while the member is in service to nine-  
12 ty-six per centum of the benefit otherwise payable, and each year there-  
13 after the benefit payable shall be reduced by an amount equal to four  
14 per centum per year of the original benefit otherwise payable, but not  
15 below sixty per centum of the original benefit otherwise payable. Upon  
16 retirement, from any retirement system, the benefit in force shall be  
17 reduced by fifty per centum; upon completion of the first year of  
18 retirement, the benefit in force at the time of retirement shall be  
19 reduced by an additional twenty-five per centum, and upon commencement  
20 of the third year of retirement, the benefit shall be ten per centum of  
21 the benefit in force at age sixty, if any, or at the time of retirement  
22 if retirement preceded such age; provided, however, the benefit in  
23 retirement shall not be reduced below ten per centum of the benefit in  
24 force at age sixty, if any, or at the time of retirement if retirement  
25 preceded such age. Notwithstanding any other provision of this paragraph  
26 to the contrary, the benefit for a retiree from the New York state and  
27 local employees' retirement system shall not be reduced below ten per  
28 centum of the benefit in force at the time of retirement.

29 § 4. Notwithstanding any other provision of law to the contrary, the  
30 provisions of this act shall not be subject to section 25 of the retire-  
31 ment and social security law.

32 § 5. This act shall take effect on the first of April next succeeding  
33 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 paya-  
ble to beneficiaries of the New York State and Local Employees' Retirement  
System (ERS) and New York State and Local Police and Fire Retirement  
System (PFRS), ensuring that no reduction applies before a member  
becomes eligible for an unreduced retirement benefit. Currently, annual  
reductions of 4% (ERS 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 ERS, if this legislation is enacted  
during the 2021 legislative session, there would be an increase in the  
present value of future costs of approximately \$19.4 million which would  
be shared by the State of New York and all of the participating employ-  
ers in the ERS. The estimated first year cost would be approximately  
\$954,000 to the State of New York and approximately \$1.37 million to the  
participating employers in the ERS.

Insofar as this bill affects PFRS, if this legislation is enacted  
during the 2021 legislative session, we anticipate that the cost will be  
negligible.

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 actuari-

al 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 April 1, 2021, and intended for use only during the 2021 Legislative Session, is Fiscal Note No. 2021-113, prepared by the Actuary for the New York State and Local Retirement System.