

STATE OF NEW YORK

6619

2021-2022 Regular Sessions

IN SENATE

May 10, 2021

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.