STATE OF NEW YORK

7335--A

2021-2022 Regular Sessions

IN ASSEMBLY

May 5, 2021

Introduced by M. of A. ABBATE -- 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 and the administrative code of the city of New York, in relation to death benefits for members of the uniformed force of the New York city department of sanitation and members of the uniformed force of the New York city department of correction

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

Section 1. Subdivision b of section 448 of the retirement and social security law is amended by adding a new paragraph 3 to read as follows:

3. Provided further, notwithstanding any other provision of this article to the contrary, where a member is in the uniformed force of the New York city department of sanitation or the uniformed force of the New York city department of correction, and would have been entitled to a service retirement benefit at the time of his or her death and where his or her death occurs on or after July first, two thousand twenty-two, the beneficiary or beneficiaries may elect to receive, in a lump sum, an amount payable which shall be equal to the pension reserve that would have been established had the member retired on the date of his or her death, or the value of the death benefit and the reserve-for-increased-take-home-pay, if any, whichever is greater.

§ 2. Subdivision b of section 508 of the retirement and social security law, as amended by chapter 476 of the laws of 2018, is amended to read as follows:

b. A member of a retirement system subject to the provisions of this article who is a police officer, firefighter, correction officer, investigator revised plan member or sanitation worker and is in a plan which

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

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permits immediate retirement upon completion of a specified period of service without regard to age or who is subject to the provisions of section five hundred four or five hundred five of this article, shall upon completion of ninety days of service be covered for financial protection in the event of death in service pursuant to this subdivision.

1. Such death benefit shall be equal to three times the member's salary raised to the next highest multiple of one thousand dollars, but in no event shall it exceed three times the maximum salary specified in section one hundred thirty of the civil service law or, in the case of a member of a retirement system other than the New York city employees' retirement system, or in the case of a member of the New York city employees' retirement system who is a New York city uniformed correction/sanitation revised plan member or an investigator revised plan member, the specific limitations specified for age of entrance into service contained in subparagraphs (b), (c), (d), (e) and (f) of paragraph two of subdivision a of this section.

2. Provided further, notwithstanding any other provision of this article to the contrary, where a member is in the uniformed force of the New York city department of sanitation or the uniformed force of the New York city department of correction, and would have been entitled to a service retirement benefit at the time of his or her death and where his or her death occurs on or after July first, two thousand twenty-two, the beneficiary or beneficiaries may elect to receive, in a lump sum, an amount payable which shall be equal to the pension reserve that would have been established had the member retired on the date of his or her death, or the value of the death benefit and the reserve-for-increased-take-home-pay, if any, whichever is greater.

§ 3. Subdivision b of section 606 of the retirement and social security law, as amended by chapter 476 of the laws of 2018, is amended to read as follows:

b. A member of a retirement system subject to the provisions of this article who is a police officer, firefighter, correction officer or sanitation worker and is in a plan which permits immediate retirement upon completion of a specified period of service without regard to age or who is subject to the provisions of section six hundred four of this article, shall upon completion of ninety days of service be covered for financial protection in the event of death in service pursuant to this subdivision.

1. Such death benefit shall be equal to three times the member's salary raised to the next highest multiple of one thousand dollars, but in no event shall it exceed three times the maximum salary specified in section one hundred thirty of the civil service law or, in the case of a member of a retirement system other than the New York city employees' retirement system, the specific limitations specified for age of entrance into service contained in subparagraphs (b), (c), (d), (e) and (f) of paragraph two of subdivision a of this section.

2. Provided further, notwithstanding any other provision of this article to the contrary, where a member is in the uniformed force of the New York city department of sanitation or the uniformed force of the New York city department of correction, and would have been entitled to a service retirement benefit at the time of his or her death and where his or her death occurs on or after July first, two thousand twenty-two, the beneficiary or beneficiaries may elect to receive, in a lump sum, an amount payable which shall be equal to the pension reserve that would have been established had the member retired on the date of his or her

death, or the value of the death benefit and the reserve-for-increased-take-home-pay, if any, whichever is greater.

§ 4. Section 13-148 of the administrative code of the city of New York is amended by adding a new subdivision d to read as follows:

d. Notwithstanding any other provision of this article to the contrary, where a member is in the uniformed force of the department of sanitation or the uniformed force of the department of correction, and would have been entitled to a service retirement benefit at the time of his or her death and where his or her death occurs on or after July first, two thousand twenty-two, the beneficiary or beneficiaries may elect to receive, in a lump sum, an amount payable which shall be equal to the pension reserve that would have been established had the member retired on the date of his or her death, or the value of the death benefit and the reserve-for-increased-take-home-pay, if any, whichever is greater.

§ 5. This act shall take effect immediately.

Fiscal Note.--Pursuant to Legislative Law, Section 50:

SUMMARY OF BILL: This proposed legislation would amend Sections 448, 508, and 606 of the Retirement and Social Security Law (RSSL) and Section 13-148 of the Administrative Code of the City of New York (ACCNY) to provide an alternative death benefit for Correction and Sanitation members in all Tiers and Plans of the New York City Employees' Retirement System (NYCERS).

Effective Date: Upon enactment.

IMPACT ON BENEFITS: Currently, NYCERS Correction and Sanitation members are generally entitled to a lump sum ordinary death benefit equal to a multiple of salary plus the return of member accumulated contributions and increased-take-home-pay (ITHP), if any. These death benefits are generally calculated as three times the final year's salary raised to the next highest multiple of $1,000. Some of these death benefits are subject to salary caps and other reductions.

Under the proposed legislation, if enacted, the ordinary death benefit for members who are otherwise eligible to receive a service retirement benefit would be the greater of their current death benefit or the value of the pension reserve that would have been established had they retired on the date of their death. The pension reserve is the present value of all payments expected to be made on account of any pension, or benefit in lieu of any pension, granted under provisions of law and computed upon the basis of adopted mortality tables with regular interest (inclusive of accumulated member contributions and ITHP, if any). This type of lump sum pension reserve death benefit is sometimes referred to as a Death Gamble, and is afforded, in a similar form, to Tier 1 NYCERS members.

FINANCIAL IMPACT - PRESENT VALUES: Based on the actuarial assumptions and methods described herein, the enactment of this proposed legislation would increase the Present Value of Future Benefits (PVFB) by approximately $17.8 million.

Under the Entry Age Normal cost method used to determine the employer contributions to NYCERS, there would be an increase in the Unfunded Accrued Liability (UAL) of approximately $11.4 million and an increase in the Present Value of future employer Normal Cost of $6.4 million.

FINANCIAL IMPACT - ANNUAL EMPLOYER CONTRIBUTIONS: In accordance with ACCNY Section 13-638.2(k-2), new UAL attributable 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. As of June 30, 2021, the remaining working lifetime of the impacted NYCERS groups is approximately 12 years.

For the purposes of this Fiscal Note, the increase in UAL was amortized over a 12-year period (11 payments under the One-Year Lag Methodology (OYLM)) using level dollar payments. This payment plus the increase in the Normal Cost results in an increase in annual employer contributions of approximately $2.2 million each year.

CONTRIBUTION TIMING: For the purposes of this Fiscal Note, it is assumed that the changes in the Present Value of future employer contributions and annual employer contributions would be reflected for the first time in the Final June 30, 2021 actuarial valuation of NYCERS. In accordance with the OYLM used to determine employer contributions, the increase in employer contributions would first be reflected in Fiscal Year 2023.

CENSUS DATA: The estimates presented herein are based on the census data used in the Preliminary June 30, 2021 (Lag) actuarial valuation of NYCERS to determine the Preliminary Fiscal Year 2023 employer contributions.

The 8,054 NYCERS Correction members as of June 30, 2021 had an average age of approximately 41.1 years, average service of approximately 10.6 years, and an average salary of approximately $108,900.

The 7,163 NYCERS Sanitation members as of June 30, 2021 had an average age of approximately 43.6 years, average service of approximately 12.6 years, and an average salary of approximately $107,800.

ACTUARIAL ASSUMPTIONS AND METHODS: The changes in the Present Value of future employer contributions and annual employer contributions presented herein have been calculated based on the actuarial assumptions and methods in effect for the June 30, 2021 (Lag) actuarial valuations used to determine the Preliminary Fiscal Year 2023 employer contributions of NYCERS.

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 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 and other New York City agencies to implement the proposed legislation.

* The impact of this proposed legislation on Other Postemployment Benefit (OPEB) costs.

STATEMENT OF ACTUARIAL OPINION: I, Michael J. Samet, am the Interim Chief Actuary for, and independent of, the New York City Retirement Systems and Pension Funds. I am a Fellow of the Society of Actuaries and a Member of the American Academy of 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 2022-15 dated April 6, 2022 was prepared by the Interim Chief Actuary for the New York City Employees' Retirement System. This estimate is intended for use only during the 2022 Legislative Session.