STATE OF NEW YORK

9668

IN ASSEMBLY

March 28, 2022

Introduced by M. of A. ABBATE -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the retirement and social security law, in relation to investments by public pension funds

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

Section 1. Subdivision 8 and paragraph (a) of subdivision 9 of section 177 of the retirement and social security law, subdivision 8 as amended by chapter 594 of the laws of 1993, and paragraph (a) of subdivision 9 as amended by chapter 22 of the laws of 2006, are amended to read as follows:

8. The trustees of a fund shall have the power to invest the moneys thereof in foreign equity securities provided that (a) any such equity security is registered on a national securities exchange, as provided in an act of congress of the United States, entitled the "Securities Exchange Act of 1934", approved June sixth, nineteen hundred thirty-four, as amended, or otherwise registered pursuant to said act and, if such equity security is so otherwise registered, price quotations therefor are furnished through a nationwide automated quotation system approved by the National Association of Securities Dealers, Inc. or is registered on a foreign exchange organized and regulated pursuant to the laws of the jurisdiction of such exchange and (b) the corporation has averaged at least one billion dollars in annual sales for the three consecutive years preceding the year in which the investment is made or has market capitalization of at least one billion dollars at the time the investment is made. Investments in such foreign equities shall be included together with a fund's investments in other equity securities for purposes of the percentage limitations set forth in the foregoing subdivisions of this section, and not more than [~~ten~~] **thirty** per centum of the assets of any fund shall be invested in the aggregate in such foreign equities.

(a) the investments by a fund made pursuant to this subdivision shall not at any time exceed [~~twenty-five~~] **thirty-five** per centum of the assets of such fund;

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

LBD14677-02-2

§ 2. This act shall take effect immediately.

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

This bill would amend subdivisions 8 and 9 of Section 177 of the Retirement and Social Security Law. Subdivision 8 would be amended to increase the percentage of assets which may be invested by the New York State Teachers' Retirement System in foreign equity securities from 10% to 30%. Subdivision 9 would be amended to increase the percentage of assets which may be invested by the New York State Teachers' Retirement System in those investments that aren't otherwise specifically permitted under other subdivisions of Section 177 from 25% to 35%.

If this bill is enacted, any cost or savings to the employers of members of the New York State Teachers' Retirement System would depend on the investment performance of any assets that are invested in a different manner due to this change in the investment restrictions. Additional investment income results in lower required employer contributions, and vice-versa.

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 2021 Actuarial Assumptions Report.

The source of this estimate is Fiscal Note 2022-20 dated February 22, 2022 prepared by the Office of 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.

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

This bill would amend the Retirement and Social Security Law to allow the 8 public retirement systems of New York State to invest up to 30 percent of their assets in eligible Foreign Equity Securities. The current limit on foreign equities is 10 percent. This bill would also increase the limit on non-legal list investments from 25 percent to 35 percent.

If this bill is enacted, insofar as this bill affects the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System, we assume that there would be some investment changes. Any increases in investment earnings will result in decreases in employer contributions. Similarly, any decreases in investment earnings will result in increases in employer contributions.

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 March 9, 2022, and intended for use only during the 2022 Legislative Session, is Fiscal Note No. 2022-94, prepared by the Actuary for the New York State and Local Retirement System.

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

SUMMARY OF BILL: This proposed legislation would amend Section 177 of the Retirement and Social Security Law (RSSL) to increase the New York City Retirement Systems and Pension Funds (NYCRS) asset allocation limits for "Basket Clause" investments and foreign equities.

The asset allocation limit for Basket Clause investments would increase from 25% to 35% of the fund's assets in the aggregate. The asset allocation limit for foreign equities would increase from 10% to 30% of the fund's assets in the aggregate.

Effective Date: Upon enactment.

FINANCIAL IMPACT - SUMMARY: With respect to the NYCRS, the enactment of this proposed legislation would not, in and of itself, result in any change in employer contributions.

The cost of a retirement program is funded by contributions and investment income, the latter of which is driven by the rate of return on the assets. To the extent that the NYCRS increase their investment in the securities authorized by this proposed legislation and those securities produce greater (lesser) rates of return than the rates of return that the NYCRS would otherwise have achieved, then employer contributions will be lesser (greater).

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

ACTUARIAL ASSUMPTIONS AND METHODS: The estimates 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 NYCRS.

RISK AND UNCERTAINTY: The financial impact presented in this Fiscal Note depends 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.

As a reference, increasing the investment return by 1.0% each year would reduce the unfunded liability by approximately $24.8 billion, while decreasing it by 1.0% would increase the unfunded liability by approximately $29.5 billion.

Not measured in this Fiscal Note are the following:

* The initial, additional administrative costs to each of the retirement systems and other New York City agencies to implement the proposed legislation.

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 2022-01 dated February 14, 2022 was prepared by the Interim Chief Actuary for the New York City Retirement Systems and Pension Funds. This estimate is intended for use only during the 2022 Legislative Session.