

STATE OF NEW YORK

5631--B

2021-2022 Regular Sessions

IN SENATE

March 15, 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:

1 Section 1. Subdivision g of section 78-a of the retirement and social
2 security law, as added by chapter 125 of the laws of 2000, is amended to
3 read as follows:

4 g. Notwithstanding any other provision of law, effective the first day
5 of September, two thousand twenty-two, the surviving spouse of a
6 deceased retired member who retired under an option which provides that
7 benefits are to be continued for life to the surviving spouse after the
8 death of the retired member, shall be entitled to receive benefits
9 pursuant to this section. Said benefits shall be [~~fifty~~] one hundred
10 percent of the monthly benefits which the pensioner would be receiving
11 pursuant to this section if living, and shall commence (i) with a
12 payment for the month of September, two thousand twenty-two, or (ii) the
13 month following the death of the deceased retired member, whichever is
14 later.

15 § 2. Subdivision g of section 378-a of the retirement and social secu-
16 rity law, as added by chapter 125 of the laws of 2000, is amended to
17 read as follows:

18 g. Notwithstanding any other provision of law, effective the first day
19 of September, two thousand twenty-two, the surviving spouse of a
20 deceased retired member who retired under an option which provides that

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

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benefits are to be continued for life to the surviving spouse after the death of the retired member, shall be entitled to receive benefits pursuant to this section. Said benefits shall be [~~fifty~~] one hundred percent of the monthly benefits which the pensioner would be receiving pursuant to this section if living, and shall commence (i) with a payment for the month of September, two thousand twenty-two, or (ii) the month following the death of the deceased retired member, whichever is later.

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

g. Notwithstanding any other provision of law, effective the first day of September, two thousand twenty-two, the surviving spouse of a deceased retired member who retired under an option which provides that benefits are to be continued for life to the surviving spouse after the death of the retired member, shall be entitled to receive benefits pursuant to this section. Said benefits shall be [~~fifty~~] one hundred percent of the monthly benefits which the pensioner would be receiving pursuant to this section if living, and shall commence (i) with a payment for the month of September, two thousand twenty-two, or (ii) the month following the death of the deceased retired member, whichever is later.

§ 4. Subdivision g 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:

g. Notwithstanding any other provision of law, effective the first day of September, two thousand twenty-two, the surviving spouse of a deceased retired member of the New York city employees' retirement system, the New York city teachers' retirement system, the New York city police pension fund, the New York city fire department pension fund or the New York city board of education retirement system who retired under an option which provides that benefits are to be continued for life to the surviving spouse after the death of the member, shall be entitled to receive a benefit pursuant to this section. Said benefit shall be [~~fifty~~] one hundred percent of the monthly benefit which the pensioner would be receiving if living, and shall commence (i) with a payment for the month of September, two thousand twenty-two, or (ii) the month following the death of the deceased retired member, whichever is later.

§ 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 2022, the cost-of-living benefit payable to a surviving spouse who is eligible for COLA will be increased from fifty percent to one hundred percent of the benefit that the pensioner would have received.

Insofar as this bill affects the New York State and Local Employees' Retirement System, 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. If this bill were enacted, the increase in the present value of benefits would be approximately \$1.2 billion.

Insofar as this bill affects the New York State and Local Police and Fire Retirement System (PFRS), the increased costs would be shared by the State of New York and the participating employers in the PFRS. If this bill were enacted, the increase in the present value of benefits would be approximately \$123 million. The estimated first year cost would

be approximately \$2.5 million to the State of New York and approximately \$10 million to the participating employers in the PFRS.

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 10, 2021, and intended for use only during the 2021 Legislative Session, is Fiscal Note No. 2021-99, 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 it would impact the New York State Teachers' Retirement System (NYSTRS) this bill (legislative bill draft 09819-01-1) would amend subdivision g of Section 532-a of the Education Law to increase the cost-of-living adjustment (COLA) benefit and "catch-up" supplemental benefit to the surviving spouse of an eligible deceased retired member. The COLA and "catch-up" supplemental survivor benefit would be equal to 100% of the monthly benefit which the retired member would be receiving if living. The current COLA and "catch-up" supplemental survivor benefit is equal to 50% of the benefit. This benefit improvement would be effective in September of 2022.

The annual cost to the employers of members of NYSTRS for this benefit is estimated to be \$44.9 million or .26% of payroll if this bill is enacted.

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 2021-30 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 New York City Retirement Systems and Pension Funds (NYCRS), would amend Section 13-696 of the Administrative Code of the City of New York (ACCNY) to increase the Cost-of-Living Adjustment (COLA), effective

September 1, 2022, to an eligible surviving spouse from 50% to 100% of the COLA the pensioner would be receiving if still alive for the New York City Employees' Retirement System (NYCERS), the New York City Teachers' Retirement System (NYCTRS), 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).

Effective Date: Upon enactment.

BACKGROUND: The COLA currently provides for an annual increase equal to a percentage of the annual retirement allowance otherwise payable, computed without optional modification on the first \$18,000 of retirement allowance. That percentage is equal to 50% of the increase in the consumer price index (CPI) in the one-year period ending on the March 31 prior to the COLA effective on the ensuing September 1. The percentage is rounded to the next higher one-tenth of one percent and shall not be less than 1% nor more than 3%.

The surviving spouse of a deceased retired member who retired under an option which provides that benefits are to be continued for life to the surviving spouse after the death of the retired member is currently entitled to receive a COLA equal to 50% of the COLA the pensioner would be receiving if living. This proposed legislation would change from 50% to 100% the percentage of COLA a surviving spouse receives after the death of the retired member.

FINANCIAL IMPACT - SUMMARY: The estimated financial impact to NYCERS for increasing the surviving spouse COLA from 50% to 100% of the retired member's COLA as described above is an increase in Present Value of Future Benefits (PVFB) of \$579.7 million and an increase in the first year annual employer contributions of \$521.1 million. A breakdown of the financial impact by NYCERS is shown in the table below.

NYCERS	Additional Present Value of Future Benefits (\$ Millions)	Estimated First Year Annual Employer Contributions* (\$ Millions)
NYCERS	\$338.3	\$295.2
NYCTRS	180.3	171.8
BERS	20.6	19.1
POLICE	28.0	23.9
FIRE	12.5	11.1
Total	\$579.7	\$521.1

* Total NYCERS employer contributions after the first year are estimated to be \$15 - \$16 million per year.

In accordance with ACCNY Section 13-638.2(k-2), new Unfunded Accrued Liability (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.

For the purposes of this Fiscal Note it has been assumed that increases in UAL attributable to current retirees would be recognized immediately and that increases in UAL attributable to active members would be amortized over periods ranging from 12 to 15 years depending on the NYCERS (11 to 14 payments, respectively, under One-Year Lag Methodology (OYLM)).

CONTRIBUTION TIMING: For the purposes of this Fiscal Note, it is assumed that the changes in the PVFB and annual employer contributions would be reflected for the first time in the June 30, 2020 actuarial valuations of NYCERS. In accordance with the OYLM used to determine

employer contributions, the increase in employer contributions would first be reflected in Fiscal Year 2022.

CENSUS DATA: The estimates presented herein are based on the census data used in the June 30, 2020 (Lag) actuarial valuations of NYCERS 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 NYCERS. Also, assumptions for active members electing a form of pension at retirement that would continue a payment to a surviving spouse (ranging from 20% to 35%) were made based on the distribution of current elections and the Actuary's estimate of future elections.

The Actuary is proposing a set of changes for use beginning with the June 30, 2019 (Lag) actuarial valuations of NYCERS to determine the Final Fiscal Year 2021 Employer Contributions (2021 A&M). If the 2021 A&M is enacted it is estimated that it would produce PVFB and first year annual employer contribution results that are approximately 4-5% smaller than the results shown above. Employer contributions after the first year are estimated to be approximately 6-9% smaller than the results shown above if the 2021 A&M is enacted.

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

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 2021-48 dated June 10, 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.