

# STATE OF NEW YORK

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6619--A

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 -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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

35 § 2. The closing paragraph of paragraph 2 of subdivision a of section  
36 508 of the retirement and social security law, as amended by chapter 513  
37 of the laws of 2010, is amended to read as follows:

38 Notwithstanding any other provision of this paragraph, in the case of  
39 a member of the New York state teachers' retirement system, commencing  
40 upon attainment of age [~~sixty-one~~] sixty-two if such member's date of  
41 membership is prior to April first, two thousand twelve or attainment of  
42 age sixty-three if such member's date of membership is on or after April  
43 first, two thousand twelve, the benefit otherwise provided pursuant to  
44 this paragraph shall be reduced while the member is in service to nine-  
45 ty-six per centum of the benefit otherwise payable, and each year there-  
46 after the benefit payable shall be reduced by an amount equal to four  
47 per centum per year of the original benefit otherwise payable, but not  
48 below sixty per centum of the original benefit otherwise payable. In the  
49 case of a member of the New York city employees' retirement system, the  
50 New York city board of education retirement system or the New York city  
51 teachers' retirement system, commencing upon attainment of age sixty-  
52 one, the benefit otherwise provided pursuant to this paragraph shall be  
53 reduced while the member is in service to ninety-five per centum of the  
54 benefit otherwise payable and each year thereafter the benefit payable  
55 shall be reduced by an amount equal to five per centum per year of the  
56 original benefit otherwise payable, but not below fifty per centum of

1 the original benefit otherwise payable. In the case of any member of the  
2 New York state and local employees' retirement system who is permitted  
3 to retire without regard to age, commencing upon attainment of age  
4 ~~[sixty-one]~~ sixty-two if such member's date of membership is prior to  
5 April first, two thousand twelve or attainment of age sixty-three if  
6 such member's date of membership is on or after April first, two thou-  
7 sand twelve, the benefit otherwise provided pursuant to this paragraph  
8 shall be reduced while the member is in service to ninety-seven per  
9 centum of the benefit otherwise payable, and each year thereafter the  
10 benefit payable shall be reduced by an amount equal to three per centum  
11 per year of the original benefit otherwise payable, but not below seven-  
12 ty per centum of the original benefit otherwise payable. In the case of  
13 any other member of the New York state and local employees' retirement  
14 system, commencing upon attainment of age ~~[sixty-one]~~ sixty-two if such  
15 member's date of membership is prior to April first, two thousand twelve  
16 or attainment of age sixty-three if such member's date of membership is  
17 on or after April first, two thousand twelve, the benefit otherwise  
18 provided pursuant to this paragraph shall be reduced while the member is  
19 in service to ninety-six per centum of the benefit otherwise payable,  
20 and each year thereafter the benefit payable shall be reduced by an  
21 amount equal to four per centum per year of the original benefit other-  
22 wise payable, but not below sixty per centum of the original benefit  
23 otherwise payable. Upon retirement from any retirement system, the bene-  
24 fit in force shall be reduced by fifty per centum; upon completion of  
25 the first year of retirement, the benefit in force at the time of  
26 retirement shall be reduced by an additional twenty-five per centum, and  
27 upon commencement of the third year of retirement, the benefit shall be  
28 ten per centum of the benefit in force at age sixty, if any, or at the  
29 time of retirement if retirement preceded such age; provided, however,  
30 the benefit in retirement shall not be reduced below ten per centum of  
31 the benefit in force at age sixty, if any, or at the time of retirement  
32 if retirement preceded such age. Notwithstanding any other provision of  
33 this paragraph to the contrary, the benefit for a retiree from the New  
34 York state and local employees' retirement system shall not be reduced  
35 below ten per centum of the benefit in force at the time of retirement.

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

39 In the case of a member of the New York state teachers' retirement  
40 system, commencing upon attainment of age ~~[sixty-one]~~ sixty-two if such  
41 member's date of membership is prior to April first, two thousand twelve  
42 or attainment of age sixty-three if such member's date of membership is  
43 on or after April first, two thousand twelve, the benefit otherwise  
44 provided pursuant to this paragraph shall be reduced while the member is  
45 in service to ninety-six per centum of the benefit otherwise payable,  
46 and each year thereafter the benefit payable shall be reduced by an  
47 amount equal to four per centum per year of the original benefit other-  
48 wise payable, but not below sixty per centum of the original benefit  
49 otherwise payable. In the case of a member of the New York city employ-  
50 ees' retirement system, the New York city board of education retirement  
51 system or the New York city teachers' retirement system, commencing upon  
52 attainment of age sixty-one, the benefit otherwise provided pursuant to  
53 this paragraph shall be reduced while the member is in service to nine-  
54 ty-five per centum of the benefit otherwise payable and each year there-  
55 after the benefit payable shall be reduced by an amount equal to five  
56 per centum per year of the original benefit otherwise payable, but not

below fifty per centum of the original benefit otherwise payable. In the case of any member of the New York state and local employees' retirement system who is permitted to retire without regard to age, commencing upon attainment of age [~~sixty-one~~] sixty-two if such member's date of membership is prior to April first, two thousand twelve or attainment of age sixty-three if such member's date of membership is on or after April first, two thousand twelve, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety-seven per centum of the benefit otherwise payable, and each year thereafter the benefit payable shall be reduced by an amount equal to three per centum per year of the original benefit otherwise payable, but not below seventy per centum of the original benefit otherwise payable. In the case of any other member of the New York state and local employees' retirement system, commencing upon attainment of age [~~sixty-one~~] sixty-two if such member's date of membership is prior to April first, two thousand twelve or attainment of age sixty-three if such member's date of membership is on or after April first, two thousand twelve, the benefit otherwise provided pursuant to this paragraph shall be reduced while the member is in service to ninety-six per centum of the benefit otherwise payable, and each year thereafter the benefit payable shall be reduced by an amount equal to four per centum per year of the original benefit otherwise payable, but not below sixty per centum of the original benefit otherwise payable. Upon retirement, from any retirement system, the benefit in force shall be reduced by fifty per centum; upon completion of the first year of retirement, the benefit in force at the time of retirement shall be reduced by an additional twenty-five per centum, and upon commencement of the third year of retirement, the benefit shall be ten per centum of the benefit in force at age sixty, if any, or at the time of retirement if retirement preceded such age; provided, however, the benefit in retirement shall not be reduced below ten per centum of the benefit in force at age sixty, if any, or at the time of retirement if retirement preceded such age. Notwithstanding any other provision of this paragraph to the contrary, the benefit for a retiree from the New York state and local employees' retirement system shall not be reduced below ten per centum of the benefit in force at the time of retirement.

§ 4. Notwithstanding any other provision of law to the contrary, the provisions of this act shall not be subject to section 25 of the retirement and social security law.

§ 5. This act shall take effect on the first of April next succeeding 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 payable 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 employers 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 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 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.

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

This bill (legislative bill draft 10525-03-1) would amend Section 448, Section 508 and Section 606 of the Retirement and Social Security Law to change the age at which reductions to the ordinary death benefit commence for active members of the New York State Teachers' Retirement System who die in service. Currently, the ordinary death benefit is reduced by four percent per year commencing at age 61. This bill would change the age at which reductions commence to age 62 for members with a date of membership prior to April 1, 2012 and to age 63 for members with a date of membership on or after April 1, 2012. This bill would apply to active member deaths on or after the effective date of this bill.

The annual cost to the employers of members of the New York State Teachers' Retirement System for this benefit is estimated to be \$1.1 million or .01% 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 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.

The source of this estimate is Fiscal Note 2021-52 dated May 12, 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.