# STATE OF NEW YORK

6835--C

2021-2022 Regular Sessions

# IN SENATE

May 19, 2021

Introduced by Sens. GOUNARDES, BRISPORT, KAMINSKY, MARTUCCI, PALUMBO, SKOUFIS -- 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 -- recommitted to the Committee on Civil Service and Pensions in accordance with Senate Rule 6, sec. 8 -- 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 and the education law, in relation to increasing the base benefit amount for computation of pension cost-of-living adjustments

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

Section 1. Subdivisions c and d of section 78-a of the retirement and social security law, as added by chapter 125 of the laws of 2000, are amended to read as follows:

c. Said cost-of-living adjustment shall be computed on a base benefit amount not to exceed eighteen thousand dollars of the annual retirement allowance defined in subdivision b of this section**, except that effective on the first day of September, two thousand twenty-three, the cost-of-living adjustment shall be computed on a base benefit amount not to exceed twenty-one thousand dollars of the annual retirement allowance defined in subdivision b of this section**.

d. The percentage referred to in this section shall be determined annually by reference to the consumer price index (all urban consumers, CPI-U, U.S. city average, all items, 1982-84=100), published by the United States bureau of labor statistics, for each applicable calendar year. Said percentage shall equal fifty percent of the annual inflation, as determined from the increase in the consumer price index in the one year period ending on the March thirty-first prior to the cost-of-living

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

LBD11429-08-2

adjustment effective on the ensuing September first. Said percentage shall then be rounded up to the next higher one-tenth of one percent and shall not exceed three percent nor be less than one percent**, except that, commencing the first day of September, two thousand twenty-three, the cost-of-living adjustments paid between the first day of September, two thousand one and the first day of September, two thousand twenty-one shall equal one hundred percent of the annual inflation, as determined from the increase in the consumer price index in the one year period ending on the March thirty-first prior to the cost-of-living adjustment effective on the ensuing September first. Said percentage shall then be rounded up to the next higher one-tenth of one percent and shall not exceed three percent nor be less than one percent**.

§ 2. Subdivisions c and d of section 378-a of the retirement and social security law, as added by chapter 125 of the laws of 2000, are amended to read as follows:

c. Said cost-of-living adjustment shall be computed on a base benefit amount not to exceed eighteen thousand dollars of the annual retirement allowance defined in subdivision b of this section**, except that, effective on the first day of September, two thousand twenty-three, the cost-of-living adjustment shall be computed on a base benefit amount not to exceed twenty-one thousand dollars of the annual retirement allowance defined in subdivision b of this section**.

d. The percentage referred to in this section shall be determined annually by reference to the consumer price index (all urban consumers, CPI-U, U.S. city average, all items, 1982-84=100), published by the United States bureau of labor statistics, for each applicable calendar year. Said percentage shall equal fifty percent of the annual inflation, as determined from the increase in the consumer price index in the one year period ending on the March thirty-first prior to the cost-of-living adjustment effective on the ensuing September first. Said percentage shall then be rounded up to the next higher one-tenth of one percent and shall not exceed three percent nor be less than one percent**, except that, commencing the first day of September, two thousand twenty-three, the cost-of-living adjustments paid between the first day of September, two thousand one and the first day of September, two thousand twenty-one shall equal one hundred percent of the annual inflation, as determined from the increase in the consumer price index in the one year period ending on the March thirty-first prior to the cost-of-living adjustment effective on the ensuing September first. Said percentage shall then be rounded up to the next higher one-tenth of one percent and shall not exceed three percent nor be less than one percent**.

§ 3. Subdivisions c and d of section 532-a of the education law, as added by chapter 125 of the laws of 2000, are amended to read as follows:

c. Said cost-of-living adjustment shall be computed on a base benefit amount not to exceed eighteen thousand dollars of the annual retirement allowance defined in subdivision b of this section**, except that effective on the first day of September, two thousand twenty-three, the cost-of-living adjustment shall be computed on a base benefit amount not to exceed twenty-one thousand dollars of the annual retirement allowance defined in subdivision b of this section**.

d. The percentage referred to in this section shall be determined annually by reference to the consumer price index (all urban consumers, CPI-U, U.S. city average, all items, 1982-84=100), published by the United States bureau of labor statistics, for each applicable calendar year. Said percentage shall equal fifty percent of the annual inflation,

as determined from the increase in the consumer price index in the one year period ending on the March thirty-first prior to the cost-of-living adjustment effective on the ensuing September first. Said percentage shall then be rounded up to the next higher one-tenth of one percent and shall not exceed three percent nor be less than one percent**, except that, commencing the first day of September, two thousand twenty-three, the cost-of-living adjustments paid between the first day of September, two thousand one and the first day of September, two thousand twenty-one shall equal one hundred percent of the annual inflation, as determined from the increase in the consumer price index in the one year period ending on the March thirty-first prior to the cost-of-living adjustment effective on the ensuing September first. Said percentage shall then be rounded up to the next higher one-tenth of one percent and shall not exceed three percent nor be less than one percent**.

§ 4. Notwithstanding any other provision of law to the contrary, none of the provisions of this act shall be subject to section 25 of the retirement and social security law.

§ 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 the New York State and Local Retirement System and the New York State Teachers' Retirement System. Starting with a payment in September 2023, the annual cost of living adjustment will be computed on a base benefit amount not to exceed $21,000. Additionally, the COLA payments made from 2001 to 2021 will be recomputed as one hundred percent of the annual inflation, increased from the fifty percent of the annual inflation that was used in the calculation for the COLA payments over that period.

Insofar as this bill affects the New York State and Local Employees' Retirement System (NYSLERS), the increased costs would be shared by the State of New York and the participating employers in the NYSLERS. If this bill were enacted during the 2022 legislative session, the increase in the present value of benefits would be approximately $2.26 billion. The estimated first year cost would be approximately $103 million to the State of New York and approximately $146 million to the participating employers in the NYSLERS.

Insofar as this bill affects the New York State and Local Police and Fire Retirement System (NYSLPFRS), the increased costs would be shared by the State of New York and the participating employers in the NYSLPFRS. If this bill were enacted during the 2022 legislative session, the increase in the present value of benefits would be approximately $268 million. The estimated first year cost would be approximately $5.51 million to the State of New York and approximately $21.2 million to the participating employers in the NYSLPFRS.

In addition to the costs discussed above, implementing the provisions of this legislation would generate administrative costs.

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 May 27, 2022, and intended for use only during the 2022 Legislative Session, is Fiscal Note No. 2022-155, prepared by the Actuary for the New York State and Local Retirement System.