STATE OF NEW YORK

9389

IN SENATE

May 23, 2022

Introduced by Sen. JACKSON -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

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:

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

c. Said cost-of-living adjustment shall be computed on a base benefit amount [~~not to exceed~~] **of** eighteen thousand dollars of the annual retirement allowance defined in subdivision b of this section**, provided, however, such base benefit amount shall be increased 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 beginning on September first, two thousand twenty-two. The annual percentage increase to the base amount 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**.

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

c. Said cost-of-living adjustment shall be computed on a base benefit amount [~~not to exceed~~] **of** eighteen thousand dollars of the annual retirement allowance defined in subdivision b of this section**, provided, however, such base benefit amount shall be increased 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**

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

bureau of labor statistics, for each applicable calendar year beginning on September first, two thousand twenty-two. The annual percentage increase to the base amount 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.

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

c. Said cost-of-living adjustment shall be computed on a base benefit amount [~~not to exceed~~] of eighteen thousand dollars of the annual retirement allowance defined in subdivision b of this section, provided, however, such base benefit amount shall be increased 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 beginning on September first, two thousand twenty-two. The annual percentage increase to the base amount 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.

§ 4. Subdivision c 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:

c. Said cost-of-living adjustment shall be computed on a base benefit amount [~~not to exceed~~] of eighteen thousand dollars of the annual fixed retirement allowance defined in subdivision b of this section, provided, however, such base benefit amount shall be increased 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 beginning on September first, two thousand twenty-two. The annual percentage increase to the base amount 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.

§ 5. 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.

§ 6. 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 the payment in September 2022, the base benefit for computation of the annual COLA will be increased annually by 50% of the annual inflation not to exceed 3% or be less than 1%.

Insofar as this bill affects the New York State and Local Employees' Retirement System (ERS), the increased costs would be shared by the

State of New York and the participating employers in the ERS. If this bill were enacted during the 2022 legislative session, the increase in the present value of benefits would be approximately $1.03 billion. The estimated first year cost would be approximately $47 million to the State of New York and approximately $67 million to the participating employers in the ERS.

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 during the 2022 legislative session, the increase in the present value of benefits would be approximately $148 million. The estimated first year cost would be approximately $3 million to the State of New York and approximately $12 million to the participating employers in the PFRS.

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 February 9, 2022, and intended for use only during the 2022 Legislative Session, is Fiscal Note No. 2022-37, 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 14047-01-1) would amend subdivision c of Section 532-a of the Education Law to annually increase the current cost-of-living adjustment (COLA) base benefit amount, currently at $18,000, by fifty percent of annual inflation. Currently the base benefit amount to which the COLA percentage is applied is fixed at $18,000 annually. The annual percentage increase shall be determined from the increase in the Consumer Price Index, published by the United States Bureau of Labor Statistics, in the one-year period ending on the March thirty-first prior to the COLA effective on the ensuing September first. The annual percentage increase shall not exceed three percent nor be less than one percent. This COLA base benefit adjustment would be effective in September 2022.

The annual cost to the employers of members of the New York State Teachers' Retirement System for this benefit is estimated to be $92.9 million or .53% 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 and the 2021 Actuarial Assumptions Report.

The source of this estimate is Fiscal Note 2022-10 dated February 10, 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:

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) base limit of $18,000 by 50% of CPI each year, starting on September 1, 2022, 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).

Note: To the extent that the implementation of the proposed legislation deviates from the calculation method discussed herein, the costs for the proposed legislation may be as much as 70% higher than the costs disclosed in the table below.

Effective Date: Upon enactment and first applicable to the September 2022 COLA.

IMPACT ON BENEFITS: Certain NYCRS retirees and beneficiaries are eligible to receive a COLA pursuant to the ACCNY Section 13-696(a) (i.e., age 62 and retired for five years; age 55 and retired for 10 years; disabled retirees who are retired for five years; and accidental death benefit recipients who have been receiving the benefit for five years). Spouses paid under a lifetime optional benefit generally receive 50% of the COLA that would have been payable to the retiree.

The COLA 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 COLA currently provides for an annual increase equal to a percentage of the annual retirement allowance otherwise payable, computed without optional modification, but limited to the first $18,000 of retirement allowance.

The costs in the table below are based on providing for an annual increase equal to a percentage of the annual retirement allowance otherwise payable, but limited to the $18,000 limit, increased on September 1, 2022 and each year thereafter by the COLA.

The alternate cost disclosed below uses the increasing $18,000 as the base for calculating COLA rather than as the limit of the retirement allowance subject to the COLA increase.

FINANCIAL IMPACT - SUMMARY: The estimated financial impact to NYCRS of increasing the $18,000 limit as described above is an increase in Present Value of Future Benefits (PVFB) of $1.5 billion and an increase in the first year annual employer contributions of $800.5 million. The increase in first year annual employer contributions of $800.5 million is estimated to be $658.9 million for New York City and $141.6 million for the other obligors of NYCRS. A breakdown of the financial impact by System is shown in the table below.

NYCRS	Additional Present Value of Future Benefits ($ Millions)	Estimated First Year Annual Employer Contributions* ($ Millions)
NYCERS	$626.1	$ 325.1
NYCTRS	476.3	202.0
BERS	44.1	15.3
POLICE	278.1	203.7
FIRE	**86.8**	**54.4**
Total	$1,511.4	$ 800.5

* Employer contributions after the first year are estimated to be approximately $100 million per year.

As noted above, to the extent that the implementation of this proposed legislation, for purposes of calculating individual COLA amounts, uses the increasing $18,000 base for all retirees, the increase in PVFB is estimated to be approximately $2.5 billion.

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 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 System (11 to 14 payments under the 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 Final June 30, 2021 actuarial valuations of NYCRS. 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 valuations of NYCRS to determine the Preliminary Fiscal Year 2023 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 Preliminary June 30, 2021 (Lag) actuarial valuations used to determine the Preliminary Fiscal Year 2023 employer contributions of each respective NYCRS.

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 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.

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 2022-50 dated May 12, 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.