# STATE OF NEW YORK

6635--A

2023-2024 Regular Sessions

# IN ASSEMBLY

April 25, 2023

Introduced by M. of A. PHEFFER AMATO -- read once and referred to the Committee on Governmental Employees -- 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 calculating certain pensions

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

Section 1. Subdivision a of section 504 of the retirement and social security law, as amended by chapter 18 of the laws of 2012, is amended to read as follows:

a. The service retirement benefit for general members at normal retirement age with twenty or more years of credited service shall be a pension equal to one-fiftieth of final average salary times years of credited service, not in excess of thirty years, less fifty percent of the primary social security retirement benefit as provided in section five hundred eleven of this article. The service retirement benefit for general members at normal retirement age with twenty or more years of service who first become members of the New York state and local employees' retirement system on or after April first, two thousand twelve at normal retirement age shall be a pension equal to the sum of [~~thirty-five~~] **forty** per centum and one-fiftieth of final average salary for each year of service in excess of twenty, but not in excess of thirty, times final average salary times years of credited service.

§ 2. Subdivisions a, b and b-1 of section 604 of the retirement and social security law, subdivision a as amended and subdivision b-1 as added by chapter 18 of the laws of 2012, subdivision b as amended by chapter 266 of the laws of 1998 and the opening paragraph of subdivision b as amended by section 8-b of part B of chapter 504 of the laws of 2009, are amended to read as follows:

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

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a. The service retirement benefit at normal retirement age for a member with less than twenty years of credited service[~~, or less than twenty-five years credited service for a member who joins the New York state teachers' retirement system on or after January first, two thousand ten,~~] shall be a retirement allowance equal to one-sixtieth of final average salary times years of credited service. Normal retirement age for members who first become members of a public retirement system of the state on or after April first, two thousand twelve shall be age sixty-three.

b. The service retirement benefit at normal retirement age for a member with twenty years or more of credited service[~~, or with twenty-five or more years credited service for a member who first joins the New York state teachers' retirement system on or after January first, two thousand ten,~~] shall be a retirement allowance equal to one-fiftieth of final average salary times years of credited service not in excess of thirty years.

Credited service in excess of thirty years shall provide an additional retirement allowance equal to three-two hundredths of the final average salary for each year of credited service in excess of thirty years.

b-1. Notwithstanding any other provision of law to the contrary, the service retirement benefit for members with twenty or more years of credit service who first become a member of a public retirement system of the state on or after April first, two thousand twelve at age sixty-three shall be a pension equal to the sum of [~~thirty-five~~] **forty** per centum and one-fiftieth of final average salary for each year of service in excess of twenty times final average salary times years of credited service. In no event shall any retirement benefit payable without optional modification be less than the actuarially equivalent annuitized value of the member's contributions accumulated with interest at five percent per annum compounded annually to the date of retirement.

§ 3. Section 1312 of the retirement and social security law, as added by chapter 18 of the laws of 2012, is amended to read as follows:

§ 1312. Benefit enhancements. Notwithstanding any other law to the contrary, eligible employees shall be permitted to retire, without penalty, upon reaching age fifty-seven and completing at least thirty years of credited service. Employees retiring pursuant to this section shall receive a pension allowance equal to the sum of [~~thirty-five~~] **forty** per centum and one-fiftieth of final average salary for each year of service in excess of twenty times final average salary times years of credited service.

§ 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 change the benefit fraction for a Tier 6 Article 15 member for service greater than 20 years to 40% of FAS plus 2% per year of service greater than 20. Currently the benefit for service greater than 20 years is 35% of FAS plus 2% per year of service greater than 20.

Insofar as this bill affects the New York State and Local Employees' Retirement System (NYSLERS), increased costs would be shared by the State of New York and all participating employers in the NYSLERS. If this bill is enacted during the 2023 legislative session, there will be an increase in the present value of future costs of approximately $1.41 billion.

| NYSLERS | Increase in present value benefits | Increase in future contributions |
|---|---|---|
| Tiers 1 - 5 | $0 | $280 million |
| Tier 6 | $1.41 billion | $1.13 billion |
| Total | $1.41 billion | $1.41 billion |

In the NYSLERS, this benefit improvement will be funded by increasing the billing rates charged annually. The annual contribution required of all participating employers in the NYSLERS is approximately 0.5% of billable salary, or approximately $61 million to the State of New York and $89 million to the local participating employers in the fiscal year ending March 31, 2025. This **permanent annual cost** will vary in subsequent billing cycles with changes in the billing rate and salary of the affected members.

Summary of relevant resources:

Membership data as of March 31, 2022 was used in measuring the impact of the proposed change, the same data used in the April 1, 2022 actuarial valuation. Distributions and other statistics can be found in the 2022 Report of the Actuary and the 2022 Annual Comprehensive Financial Report.

The actuarial assumptions and methods used are described in the 2020, 2021, and 2022 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, 2022 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 31, 2023, and intended for use only during the 2023 Legislative Session, is Fiscal Note No. 2023-42, prepared by the Actuary for the New York State and Local Retirement System.

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

This bill would amend Section 604 of the Retirement and Social Security Law to improve the retirement benefit formula for Tiers 5 and 6 members of the New York State Teachers' Retirement System. The Tier 5 benefit formula would match the Tier 4 formula with eligibility for the 2.0% multiplier at 20 years of service instead of 25 years as it is currently. The retirement benefit formula for Tier 6 members with 20 or more years of service would be 40% of final average salary plus 2% for each year of service in excess of 20 years. Currently, the benefit formula for Tier 6 members with 20 or more years of service is 35% of final average salary plus 2% for each year of service in excess of 20 years.

The annual cost to the employers of members of the New York State Teachers' Retirement System for this benefit is estimated to be $60.3 million or 0.33% of payroll if this bill is enacted.

The System's "new entrant rate", a hypothetical employer contribution rate that would occur if we started a new Retirement System without any assets, is equal to 5.15% of pay under the current Tier 6 benefit structure. This can be thought of as the long-term expected employer cost of Tier 6, based on the current actuarial assumptions. For the proposed change to the Tier 6 benefit structure under this bill, this new entrant

rate is estimated to increase to 5.84% of pay, an increase of 0.69% of pay.

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 2023-31 dated May 17, 2023 prepared by the Office of the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2023 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.