STATE OF NEW YORK

6636

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

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-four. 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,**

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

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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-four. 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-four. 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-four. 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 2024, the base benefit for computation

of the annual COLA will be increased annually by 50% of the annual inflation rate not to exceed 3% or be less than 1%.

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 $1.19 billion.

NYSLERS	Increase in present value benefits	Increase in future contributions
Tiers 1 - 5	$976 million	$643 million
Tier 6	$215 million	$549 million
Total	$1.19 billion	$1.19 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 0.4% of billable salary, or approximately $49 million to the State of New York and $71 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.

Insofar as this bill affects the New York State and Local Police and Fire Retirement System (NYSLPFRS), increased costs would be shared by the State of New York and all participating employers in the NYSLPFRS. If this bill is enacted during the 2023 legislative session, there will be an increase in the present value of future costs of approximately $173 million.

NYSLPFRS	Increase in present value benefits	Increase in future contributions
Tiers 1 - 5	$141 million	$83 million
Tier 6	$32 million	$90 million
Total	$173 million	$173 million

In the NYSLPFRS, this benefit improvement will be funded by increasing the billing rates charged annually. The annual contribution required of all participating employers in the NYSLPFRS is approximately 0.4% of billable salary, or approximately $3.4 million to the State of New York and $14 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 30, 2023, and intended for use only during the 2023 Legislative Session, is Fiscal Note No. 2023-28, 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 subdivision c of Section 532-a of the Education Law to annually increase the current cost-of-living adjustment (COLA) base benefit amount 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 as fifty percent of 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 annual COLA base benefit adjustment would be effective beginning in September 2024.

The annual cost to the employers of members of the New York State Teachers' Retirement System for this benefit is estimated to be $88.8 million or 0.48% 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 2023-11 dated February 7, 2023 prepared by the Office of the Actuary of the New York State TeachersÆ 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.

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 (limited to between 1% and 3%), starting on September 1, 2024, 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 80% higher than the costs disclosed in the table below.

Effective Date: Upon enactment.

IMPACT ON BENEFITS: Currently the COLA provides an annual increase equal to a percentage of the maximum annual retirement allowance, but limited to the first $18,000 of retirement allowance.

The costs in the table below are based on providing for an increase in the $18,000 limit starting on September 1, 2024 and each year thereafter. This increase would be equal to the increase in the consumer price index (CPI) in the one-year period ending on the prior March 31, rounded to the next higher one-tenth of one percent, but not more than 3% nor less than 1%.

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: The estimated financial impact to NYCRS is an increase in Present Value of Future Benefits of approximately $1.4 billion and an increase in Fiscal Year 2024 annual employer contributions of approximately $734.1 million. The increase in Fiscal Year 2024 annual employer contributions of $734.1 million is estimated to be $605.7 million for New York City and $128.4 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	$ 576.2	$ 298.5
NYCTRS	446.0	187.6
BERS	40.9	14.9
POLICE	251.8	184.2
FIRE	**79.2**	**48.9**
Total	$ 1,394.1	$ 734.1

* Total employer contributions after the first year are estimated to be approximately $90 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.

New Unfunded Accrued Liability (UAL) attributable to benefit changes 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 One-Year Lag Methodology) using level dollar payments.

CENSUS DATA: The estimates presented herein are based on the census data used in the June 30, 2022 actuarial valuation of NYCRS to determine the Preliminary Fiscal Year 2024 employer contributions.

ACTUARIAL ASSUMPTIONS AND METHODS: The estimates presented herein have been calculated based on the actuarial assumptions and methods used for the Preliminary Fiscal Year 2024 employer contributions of NYCRS.

For the purposes of this Fiscal Note, it is assumed that the changes would be reflected for the first time in the June 30, 2022 actuarial

valuations of NYCRS used to determine employer contributions for Fiscal Year 2024.

RISK AND UNCERTAINTY: The costs presented in this Fiscal Note depend highly on the realization of the actuarial assumptions used, demographics of the impacted population and other 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.

STATEMENT OF ACTUARIAL OPINION: I, Marek Tyszkiewicz, am the Chief Actuary for, and independent of, the New York City Retirement Systems and Pension Funds. I am an Associate of the Society of Actuaries and a Member of the American Academy of Actuaries. I am a member of NYCERS but do not believe it impairs my objectivity and 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 2023-12 dated March 22, 2023 was prepared by the Chief Actuary for the New York City Retirement Systems and Pension Funds. This estimate is intended for use only during the 2023 Legislative Session.