

STATE OF NEW YORK

6636--B

2023-2024 Regular Sessions

IN ASSEMBLY

April 25, 2023

Introduced by M. of A. PHEFFER AMATO, McDONALD, COLTON, SILLITTI, BUTTENSCHON, LUNSFORD -- read once and referred to the Committee on Governmental Employees -- recommitted to the Committee on Governmental Employees in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

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:

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

4 c. Said cost-of-living adjustment shall be computed on a base benefit
5 amount [~~not to exceed~~] of eighteen thousand dollars of the annual
6 retirement allowance defined in subdivision b of this section, provided,
7 however, such base benefit amount shall be increased annually by refer-
8 ence to the consumer price index (all urban consumers, CPI-U, U.S. city
9 average, all items, 1982-84=100), published by the United States
10 bureau of labor statistics, for each applicable calendar year beginning
11 on September first, two thousand twenty-four. The annual percentage
12 increase to the base amount shall equal fifty percent of the annual
13 inflation, as determined from the increase in the consumer price index
14 in the one year period ending on the March thirty-first prior to the
15 cost-of-living adjustment effective on the ensuing September first.
16 Said percentage shall then be rounded up to the next higher one-tenth of
17 one percent and shall not exceed three percent nor be less than one
18 percent.

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

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§ 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 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.

1 § 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, currently \$18,000, will be increased annually by 50% of the annual inflation rate not to exceed 3% or be less than 1%.

The provisions of Section 25 of the Retirement and Social Security Law shall not apply.

This proposal primarily benefits current and former members of Tiers 1 - 5. The cost of this benefit improvement will disproportionately be borne by current and future members of Tier 6.

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 local participating employers in the NYSLERS. If this bill were enacted during the 2024 Legislative Session, the increase in the present value of benefits would be approximately \$1.30 billion.

NYSLERS	Increase in present value benefits	Increase in required contributions
Tiers 1 - 5	\$1.03 billion	\$634 million
Tier 6	\$0.27 billion	\$663 million
Total	\$1.30 billion	\$1.30 billion

In the NYSLERS, this benefit improvement will be funded by increasing the billing rates charged annually to cover both retrospective and prospective benefit increases. The annual contribution required of all participating employers in NYSLERS is 0.4% of billable salary, or approximately \$51 million to the State of New York and approximately \$76 million to the local participating employers. 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), the increased costs would be shared by the State of New York and the local participating employers in the NYSLPFRS. If this bill were enacted during the 2024 Legislative Session, the increase in the present value of benefits would be approximately \$189 million.

NYSLPFRS	Increase in present value benefits	Increase in required contributions
Tiers 1 - 5	\$150 million	\$80 million
Tier 6	\$39 million	\$109 million
Total	\$189 million	\$189 million

In the NYSLPFRS, this benefit improvement will be funded by increasing the billing rates charged annually to cover both retrospective and prospective benefit increases. The annual contribution required of all participating employers in NYSLPFRS is 0.4% of billable salary, or approximately \$3.4 million to the State of New York and approximately \$14 million to the local participating employers. This permanent annual cost will vary in subsequent billing cycles with changes in the billing rate and salary of the affected members.

We anticipate some administrative costs to implement the provisions of this legislation.

Summary of relevant resources:

Membership data as of March 31, 2023 was used in measuring the impact of the proposed change, the same data used in the April 1, 2023 actuarial valuation. Distributions and other statistics can be found in the 2023 Report of the Actuary and the 2023 Annual Comprehensive Financial Report.

The actuarial assumptions and methods used are described in the 2023 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, 2023 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 8, 2024, and intended for use only during the 2024 Legislative Session, is Fiscal Note No. 2024-87, prepared by the Actuary for the New York State and Local Retirement System.

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

SUMMARY: This proposed legislation, as it relates to the New York City Retirement Systems and Pension Funds (NYCRS) would 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.

EXPECTED INCREASE (DECREASE) IN EMPLOYER CONTRIBUTIONS
by Fiscal Year for the first 25 years (\$ in Millions)

Year	NYCERS	TRS	BERS	POLICE	FIRE	TOTAL
2025	363.1	215.7	18.2	207.6	55.3	859.9
2026	42.9	34.4	3.9	11.7	4.5	97.4
2027	43.8	34.8	4.0	11.7	4.6	98.9
2028	44.6	35.3	4.1	11.8	4.7	100.5
2029	45.5	35.8	4.2	11.8	4.8	102.1
2030	46.5	36.3	4.3	11.9	4.9	103.9
2031	47.4	36.8	4.4	12.0	5.0	105.6
2032	48.4	37.3	4.5	12.1	5.2	107.5
2033	49.4	37.8	4.6	12.2	5.3	109.3
2034	50.5	38.4	4.7	12.4	5.4	111.4
2035	51.6	38.9	4.8	12.5	5.5	113.3
2036	52.7	39.5	2.4	12.7	5.6	112.9
2037	27.1	40.1	2.5	6.4	3.3	79.4
2038	28.3	40.7	2.6	6.7	3.4	81.7
2039	29.5	19.4	2.8	7.0	3.6	62.3
2040	30.9	20.0	2.9	7.3	3.8	64.9
2041	32.3	20.7	3.0	7.7	4.0	67.7
2042	33.7	21.5	3.2	8.0	4.2	70.6
2043	35.2	22.2	3.3	8.4	4.4	73.5
2044	36.8	23.0	3.5	8.9	4.6	76.8
2045	38.5	23.8	3.7	9.3	4.8	80.1
2046	40.2	24.6	3.8	9.7	5.0	83.3
2047	42.0	25.5	4.0	10.2	5.2	86.9
2048	43.8	26.4	4.2	10.7	5.4	90.5
2049	45.7	27.3	4.4	11.2	5.7	94.3

Employer Contribution impact beyond Fiscal Year 2049 is not shown. Projected contributions include future new hires that may be impacted.

The initial increase in employer contributions of \$859.9 million is estimated to be \$700.3 million for New York City and \$159.6 million for the other obligors of NYCERS.

INITIAL INCREASE (DECREASE) IN ACTUARIAL LIABILITIES

as of June 30, 2023 (\$ in Millions)

Present Value (PV)	NYCERS	TRS	BERS	POLICE	FIRE
PV of Benefits:	648.1	487.9	44.9	272.4	86.8
PV of Employee Contributions:	0.0	0.0	0.0	0.0	0.0
PV of Employer Contributions:	648.1	487.9	44.9	272.4	86.8
Unfunded Accrued Liabilities:	495.7	350.2	31.2	226.8	65.1

AMORTIZATION OF UNFUNDED ACCRUED LIABILITY

	NYCERS	TRS	BERS	POLICE	FIRE
Number of Payments:	12	14	11	12	12
Fiscal Year of Last Payment:	2036	2038	2035	2036	2036
Amortization Payment:	26.8 M	22.0 M	2.5 M	6.5 M	2.5 M
Additional One-time Payment:	321.1 M	181.7 M	14.4 M	196.0 M	50.9 M

Unfunded Accrued Liability (UAL) increases for active members were amortized over the expected remaining working lifetime of those impacted by the benefit changes using level dollar payments. UAL attributable to terminated vested members and current retirees was recognized in the first year.

CENSUS DATA: The estimates presented herein are based on preliminary census data collected as of June 30, 2023. The census data for the impacted population is summarized below.

	NYCERS	TRS	BERS	POLICE	FIRE
Active Members					
- Number Count:	180,354	124,368	24,613	33,800	10,720
- Average Age:	47.8	44.4	51.4	37.6	40.8
- Average Service:	11.8	12.3	9.7	11.3	13.9
- Average Salary:	88,800	98,500	59,700	128,600	139,500
Term. Vested Members					
- Number Count:	29,272	21,830	2,887	1,493	59
- Average Age:	51.7	47.0	52.0	38.2	43.9
Receiving Members					
- Number Count:	170,396	93,759	21,218	54,321	16,871
- Average Age:	71.8	74.8	74.0	63.2	67.6

IMPACT ON MEMBER 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 tables above are based on providing for an increase in the \$18,000 limit starting on September 1, 2024 and each year there-

after. 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%.

IMPORTANT NOTE: An alternate interpretation of the proposed legislation could use the increasing \$18,000 as the base for all retirees for calculating COLA rather than as the limit of the retirement allowance subject to the COLA increase. To the extent that implementation of the proposed legislation follows this alternate interpretation, the costs for this proposed legislation may be as much as 75% higher than the costs disclosed above (i.e., a \$2.7 billion total initial increase in PV of Benefits).

ASSUMPTIONS AND METHODS: The estimates presented herein have been calculated based on the Revised 2021 Actuarial Assumptions and Methods of the impacted retirement systems. In addition:

* New entrants were assumed to replace exiting members so that total payroll increases by 3% each year for impacted groups. New entrant demographics were developed based on data for recent new hires and actuarial judgement.

RISK AND UNCERTAINTY: The costs presented in this Fiscal Note depend highly on the actuarial assumptions, methods, and models 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. Quantifying these risks is beyond the scope of this Fiscal Note.

This Fiscal Note is intended to measure pension-related impacts and does not include other potential costs (e.g., administrative and Other Postemployment Benefits).

STATEMENT OF ACTUARIAL OPINION: Marek Tyszkiewicz and Gregory Zelikovsky are members of the Society of Actuaries and the American Academy of Actuaries. We are members of NYCERS but do not believe it impairs our objectivity and we meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein. To the best of our 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 2024-40 dated April 3, 2024 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 2024 Legislative Session.