STATE OF NEW YORK

6638--A

2023-2024 Regular Sessions

IN ASSEMBLY

April 25, 2023

Introduced by M. of A. PHEFFER AMATO, KELLES -- 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

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 f 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:

f. Commencing September first, two thousand, all retired members who have retired prior to the calendar year nineteen hundred ninety-seven and who meet the eligibility criteria set forth in subdivision a of this section shall be paid an adjusted benefit in monthly installments on the basis provided for in this subdivision. Said adjusted benefit shall be equal to a percentage of the change in 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, measured from the year of retirement through calendar year nineteen hundred ninety-seven according to the following schedule:

Year of retirement	Percentage
1968 through 1996	50%
1966 and 1967	55%
1965	60%
1964	65%
1963	70%
1962	80%

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

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1961	90%
prior to 1961	100%

Said adjusted benefit shall be computed on a base benefit amount not to exceed eighteen thousand dollars of the retirement allowance otherwise payable, computed without optional modification. Any benefit received pursuant to this subdivision shall be in lieu of any benefit received pursuant to section seventy-eight of this title.

Commencing September first, two thousand twenty-four, all retired members who have retired prior to the calendar year nineteen hundred ninety-seven and who meet the eligibility criteria set forth in subdivision a of this section shall be paid an adjusted benefit in monthly installments on the basis provided for in this subdivision. Said adjusted benefit shall be equal to a percentage of the change in 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, measured from the year of retirement through calendar year nineteen hundred ninety-seven according to the following schedule:

Year of retirement	**Percentage**
1973 through 1996	**50%**
1971 and 1972	**55%**
1970	**60%**
1969	**65%**
1968	**70%**
1967	**80%**
1966	**90%**
prior to 1966	**100%**

Said adjusted benefit commencing September first, two thousand twenty-four, shall be computed on the base benefit amount of the retirement allowance otherwise payable, computed without optional modification, set forth herein above. Any benefit received pursuant to this subdivision shall be in lieu of any benefit received pursuant to section seventy-eight of this title.

§ 2. Subdivision f 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:

f. Commencing September first, two thousand, all retired members who have retired prior to the calendar year nineteen hundred ninety-seven and who meet the eligibility criteria set forth in subdivision a of this section shall be paid an adjusted benefit in monthly installments on the basis provided for in this subdivision. Said adjusted benefit shall be equal to a percentage of the change in 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, measured from the year of retirement through calendar year nineteen hundred ninety-seven according to the following schedule:

Year of retirement	Percentage
1968 through 1996	50%
1966 and 1967	55%
1965	60%
1964	65%
1963	70%
1962	80%
1961	90%
prior to 1961	100%

Said adjusted benefit shall be computed on a base benefit amount not to exceed eighteen thousand dollars of the retirement allowance otherwise payable, computed without optional modification. Any benefit received pursuant to this subdivision shall be in lieu of any benefit received pursuant to section three hundred seventy-eight of this title.

Commencing September first, two thousand twenty-four, all retired members who have retired prior to the calendar year nineteen hundred ninety-seven and who meet the eligibility criteria set forth in subdivision a of this section shall be paid an adjusted benefit in monthly installments on the basis provided for in this subdivision. Said adjusted benefit shall be equal to a percentage of the change in 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, measured from the year of retirement through calendar year nineteen hundred ninety-seven according to the following schedule:

Year of retirement	**Percentage**
1973 through 1996	**50%**
1971 and 1972	**55%**
1970	**60%**
1969	**65%**
1968	**70%**
1967	**80%**
1966	**90%**
prior to 1966	**100%**

Said adjusted benefit commencing September first, two thousand twenty-four, shall be computed on the base benefit amount of the retirement allowance otherwise payable, computed without optional modification, set forth herein above. Any benefit received pursuant to this subdivision shall be in lieu of any benefit received pursuant to section three hundred seventy-eight of this title.

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

f. Commencing September first, two thousand, all retired members who have retired prior to the calendar year nineteen hundred ninety-seven and who meet the eligibility criteria set forth in subdivision a of this section shall be paid an adjusted benefit in monthly installments on the basis provided for in this subdivision. Said adjusted benefit shall be equal to a percentage of the change in 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, measured from the year of retirement through calendar year nineteen hundred ninety-seven according to the following schedule:

Year of retirement	Percentage
1968 through 1996	50%
1966 and 1967	55%
1965	60%
1964	65%
1963	70%
1962	80%
1961	90%
prior to 1961	100%

Said adjusted benefit shall be computed on a base benefit amount not to exceed eighteen thousand dollars of the retirement allowance otherwise payable, computed without optional modification excluding any annuity derived from voluntary contributions made by members, except those made

pursuant to elections under subdivision one of section five hundred eleven-a or paragraph c of subdivision three of section five hundred sixteen of this article. Any benefits received pursuant to this subdivision shall be in lieu of any benefits received pursuant to section five hundred thirty-two of this article, unless such benefits are in excess of those provided by this section, in which case such benefits shall be paid by the retirement system pursuant to such provision.

Commencing September first, two thousand twenty-four, all retired members who have retired prior to the calendar year nineteen hundred ninety-seven and who meet the eligibility criteria set forth in subdivision a of this section shall be paid an adjusted benefit in monthly installments on the basis provided for in this subdivision. Said adjusted benefit shall be equal to a percentage of the change in 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, measured from the year of retirement through calendar year nineteen hundred ninety-seven according to the following schedule:

Year of retirement	**Percentage**
1973 through 1996	**50%**
1971 and 1972	**55%**
1970	**60%**
1969	**65%**
1968	**70%**
1967	**80%**
1966	**90%**
prior to 1966	**100%**

Said adjusted benefit, commencing September first, two thousand twenty-four, shall be computed on a base benefit amount not to exceed eighteen thousand dollars of the retirement allowance otherwise payable, computed without optional modification, set forth herein above. Any benefit received pursuant to this subdivision shall be in lieu of any benefit received pursuant to section five hundred thirty-two of this article, unless such benefits are in excess of those provided by this section, in which case such benefits shall be paid by the retirement system pursuant to such provision.

§ 4. Subdivision f 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:

f. Commencing September first, two thousand, all retired members who have retired prior to the calendar year nineteen hundred ninety-seven and who meet the eligibility criteria set forth in subdivision a of this section shall be paid an adjusted benefit in monthly installments on the basis provided for in this subdivision. Said adjusted benefit shall be equal to a percentage of the change in 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, measured from the year of retirement through calendar year nineteen hundred ninety-seven according to the following schedule:

Year of retirement	Percentage
1968 through 1996	50%
1966 and 1967	55%
1965	60%
1964	65%
1963	70%
1962	80%

1961	90%
prior to 1961	100%

Said adjusted benefit shall be computed on a base benefit amount not to exceed eighteen thousand dollars of the annual fixed retirement allowance otherwise payable, computed without optional modification. Any benefit received pursuant to this subdivision shall be in lieu of any benefit received pursuant to chapter three hundred ninety of the laws of nineteen hundred ninety-eight, and any preceding provision of law providing for supplementation.

Commencing September first, two thousand twenty-four, all retired members who have retired prior to the calendar year nineteen hundred ninety-seven and who meet the eligibility criteria set forth in subdivision a of this section shall be paid an adjusted benefit in monthly installments on the basis provided for in this subdivision. Said adjusted benefit shall be equal to a percentage of the change in 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, measured from the year of retirement through calendar year nineteen hundred ninety-seven according to the following schedule:

Year of retirement	**Percentage**
1973 through 1996	**50%**
1971 and 1972	**55%**
1970	**60%**
1969	**65%**
1968	**70%**
1967	**80%**
1966	**90%**
prior to 1966	**100%**

Said adjusted benefit, commencing September first, two thousand twenty-four, shall be computed on the base benefit amount of the retirement allowance otherwise payable, computed without optional modification, set forth herein above. Any benefit received pursuant to this subdivision shall be in lieu of any benefit received pursuant to section 13-695 of this article.

§ 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 New York public retirement systems. Starting with a payment in September 2024, additional payments will be made for those members who retired after 1960 and prior to 1973.

Insofar as this bill affects the New York State and Local Employees' Retirement System (NYSLERS), pursuant to Section 25 of the Retirement and Social Security Law, the increased costs would be borne entirely by the State of New York and would require an itemized appropriation sufficient to pay the cost of the provision. If this bill were enacted during the 2024 Legislative Session, the increase in the present value of benefits would be approximately $171,000. To fund these costs, the State of New York will be required to pay $191,000 (including interest) as of March 1, 2025.

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 $232,000.

NYSLPFRS	Increase in present value benefits	Increase in required contributions
Tiers 1-5	$232,000	$111,000
Tier 6	$0	$121,000
Total	$232,000	$232,000

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 the NYSLPFRS would be approximately $4,300 to the State of New York and approximately $18,000 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.

These estimated costs are based on 42 retirees and beneficiaries in the NYSLERS and 41 pin the NYSLPFRS as of March 31, 2023.

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 January 31, 2024, and intended for use only during the 2024 Legislative Session, is Fiscal Note No. 2024-44, prepared by the Actuary for the New York State and Local Retirement System.