STATE OF NEW YORK

7023

2023-2024 Regular Sessions

IN ASSEMBLY

May 10, 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 and the education law, in relation to increasing the base benefit amount for computation of pension cost-of-living adjustments

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

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

c. Said cost-of-living adjustment shall be computed on a base benefit amount not to exceed eighteen thousand dollars of the annual retirement allowance defined in subdivision b of this section**, except that effective on the first day of September, two thousand twenty-four, the cost-of-living adjustment shall be computed on a base benefit amount not to exceed twenty-one thousand dollars of the annual retirement allowance defined in subdivision b of this section**.

d. The percentage referred to in this section shall be determined 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. Said percentage 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**, except that, commencing the first day of September, two thousand twenty-four, the cost-of-living adjustments paid between the first day of September, two thousand two and the first day of September, two thousand twenty-two shall equal one hundred percent of the annual inflation, as determined**

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

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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. Subdivisions c and d of section 378-a of the retirement and social security law, as added by chapter 125 of the laws of 2000, are amended to read as follows:

c. Said cost-of-living adjustment shall be computed on a base benefit amount not to exceed eighteen thousand dollars of the annual retirement allowance defined in subdivision b of this section**, except that, effective on the first day of September, two thousand twenty-four, the cost-of-living adjustment shall be computed on a base benefit amount not to exceed twenty-one thousand dollars of the annual retirement allowance defined in subdivision b of this section**.

d. The percentage referred to in this section shall be determined 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. Said percentage 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**, except that, commencing the first day of September, two thousand twenty-four, the cost-of-living adjustments paid between the first day of September, two thousand two and the first day of September, two thousand twenty-two shall equal one hundred 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. Subdivisions c and d of section 532-a of the education law, as added by chapter 125 of the laws of 2000, are amended to read as follows:

c. Said cost-of-living adjustment shall be computed on a base benefit amount not to exceed eighteen thousand dollars of the annual retirement allowance defined in subdivision b of this section**, except that effective on the first day of September, two thousand twenty-four, the cost-of-living adjustment shall be computed on a base benefit amount not to exceed twenty-one thousand dollars of the annual retirement allowance defined in subdivision b of this section**.

d. The percentage referred to in this section shall be determined 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. Said percentage 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**, except that, commencing the first day of September, two thousand twenty-four, the cost-of-living adjustments paid between the first day of September,** two thousand two and the first day of September, two thousand twenty-two shall equal one hundred 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. 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 provide an increase in the defined benefit cost-of-living adjustment (COLA) for the New York State and Local Retirement System and the New York State Teachers' Retirement System. Starting with a payment in September 2024, the annual COLA will be computed on a base benefit amount not to exceed $21,000. Additionally, the COLA payments made from 2002 to 2022 will be recomputed based on one hundred percent of the annual inflation. Currently, the calculation uses a base benefit not to exceed $18,000 and annual increases based on fifty percent of the annual inflation.

Insofar as this bill affects the New York State and Local Employees' Retirement System (NYSLERS), the increased costs would be borne entirely by the State of New York and the local participating employers in the NYSLERS. If this bill were enacted during the 2023 legislative session, the increase in the present value of benefits would be approximately $14.2 billion.

NYSLERS	Increase in present value benefits	Increase in future contributions
Tiers 1 - 5	$14.1 billion	$8.4 billion
Tier 6	$0.1 billion	$5.8 billion
Total	$14.2 billion	$14.2 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 the NYSLERS is 5.2% of billable salary, or approximately $639 million to the State of New York and approximately $928 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), 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 2023 legislative session, the increase in the present value of benefits would be approximately $1.1 billion.

NYSLPFRS	Increase in present value benefits	Increase in future contributions
Tiers 1 - 5	$1.1 billion	$0.6 billion
Tier 6	$0.02 billion	$0.5 billion
Total	$1.1 billion	$1.1 billion

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 is 2.6% of billable salary, or approximately $22 million to the State of New York and approximately $88 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.

Further, we anticipate significant administrative costs to implement the provisions of this legislation.

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 April 11, 2023, and intended for use only during the 2023 Legislative Session, is Fiscal Note No. 2023-122, prepared by the Actuary for the New York State and Local Retirement System.