STATE OF NEW YORK

5809--D

2023-2024 Regular Sessions

IN SENATE

March 16, 2023

Introduced by Sens. GOUNARDES, ADDABBO, HARCKHAM, THOMAS, WEIK -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Civil Service and Pensions in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- 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 g 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:

g. Notwithstanding any other provision of law, **effective the first day of September, two thousand twenty-five,** the surviving spouse of a deceased retired member who retired under an option which provides that benefits are to be continued for life to the surviving spouse after the death of the retired member, shall be entitled to receive benefits pursuant to this section. Said benefits shall be [~~fifty~~] **one hundred** percent of the monthly benefits which the pensioner would be receiving pursuant to this section if living, and shall commence (i) with a payment for the month of September, two thousand **twenty-five**, or (ii) the month following the death of the deceased retired member, whichever is later.

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

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§ 2. Subdivision g 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:

g. Notwithstanding any other provision of law, **effective the first day of September, two thousand twenty-five,** the surviving spouse of a deceased retired member who retired under an option which provides that benefits are to be continued for life to the surviving spouse after the death of the retired member, shall be entitled to receive benefits pursuant to this section. Said benefits shall be [~~fifty~~] **one hundred** percent of the monthly benefits which the pensioner would be receiving pursuant to this section if living, and shall commence (i) with a payment for the month of September, two thousand **twenty-five**, or (ii) the month following the death of the deceased retired member, whichever is later.

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

g. Notwithstanding any other provision of law, **effective the first day of September, two thousand twenty-five,** the surviving spouse of a deceased retired member who retired under an option which provides that benefits are to be continued for life to the surviving spouse after the death of the retired member, shall be entitled to receive benefits pursuant to this section. Said benefits shall be [~~fifty~~] **one hundred** percent of the monthly benefits which the pensioner would be receiving pursuant to this section if living, and shall commence (i) with a payment for the month of September, two thousand **twenty-five**, or (ii) the month following the death of the deceased retired member, whichever is later.

§ 4. Subdivision g 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:

g. Notwithstanding any other provision of law, **effective the first day of September, two thousand twenty-five,** the surviving spouse of a deceased retired member of the New York city employees' retirement system, the New York city teachers' retirement system, the New York city police pension fund, the New York city fire department pension fund or the New York city board of education retirement system who retired under an option which provides that benefits are to be continued for life to the surviving spouse after the death of the member, shall be entitled to receive a benefit pursuant to this section. Said benefit shall be [~~fifty~~] **one hundred** percent of the monthly benefit which the pensioner would be receiving if living, and shall commence (i) with a payment for the month of September, two thousand **twenty-five**, or (ii) the month following the death of the deceased retired member, whichever is later.

§ 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 2025, the cost-of-living benefit payable to a surviving spouse who is eligible for COLA will be increased from fifty percent to one hundred percent of the benefit that the pensioner would have received.

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 $1.7 billion.

In the NYSLERS, this benefit improvement will be funded by (1) billing a past service cost to cover retrospective benefit increases and (2) increasing the billing rates charged annually to cover prospective benefit increases, as follows:

(1) To fund retrospective costs, the State of New York will be required to pay $1.82 billion (including interest) as of March 1, 2025.

(2) To fund prospective costs, the annual contribution required of all participating employers in NYSLERS is 0.03% of billable salary, or approximately $4.4 million to the State of New York and approximately $6.6 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 $180 million.

NYSLPFRS	Increase in present value benefits	Increase in required contributions
Tiers 1-5	$173 million	$86 million
Tier 6	$7 million	$94 million
Total	$180 million	$180 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.

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 26, 2024, and intended for use only during the 2024 Legislative Session, is Fiscal Note No. 2024-45,

prepared by the Actuary for the New York State and Local Retirement System.

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

As it relates to the New York State Teachers' Retirement System, this bill would amend subdivision g of Section 532-a of the Education Law to increase the cost-of-living adjustment (COLA) benefit to surviving spouse beneficiaries of deceased retirees who elected an option which provides a lifetime benefit to their surviving spouse. The COLA survivor benefit would be equal to 100% of the monthly benefit which the retiree would be receiving if alive. The current COLA survivor benefit is equal to 50% of the benefit the retiree would be receiving if alive. This increase in spousal survivor benefit would also be applicable to the "catch-up" supplementation provided under subdivision f to eligible retirees who retired before January 1, 1997. This benefit improvement would be effective in September of 2025.

The annual cost to the employers of members of NYSTRS for this benefit is estimated to be $42.0 million or 0.22% of payroll if this bill is enacted.

Member data is from the System's most recent actuarial valuation files as of June 30, 2023, consisting of data provided by the employers to the Retirement System. The most recent data distributions and statistics can be found in the System's Annual Report for fiscal year ended June 30, 2023. 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 as of June 30, 2023.

The source of this estimate is Fiscal Note 2024-8 dated February 2, 2024 prepared by the Office of the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2024 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: 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), effective September 1, 2025, to an eligible surviving spouse from 50% to 100% of the COLA the pensioner would be receiving if still alive.

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

Year	NYCERS	TRS	BERS	POLICE	FIRE	TOTAL
2025	446.9	188.7	20.7	43.9	12.0	712.2
2026	8.3	2.7	0.3	0.6	0.2	12.1
2027	8.3	2.7	0.3	0.6	0.2	12.1
2028	8.2	2.7	0.3	0.6	0.2	12.0
2029	8.2	2.7	0.3	0.5	0.2	11.9
2030	8.2	2.6	0.3	0.5	0.2	11.8
2031	8.1	2.6	0.3	0.5	0.2	11.7
2032	8.1	2.6	0.3	0.5	0.2	11.7
2033	8.1	2.6	0.3	0.5	0.2	11.7

2034	8.1	2.6	0.3	0.5	0.2	11.7
2035	8.1	2.6	0.3	0.5	0.2	11.7
2036	8.1	2.6	0.1	0.5	0.2	11.5
2037	3.3	2.6	0.1	0.2	0.1	6.3
2038	3.3	2.6	0.1	0.2	0.1	6.3
2039	3.3	1.0	0.1	0.2	0.1	4.7
2040	3.3	1.0	0.1	0.2	0.1	4.7
2041	3.4	1.0	0.2	0.2	0.1	4.9
2042	3.4	1.0	0.2	0.2	0.1	4.9
2043	3.4	1.0	0.2	0.2	0.1	4.9
2044	3.5	1.0	0.2	0.2	0.1	5.0
2045	3.5	1.0	0.2	0.2	0.1	5.0
2046	3.5	1.0	0.2	0.2	0.1	5.0
2047	3.6	1.0	0.2	0.2	0.1	5.1
2048	3.6	1.1	0.2	0.2	0.1	5.2
2049	3.7	1.1	0.2	0.2	0.1	5.3

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 $712.2 million is estimated to be $460.7 million for New York City and $251.5 million for the other obligors of NYCRS.

INITIAL INCREASE (DECREASE) IN ACTUARIAL LIABILITIES
as of June 30, 2023 ($ in Millions)

Present Value (PV)	NYCERS	TRS	BERS	POLICE	FIRE
PV of Benefits:	459.7	191.1	20.9	43.5	12.6
PV of Employee Contributions:	0.0	0.0	0.0	0.0	0.0
PV of Employer Contributions:	459.7	191.1	20.9	43.5	12.6
Unfunded Accrued Liabilities:	433.2	181.6	19.8	41.6	11.7

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:	4.8 M	1.6 M	0.2 M	0.3 M	0.1 M
Additional One-time Payment:	438.6 M	186.0 M	20.4 M	43.3 M	11.8 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:	28,133	21,830	2,885	1,493	59
- Average Age:	51.8	47.0	51.9	38.2	43.9
Receiving Members					
- Number Count:	43,599	26,140	3,099	4,354	1,150
- Average Age:	74.1	75.3	75.9	65.0	68.6

IMPACT ON MEMBER BENEFITS: The surviving spouse of a deceased retired member who retired under an option which provides that benefits are to be continued for life to the surviving spouse after the death of the retired member is currently entitled to receive a COLA equal to 50% of the COLA the pensioner would be receiving if living. This proposed legislation would change from 50% to 100% the percentage of COLA a surviving spouse receives after the death of the retired member.

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:

* Assumptions for active members electing a form of pension at retirement that would continue a payment to a surviving spouse (ranging from 15% to 30%) were made based on the distribution of current elections and an estimate of future elections.

* 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). This Fiscal Note does not reflect any chapter laws that may have been enacted during the current legislative session.

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 2024-74 dated June 5, 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.