STATE OF NEW YORK

6158

2023-2024 Regular Sessions

IN SENATE

March 31, 2023

Introduced by Sen. JACKSON -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

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 d 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:

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 **and effective the first day of September, two thousand twenty-three, shall not exceed five percent nor be less than one percent**.

§ 2. Subdivision d 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:

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

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

LBD08009-02-3

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 **and effective the first day of September, two thousand twenty-three, shall not exceed five percent nor be less than one percent**.

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

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 **and effective the first day of September, two thousand twenty-three, shall not exceed five percent nor be less than one percent**.

§ 4. Subdivision d 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:

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 **and effective the first day of September, two thousand twenty-three, shall not exceed five percent nor be less than one percent**.

§ 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 2023, the maximum percentage calculated for the annual cost of living increase shall increase from three percent to five percent.

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 2023 legislative session, the increase in the present value of benefits would be approximately $916 million.

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 $895 million as of March 1, 2024.

(2) To fund prospective costs, the annual contribution required of all participating employers in NYSLERS is 0.04% of billable salary, or approximately $5.2 million to the State of New York and approximately $7.5 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 all 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 $99 million.

NYSLPFRS	Increase in present value benefits	Increase in future contributions
Tiers 1 - 5	$90 million	$53 million
Tier 6	$9 million	$46 million
Total	$99 million	$99 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 the NYSLPFRS is 0.2% of billable salary, or approximately $1.7 million to the State of New York and approximately $6.8 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.

To develop the costs above, the Monte Carlo method was used to create a collection of possible outcomes to better understand the fiscal impact and risks associated with this bill. A collection of 5,000 Monte Carlo simulations were developed. Each simulation consisted of a 30-year projection of the annual CPI-U.

In 4,000 of the 5,000 simulations, inflation exceeded 6% in at least one year and this bill would provide additional COLA benefits for retirees. In these 4,000 simulations, inflation exceeded 6% for an average of four years over the 30-year period, with three of those years occurring sequentially. Over that three-year period, we would expect a permanent annual increase in the employer billing rates equal to:

* approximately 1.3% under the current 3% maximum COLA percentage, and
* approximately 2.2% under the proposed 5% maximum COLA percentage.

In 1,500 of the 5,000 simulations, inflation exceeded 10% in at least one year. In these 1,500 simulations, inflation exceeded 6% for an average of seven years over the 30-year period, with five of those years occurring sequentially. Over that five-year period, we would expect a permanent annual increase in the employer billing rates equal to:

* approximately 2.1% under the current 3% maximum COLA percentage, and
* approximately 3.6% under the proposed 5% maximum COLA percentage.

The current corridor of 1% and 3% provides an average COLA percentage that is approximately equal to half the rate of inflation over a retiree's lifetime. By maintaining the 1% floor but increasing the maximum to 5%, this bill provides a larger retiree COLA percentage in high inflationary environments, but at a cost that includes more volatile employer contribution rates. Prefunding COLA benefits cannot eliminate or mitigate the increased volatility in the billing rates caused by this benefit improvement.

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. 2023-68, prepared by the Actuary for the New York State and Local Retirement System.