STATE OF NEW YORK

6308

2023-2024 Regular Sessions

IN SENATE

April 12, 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 and the administrative code of the city of New York, in relation to death benefits for members of the uniformed force of the New York city department of sanitation and members of the uniformed force of the New York city department of correction

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

Section 1. Subdivision b of section 448 of the retirement and social security law is amended by adding a new paragraph 3 to read as follows:

3. Provided further, notwithstanding any other provision of this article to the contrary, where a member is in the uniformed force of the New York city department of sanitation or the uniformed force of the New York city department of correction, and would have been entitled to a service retirement benefit at the time of his or her death and where his or her death occurs on or after July first, two thousand twenty-three, the beneficiary or beneficiaries may elect to receive, in a lump sum, an amount payable which shall be equal to the pension reserve that would have been established had the member retired on the date of his or her death, or the value of the death benefit and the reserve-for-increased-take-home-pay, if any, whichever is greater.

§ 2. Subdivision b of section 508 of the retirement and social security law, as amended by chapter 476 of the laws of 2018, is amended to read as follows:

b. A member of a retirement system subject to the provisions of this article who is a police officer, firefighter, correction officer, investigator revised plan member or sanitation worker and is in a plan which permits immediate retirement upon completion of a specified period of service without regard to age or who is subject to the provisions of section five hundred four or five hundred five of this article, shall

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

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upon completion of ninety days of service be covered for financial protection in the event of death in service pursuant to this subdivision.

1. Such death benefit shall be equal to three times the member's salary raised to the next highest multiple of one thousand dollars, but in no event shall it exceed three times the maximum salary specified in section one hundred thirty of the civil service law or, in the case of a member of a retirement system other than the New York city employees' retirement system, or in the case of a member of the New York city employees' retirement system who is a New York city uniformed correction/sanitation revised plan member or an investigator revised plan member, the specific limitations specified for age of entrance into service contained in subparagraphs (b), (c), (d), (e) and (f) of paragraph two of subdivision a of this section.

2. Provided further, notwithstanding any other provision of this article to the contrary, where a member is in the uniformed force of the New York city department of sanitation or the uniformed force of the New York city department of correction, and would have been entitled to a service retirement benefit at the time of his or her death and where his or her death occurs on or after July first, two thousand twenty-three, the beneficiary or beneficiaries may elect to receive, in a lump sum, an amount payable which shall be equal to the pension reserve that would have been established had the member retired on the date of his or her death, or the value of the death benefit and the reserve-for-increased-take-home-pay, if any, whichever is greater.

§ 3. Subdivision b of section 606 of the retirement and social security law, as amended by chapter 476 of the laws of 2018, is amended to read as follows:

b. A member of a retirement system subject to the provisions of this article who is a police officer, firefighter, correction officer or sanitation worker and is in a plan which permits immediate retirement upon completion of a specified period of service without regard to age or who is subject to the provisions of section six hundred four of this article, shall upon completion of ninety days of service be covered for financial protection in the event of death in service pursuant to this subdivision.

1. Such death benefit shall be equal to three times the member's salary raised to the next highest multiple of one thousand dollars, but in no event shall it exceed three times the maximum salary specified in section one hundred thirty of the civil service law or, in the case of a member of a retirement system other than the New York city employees' retirement system, the specific limitations specified for age of entrance into service contained in subparagraphs (b), (c), (d), (e) and (f) of paragraph two of subdivision a of this section.

2. Provided further, notwithstanding any other provision of this article to the contrary, where a member is in the uniformed force of the New York city department of sanitation or the uniformed force of the New York city department of correction, and would have been entitled to a service retirement benefit at the time of his or her death and where his or her death occurs on or after July first, two thousand twenty-three, the beneficiary or beneficiaries may elect to receive, in a lump sum, an amount payable which shall be equal to the pension reserve that would have been established had the member retired on the date of his or her death, or the value of the death benefit and the reserve-for-increased-take-home-pay, if any, whichever is greater.

§ 4. Section 13-148 of the administrative code of the city of New York is amended by adding a new subdivision d to read as follows:

d. Notwithstanding any other provision of this article to the contrary, where a member is in the uniformed force of the department of sanitation or the uniformed force of the department of correction, and would have been entitled to a service retirement benefit at the time of his or her death and where his or her death occurs on or after July first, two thousand twenty-three, the beneficiary or beneficiaries may elect to receive, in a lump sum, an amount payable which shall be equal to the pension reserve that would have been established had the member retired on the date of his or her death, or the value of the death benefit and the reserve-for-increased-take-home-pay, if any, whichever is greater.

§ 5. This act shall take effect immediately.

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

SUMMARY OF BILL: This proposed legislation would amend Sections 448, 508, and 606 of the Retirement and Social Security Law (RSSL) and Section 13-148 of the Administrative Code of the City of New York (ACCNY) to provide an alternative death benefit for Correction and Sanitation members in all Tiers and Plans of the New York City Employees' Retirement System (NYCERS).

Effective Date: Upon enactment for deaths occurring on or after July 1, 2023.

IMPACT ON BENEFITS: Currently, NYCERS Correction and Sanitation members are generally entitled to a lump sum ordinary death benefit equal to a multiple of salary plus the return of member accumulated contributions and increased-take-home-pay (ITHP), if any. These death benefits are generally calculated as three times the final year's salary raised to the next highest multiple of $1,000. Some of these death benefits are subject to salary caps and other reductions.

Under the proposed legislation, the ordinary death benefit for members who are otherwise eligible to receive a service retirement benefit would be the greater of their current death benefit or the value of the pension reserve that would have been established had they retired on the date of their death. The pension reserve is the present value of all payments expected to be made on account of any pension, or benefit in lieu of any pension, granted under provisions of law and computed upon the basis of adopted mortality tables with regular interest (inclusive of accumulated member contributions and ITHP, if any). This type of lump sum pension reserve death benefit is sometimes referred to as a Death Gamble, and is afforded, in a similar form, to Tier 1 NYCERS members.

FINANCIAL IMPACT - PRESENT VALUES: Based on the census data and the actuarial assumptions and methods described herein, the enactment of this proposed legislation would result in an increase in the Present Value of Future Benefits (PVFB) and present value of future employer contributions of approximately $17.3 million.

Under the Entry Age Normal cost method used to determine the employer contributions to NYCERS, there would be an increase in the Unfunded Accrued Liability (UAL) of approximately $11.3 million and an increase in the present value of future employer Normal Cost of approximately $6.0 million.

FINANCIAL IMPACT - ANNUAL EMPLOYER CONTRIBUTIONS: The enactment of this proposed legislation would result in an initial increase in annual employer contributions of approximately $2.2 million which is the result of an increase in the Normal Cost in addition to the UAL payment.

New UAL attributable to benefit changes are generally amortized over the remaining working lifetime of those impacted by the benefit changes.

The remaining working lifetime for this group is approximately 12 years and the increase in UAL was therefore amortized over a 12-year period (11 payments under the One-Year Lag Methodology) using level dollar payments.

CENSUS DATA: The estimates presented herein are based on the census data used in the June 30, 2022 actuarial valuation of NYCERS to determine the Preliminary Fiscal Year 2024 employer contributions.

The 6,738 NYCERS Correction members as of June 30, 2022 had an average age of approximately 42.2 years, average service of approximately 11.5 years, and an average salary of approximately $120,500.

The 7,572 NYCERS Sanitation members as of June 30, 2022 had an average age of approximately 43.1 years, average service of approximately 11.7 years, and an average salary of approximately $104,600.

ACTUARIAL ASSUMPTIONS AND METHODS: The estimates presented herein have been calculated based on the actuarial assumptions and methods used for the Preliminary Fiscal Year 2024 employer contributions of NYCERS.

For the purposes of this Fiscal Note, it is assumed that the changes would be reflected for the first time in the June 30, 2022 actuarial valuation of NYCERS used to determine employer contributions for Fiscal Year 2024.

RISK AND UNCERTAINTY: The costs presented in this Fiscal Note depend highly on the realization of the actuarial assumptions 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.

Costs are also dependent on the actuarial methods used, and therefore different actuarial methods could produce different results. Quantifying these risks is beyond the scope of this Fiscal Note.

Not measured in this Fiscal Note are the following:

* The initial additional administrative costs to implement the proposed legislation.

STATEMENT OF ACTUARIAL OPINION: I, Marek Tyszkiewicz, am the Chief Actuary for, and independent of, the New York City Retirement Systems and Pension Funds. I am an Associate of the Society of Actuaries and a Member of the American Academy of Actuaries. I am a member of NYCERS but do not believe it impairs my objectivity and I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein. To the best of my 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 2023-28 dated April 12, 2023 was prepared by the Chief Actuary for the New York City Employees' Retirement System. This estimate is intended for use only during the 2023 Legislative Session.