# STATE OF NEW YORK

6799

2023-2024 Regular Sessions

# IN SENATE

May 10, 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 cost of living adjustments for certain retirees

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

Section 1. Subdivision a 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:

a. A cost-of-living adjustment shall be payable on the basis provided for in this section to: (i) all pensioners who have attained age sixty-two and have been retired for [~~five~~] two years; (ii) all pensioners who have attained age fifty-five and have been retired for [~~ten~~] five years; (iii) all disability pensioners regardless of age who have been retired for [~~five~~] two years; and (iv) all recipients of an accidental death benefit regardless of age who have been receiving such benefit for [~~five~~] two years.

§ 2. Subdivision a 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:

a. A cost-of-living adjustment shall be payable on the basis provided for in this section to: (i) all pensioners who have attained age sixty-two and have been retired for [~~five~~] two years; (ii) all pensioners who have attained age fifty-five and have been retired for [~~ten~~] five years; and (iii) all disability pensioners regardless of age who have been retired for [~~five~~] two years.

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

a. A cost-of-living adjustment shall be payable on the basis provided for in this section to: (i) all pensioners who have attained age sixty-

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

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two and have been retired for [~~five~~] two years; (ii) all pensioners who have attained age fifty-five and have been retired for [~~ten~~] five years; (iii) all disability pensioners regardless of age who have been retired for [~~five~~] two years; and (iv) all recipients of an accidental death benefit regardless of age who have been receiving such benefit for [~~five~~] two years.

§ 4. Subdivision a of section 13-696 of the administrative code of the city of New York, as amended by chapter 288 of the laws of 2001, is amended to read as follows:

a. A cost-of-living adjustment shall be payable to retired members 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, the New York city board of education retirement system or the relief and pension fund of the department of street cleaning provided for in subchapter one of this chapter on the basis provided for in this section to: (i) all retired members who have attained age sixty-two and have been retired for [~~five~~] two years; (ii) all retired members who have attained age fifty-five and have been retired for [~~ten~~] five years; (iii) all members who retired for disability regardless of age who have been retired for [~~five~~] two years; and (iv) all recipients of an accidental death benefit regardless of age who have been receiving such benefit for [~~five~~] two years.

§ 5. This act shall take effect immediately.

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

This bill would expand eligibility for the defined benefit cost-of-living adjustment (COLA) for the New York State and Local Retirement System. Effective immediately, COLA will be payable to

1. Service pensioners aged sixty-two years and retired two years,
2. Service pensioners aged fifty-five years and retired five years,
3. Disability pensioners regardless of age once retired two years, and
4. Accidental death beneficiaries after receiving a benefit for two years.

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 $1.8 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 $1.62 billion as of March 1, 2024.

(2) To fund prospective costs, the annual contribution required of all participating employers in the NYSLERS is 0.12% of billable salary, or approximately $15 million to the State of New York and approximately $22 million to 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 $162 million.

| NYSLPFRS | Increase in present value benefits | Increase in future contributions |
|---|---|---|
| Tiers 1-5 | $140 million | $86 million |
| Tier 6 | $22 million | $76 million |
| Total | $162 million | $162 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 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.

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. 2023-18 Revised, 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 TeachersÆ Retirement System, this bill would amend subdivision a of Section 532-a of the Education Law to change the eligibility for the cost-of-living adjustment (COLA) for all current and future retirees. Retirees retired for service would be eligible for the COLA upon attainment of age sixty-two with two years of retirement or age fifty-five with five years of retirement. The current COLA eligibility requirement is attainment of age sixty-two with five years of retirement or age fifty-five with ten years of retirement. Disability retirees would be eligible for the COLA regardless of age with two years of retirement instead of the five years currently required. Recipients of an accidental death benefit would be eligible for the COLA regardless of age after receiving such benefit for two years instead of the five years currently required.

The annual cost to the employers of members of the New York State Teachers' Retirement System for this benefit is estimated to be $67.8 million or 0.37% of payroll if this bill is enacted.

Member data is from the System's most recent actuarial valuation files, consisting of data provided by the employers to the Retirement System. Data distributions and statistics can be found in the System's Annual Report. 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.

The source of this estimate is Fiscal Note 2023-8 dated February 7, 2023 prepared by the Office of the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2023 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 OF BILL: This proposed legislation, as it relates to the New York City Retirement Systems and Pension Funds (NYCRS), would amend Section 13-696 of the Administrative Code of the City of New York (ACCNY) to accelerate eligibility for the Cost-of-Living Adjustment (COLA) for service, vested, and disabled retirees and accidental death recipients of the New York City Employees' Retirement System (NYCERS), the New York City Teachers' Retirement System (NYCTRS), the New York City Board of Education Retirement System (BERS), the New York City Police Pension Fund (POLICE), and the New York City Fire Pension Fund (FIRE).

Effective Date: Upon enactment.

IMPACT ON BENEFITS: Under this proposed legislation, the time periods for COLA eligibility would be reduced as follows:

* From age 62 and retired for five years to age 62 and retired for two years
* From age 55 and retired for 10 years to age 55 and retired for five years
* From disabled retirees who are retired for five years to those retired for two years
* From accidental death benefit recipients who have been receiving the benefit for five years to those receiving the benefit for two years

FINANCIAL IMPACT: The estimated financial impact to NYCRS is an increase in Present Value of Future Benefits of approximately $1.3 billion and an increase in Fiscal Year 2024 annual employer contributions of approximately $666.0 million.

The increase in Fiscal Year 2024 annual employer contributions of $666.0 million is estimated to be $491.5 million for New York City and $174.5 million for the other obligors of NYCRS. A breakdown of the financial impact by System is shown in the table below.

| NYCRS | Additional Present Value of Future Benefits ($ Millions) | Estimated First Year Annual Employer Contributions* ($ Millions) |
|---|---|---|
| NYCERS | $664.4 | $363.3 |
| NYCTRS | 359.6 | 168.6 |
| BERS | 73.6 | 35.5 |

| | | |
|---|---|---|
| POLICE | 117.5 | 74.2 |
| FIRE | **49.9** | **24.4** |
| Total | $1,265.0 | $666.0 |

* Total employer contributions are reduced by $572 million after the first year due to the 1-year amortization of the UAL attributable to current retirees.

New Unfunded Accrued Liability (UAL) attributable to benefit changes are generally amortized over the remaining working lifetime of those impacted by the benefit changes. For purposes of this Fiscal Note, it has been assumed that increases in UAL attributable to current retirees would be recognized immediately and that increases in UAL attributable to active members would be amortized over periods ranging from 12 to 15 years depending on the System (11 to 14 payments under 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 NYCRS to determine the Preliminary Fiscal Year 2024 employer contributions.

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

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 valuations of NYCRS 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 2023-25 dated April 11, 2023 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 2023 Legislative Session.