

STATE OF NEW YORK

9831--A

IN SENATE

June 3, 2024

Introduced by Sen. JACKSON -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- 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, the public authorities law and the administrative code of the city of New York, in relation to extending the coronavirus disease 2019 (COVID-19) benefit for public employee death benefits; and to amend chapter 78 of the laws of 2021, amending the retirement and social security law and other laws relating to establishing a coronavirus disease 2019 (COVID-19) benefit for public employee death benefits, in relation to the effectiveness thereof

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

Section 1. Paragraph 3 of subdivision a of section 61-b of the retirement and social security law, as amended by chapter 783 of the laws of 2022, is amended to read as follows:

3. Such member died on or before [~~December~~] July thirty-first, two thousand [~~twenty-four~~] twenty-five, and COVID-19 caused or contributed to such member's death, as documented on such member's death certificate, or as certified by a physician, nurse practitioner, or physician's assistant described in paragraph two of this subdivision who determines with a reasonable degree of medical certainty that COVID-19 caused or contributed to the member's death, such member's statutory beneficiary shall receive an accidental death benefit, unless such statutory beneficiary elects to receive an ordinary death benefit.

§ 2. Paragraph 3 of subdivision a of section 361-b of the retirement and social security law, as amended by chapter 783 of the laws of 2022, is amended to read as follows:

3. Such member died on or before [~~December~~] July thirty-first, two thousand [~~twenty-four~~] twenty-five, and COVID-19 caused or contributed to such member's death, as documented on such member's death certificate, or as certified by a physician, nurse practitioner, or physician's assistant described in paragraph two of this subdivision who

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

LBD15816-02-4

determines with a reasonable degree of medical certainty that COVID-19 caused or contributed to the member's death, such member's statutory beneficiary shall receive an accidental death benefit, unless such statutory beneficiary elects to receive an ordinary death benefit.

§ 3. Paragraph 3 of subdivision a of section 509-a of the retirement and social security law, as amended by chapter 783 of the laws of 2022, is amended to read as follows:

3. Such member died on or before [~~December~~] July thirty-first, two thousand [~~twenty-four~~] twenty-five, and COVID-19 caused or contributed to such member's death, as documented on such member's death certificate, or as certified by a physician, nurse practitioner, or physician's assistant described in paragraph two of this subdivision who determines with a reasonable degree of medical certainty that COVID-19 caused or contributed to the member's death, such member's statutory beneficiary shall receive an accidental death benefit, unless such statutory beneficiary elects to receive an ordinary death benefit.

§ 4. Paragraph 3 of subdivision a of section 607-i of the retirement and social security law, as amended by chapter 783 of the laws of 2022, is amended to read as follows:

3. Such member died on or before [~~December~~] July thirty-first, two thousand [~~twenty-four~~] twenty-five, and COVID-19 caused or contributed to such member's death, as documented on such member's death certificate, or as certified by a physician, nurse practitioner, or physician's assistant described in paragraph two of this subdivision who determines with a reasonable degree of medical certainty that COVID-19 caused or contributed to the member's death, such member's statutory beneficiary shall receive an accidental death benefit, unless such statutory beneficiary elects to receive an ordinary death benefit.

§ 5. Subparagraph (C) of paragraph 1 of subdivision h of section 512 of the education law, as amended by chapter 783 of the laws of 2022, is amended to read as follows:

(C) such member died on or before [~~December~~] July thirty-first, two thousand [~~twenty-four~~] twenty-five, and COVID-19 caused or contributed to such member's death, as documented on such member's death certificate, or as certified by a physician, nurse practitioner, or physician's assistant described in subparagraph (B) of this paragraph who determines with a reasonable degree of medical certainty that COVID-19 caused or contributed to the member's death, such member's statutory beneficiary shall receive an accidental death benefit, unless such statutory beneficiary elects to receive an ordinary death benefit.

§ 6. Subparagraph (iii) of paragraph (a) of subdivision 26 of section 2575 of the education law, as amended by chapter 783 of the laws of 2022, is amended to read as follows:

(iii) such member died on or before [~~December~~] July thirty-first, two thousand [~~twenty-four~~] twenty-five, and COVID-19 caused or contributed to such member's death, as documented on such member's death certificate, or as certified by a physician, nurse practitioner, or physician's assistant described in subparagraph (ii) of this paragraph who determines with a reasonable degree of medical certainty that COVID-19 caused or contributed to the member's death, such member's statutory beneficiary shall receive an accidental death benefit, unless such statutory beneficiary elects to receive an ordinary death benefit.

§ 7. Subparagraph (iii) of paragraph (a) of subdivision 8 of section 1266-h of the public authorities law, as amended by chapter 783 of the laws of 2022, is amended to read as follows:

(iii) Such member died on or before [~~December~~ July] thirty-first, two thousand [~~twenty-four~~ twenty-five], and COVID-19 caused or contributed to such member's death, as documented on such member's death certificate, or as certified by a physician, nurse practitioner, or physician's assistant described in subparagraph (ii) of this paragraph who determines with a reasonable degree of medical certainty that COVID-19 caused or contributed to the member's death, such member's statutory beneficiary shall receive an accidental death benefit, unless such statutory beneficiary elects to receive an ordinary death benefit.

§ 8. Paragraph (c) of subdivision 1 of section 13-149.1 of the administrative code of the city of New York, as amended by chapter 783 of the laws of 2022, is amended to read as follows:

(c) Such member died on or before [~~December~~ July] thirty-first, two thousand [~~twenty-four~~ twenty-five], and COVID-19 caused or contributed to such member's death, as documented on such member's death certificate, or as certified by a physician, nurse practitioner, or physician's assistant described in paragraph (b) of this subdivision who determines with a reasonable degree of medical certainty that COVID-19 caused or contributed to the member's death, such member's statutory beneficiary shall receive an accidental death benefit, unless such statutory beneficiary elects to receive an ordinary death benefit.

§ 9. Paragraph (c) of subdivision 1 of section 13-244.1 of the administrative code of the city of New York, as amended by chapter 783 of the laws of 2022, is amended to read as follows:

(c) Such member died on or before [~~December~~ July] thirty-first, two thousand [~~twenty-four~~ twenty-five], and COVID-19 caused or contributed to such member's death, as documented on such member's death certificate, or as certified by a physician, nurse practitioner, or physician's assistant described in paragraph (b) of this subdivision who determines with a reasonable degree of medical certainty that COVID-19 caused or contributed to the member's death, such member's statutory beneficiary shall receive an accidental death benefit, unless such statutory beneficiary elects to receive an ordinary death benefit.

§ 10. Paragraph (c) of subdivision 1 of section 13-347.1 of the administrative code of the city of New York, as amended by chapter 783 of the laws of 2022, is amended to read as follows:

(c) Such member died on or before [~~December~~ July] thirty-first, two thousand [~~twenty-four~~ twenty-five], and COVID-19 caused or contributed to such member's death, as documented on such member's death certificate, or as certified by a physician, nurse practitioner, or physician's assistant described in paragraph (b) of this subdivision who determines with a reasonable degree of medical certainty that COVID-19 caused or contributed to the member's death, such member's statutory beneficiary shall receive an accidental death benefit, unless such statutory beneficiary elects to receive an ordinary death benefit.

§ 11. Paragraph (c) of subdivision 1 of section 13-544.1 of the administrative code of the city of New York, as amended by chapter 783 of the laws of 2022, is amended to read as follows:

(c) Such member died on or before [~~December~~ July] thirty-first, two thousand [~~twenty-four~~ twenty-five], and COVID-19 caused or contributed to such member's death, as documented on such member's death certificate, or as certified by a physician, nurse practitioner, or physician's assistant described in paragraph (b) of this subdivision who determines with a reasonable degree of medical certainty that COVID-19 caused or contributed to the member's death, such member's statutory

beneficiary shall receive an accidental death benefit, unless such statutory beneficiary elects to receive an ordinary death benefit.

§ 12. Section 14 of chapter 78 of the laws of 2021, amending the retirement and social security law and other laws relating to establishing a coronavirus disease 2019 (COVID-19) benefit for public employee death benefits, as amended by chapter 783 of the laws of 2022, is amended to read as follows:

§ 14. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after March 1, 2020; provided that the provisions of this act shall expire and be deemed repealed on ~~December~~ July 31, ~~2024~~ 2025.

§ 13. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after March 1, 2020.

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

This bill would allow a beneficiary of any member of a public retirement system to be paid an accidental death benefit, as if the member died in the performance and discharge of duty, provided that the member

- a) physically reported for work on or after March 1, 2020,
- b) contracted COVID-19 within 45 days from such work date, and
- c) died from such disease on or before July 31, 2025.

In addition to the first two criteria state above, Chapter 783 of the Laws of 2022 currently requires a member to have died from COVID-19 on or before December 31, 2024.

A positive test result, death certificate citing COVID-19, or certification by certain medical personnel is sufficient to establish contraction and death from COVID-19.

The accidental death benefit would be based on the member's plan coverage. This bill also would create benefits payable under the Public Authorities Law.

Under section 13 of chapter 78 of the laws of 2021, as amended by chapter 783 of the laws of 2022, the provisions of Section 25 of the Retirement and Social Security Law shall not apply.

Insofar as this bill would affect the New York State and Local Police and Fire Retirement System (NYSLPFRS) and the New York State and Local Employees' Retirement System (NYSLERS), qualifying COVID-19 deaths which currently are considered ordinary deaths will be treated as accidental deaths. The cost of the proposed benefit will depend upon the applicant's age, service, salary, plan, and benefit type otherwise payable.

Service Retirement Eligible:	Yes	No
NYSLPFRS Benefit Increase/Cost:	10 times salary	15 times salary
NYSLERS Benefit Increase/Cost:	4.5 times salary	4.5 times salary

The number of members and retirees who could be affected by this legislation cannot be readily determined. However, all NYSLPFRS and NYSLERS members will be covered and eligible for these benefits, including new hires through the expiration of the coverage provided under this legislation.

All costs incurred in the NYSLPFRS will be shared by the State of New York and the local participating employers in the NYSLPFRS. All costs incurred in the NYSLERS will be shared by the State of New York and the local participating employers in the NYSLERS.

In addition to these per-person costs, there would be annual increases in administrative and legal costs to implement the provisions of this legislation.

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 June 4, 2024, and intended for use only during the 2024 Legislative Session, is Fiscal Note No. 2024-199, prepared by the Actuary for the New York State and Local Retirement System.

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

This fiscal note was requested by the New York State Senate Majority Conference. Pursuant to Section 50 of the Legislative Law, the fiscal note that must be appended in its entirety to this bill is:

This bill would extend the provisions of the COVID-19 enhanced death benefit provided under Chapter 78 of the Laws of 2021 until July 31, 2025 for eligible active members of the New York State Teachers' Retirement System (NYSTRS) who die due to contracting COVID-19. The current expiration date is December 31, 2024. Chapter 78 of the Laws of 2021 provides a member's statutory beneficiary with the accidental death benefit, consisting of a lifetime annuity of 50% of the member's most recent year's salary. Under current law the death benefit for an active member who dies in service, not due to COVID-19, with three or more years of active service is a lump-sum benefit equal to three times the member's most recent year's salary. An active member must have reported to work on or after March 1, 2020, and contracted COVID-19 within 45 days of reporting to work, and then died either due to COVID-19, or had COVID-19 as a contributing factor in the member's death.

The overall cost of this bill cannot be readily determined as the ultimate number of COVID-19 deaths cannot be determined at this time. It is estimated that it will provide on average an additional cost per affected member of 3 to 4 times salary. The average cost per individual member impacted in terms of the additional present value of liability, is estimated as follows:

Member age 30: \$240,000

Member age 40: \$310,000

Member age 50: \$340,000

The actual cost per member would be dependent on the member and beneficiary's age, tier, years of service, and salary. The costs above are determined based on averages, so the actual cost for a member could be higher or lower.

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 2024-36 dated June 4, 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.