STATE OF NEW YORK

7023--A

2023-2024 Regular Sessions

IN ASSEMBLY

May 10, 2023

Introduced by M. of A. PHEFFER AMATO, KELLES, LEVENBERG, THIELE, GANDOLFO, BURDICK -- read once and referred to the Committee on Governmental Employees -- recommitted to the Committee on Governmental Employees in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the retirement and social security law and the education law, in relation to increasing the base benefit amount for computation of pension cost-of-living adjustments

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

Section 1. Subdivisions c and d of section 78-a of the retirement and social security law, as added by chapter 125 of the laws of 2000, are amended to read as follows:

c. [~~Said~~] **(i) In calendar years two thousand two through two thousand twenty-four, said** cost-of-living adjustment shall be computed on a base benefit amount not to exceed eighteen thousand dollars of the annual retirement allowance defined in subdivision b of this section**.**

(ii) In calendar year two thousand twenty-five and thereafter, said cost-of-living adjustment shall be computed on a base benefit amount not to exceed twenty-one thousand dollars of the annual retirement allowance defined in subdivision b of this section, except that effective on the first day of September, two thousand twenty-five, the cost-of-living adjustment shall be computed on a base benefit amount not to exceed twenty-one thousand dollars of the annual retirement allowance defined in subdivision b of this section.

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,

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

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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~~] **(i) In calendar years two thousand two through two thousand twenty-three, said percentage shall equal one hundred 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 next succeeding September first.**

(ii) In calendar year two thousand twenty-four and thereafter, 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**, except that, commencing the first day of September, two thousand twenty-five, the cost-of-living adjustments paid between the first day of September, two thousand two and the first day of September, two thousand twenty-three shall equal one hundred 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**.

§ 2. Subdivisions c and d of section 378-a of the retirement and social security law, as added by chapter 125 of the laws of 2000, are amended to read as follows:

c. Said cost-of-living adjustment shall be computed on a base benefit amount not to exceed eighteen thousand dollars of the annual retirement allowance defined in subdivision b of this section**, except that, effective on the first day of September, two thousand twenty-five, the cost-of-living adjustment shall be computed on a base benefit amount not to exceed twenty-one thousand dollars of the annual retirement allowance defined in subdivision b of this section**.

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**, except that, commencing the first day of September, two thousand twenty-five, the cost-of-living adjustments paid between the first day of September, two thousand two and the first day of September, two thousand twenty-two shall equal one hundred 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**.

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

c. Said cost-of-living adjustment shall be computed on a base benefit amount not to exceed eighteen thousand dollars of the annual retirement allowance defined in subdivision b of this section**, except that effective on the first day of September, two thousand twenty-five, the cost-**

of-living adjustment shall be computed on a base benefit amount not to exceed twenty-one thousand dollars of the annual retirement allowance defined in subdivision b of this section.

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, except that, commencing the first day of September, two thousand twenty-five, the cost-of-living adjustments paid between the first day of September, two thousand two and the first day of September, two thousand twenty-three shall equal one hundred 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.

§ 4. Notwithstanding any other provision of law to the contrary, none of the provisions of this act shall be subject to section 25 of the retirement and social security law.

§ 5. This act shall take effect September 1, 2025; provided, however, that no benefits payable prior to the first day of September two thousand twenty-five shall be affected by this act.

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

This bill would provide an increase in the defined benefit cost-of-living adjustment (COLA) for the New York State and Local Retirement System. Starting with payments in September 2025, the annual COLA will be computed on a base benefit amount not to exceed $21,000. Currently, the base benefit amount does not exceed $18,000. Additionally, the COLA increment from 2002 to 2023 will be recomputed based on one hundred percent of annual inflation without retroactive payments. Future COLA increments will be based on fifty percent of annual inflation.

This proposal primarily benefits current and former members of Tiers 1 - 5. The cost of this benefit improvement will primarily be borne by current and future members of Tier 6.

Insofar as this bill affects the New York State and Local Employees' Retirement System (NYSLERS), the increased costs would be shared by the State of New York and the local participating employers in the NYSLERS. If this bill were enacted during the 2024 Legislative Session, the increase in the present value of benefits would be approximately $5.43 billion.

NYSLERS	Increase in present value benefits	Increase in required contributions
Tiers 1 - 5	$5.29 billion	$2.92 billion
Tier 6	$0.14 billion	$2.51 billion
Total	$5.43 billion	$5.43 billion

In the NYSLERS, 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 NYSLERS is 1.9% of billable salary, or approximately $240 million to the State of New York and approximately $360 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 $626 million.

NYSLPFRS	Increase in present value benefits	Increase in required contributions
Tiers 1 - 5	$604 million	$299 million
Tier 6	$22 million	$327 million
Total	$626 million	$626 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 1.3% of billable salary, or approximately $11 million to the State of New York and approximately $46 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.

Further, we anticipate significant administrative 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 March 1, 2024, and intended for use only during the 2024 Legislative Session, is Fiscal Note No. 2024-47, prepared by the Actuary for the New York State and Local Retirement System.