# STATE OF NEW YORK

7529

2023-2024 Regular Sessions

# IN SENATE

June 2, 2023

Introduced by Sen. SCARCELLA-SPANTON -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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 supplemental military retirement allowances for members of public retirement systems of the state

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

Section 1. Section 1000 of the retirement and social security law is amended by adding a new subdivision 8-a to read as follows:

**8-a. A person who retired prior to May thirty-first, two thousand sixteen and who would have been entitled to the provisions of this section, may make application to such retirement system no later than December thirty-first, two thousand twenty-four for a supplemental military retirement allowance pursuant to this subdivision. The supplemental retirement allowance provided by this subdivision shall be in lieu of any benefit otherwise provided pursuant to this section and any credit granted for military service with any retirement system of this state pursuant to any other section of law. Upon receipt of an application, the retirement system shall determine the amount of service credit such person would have been entitled to receive pursuant to subdivisions one and two of this section, subject to the limitations contained in this section. The supplemental military retirement allowance shall equal the retirement allowance of such person, computed without optional modification and not to exceed fifteen thousand dollars, multiplied by twenty-five one-hundredths of one percent per month of the service credit as determined pursuant to this subdivision. One-twelfth of the supplemental military retirement allowance shall be added to the retirement allowance of such person each month. The benefit payable pursuant to this section shall commence on the next retirement allowance payable at least thirty days after the receipt of an application from such**

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

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person. For the purposes of this subdivision, retirement allowance shall exclude any annuity derived from voluntary contributions made by the individual, except those made pursuant to elections under subdivision one of section five hundred eleven-a or paragraph c of subdivision three of section five hundred sixteen of the education law, but shall include any cost of living adjustment derived from sections seventy-eight-a and three hundred seventy-eight-a of this chapter or section five hundred thirty-two-a of the education law, as applicable. The benefit payable pursuant to this subdivision shall be payable for the life of the retired member only, except that the surviving spouse of a deceased member who retired under an option providing a benefit to be continued for life to the surviving spouse after the death of the member shall be entitled to receive fifty percent of the monthly benefit that the retired member would be receiving pursuant to this subdivision, if living, commencing with the next retirement allowance payable at least thirty days after receipt of an application from the retired member for the benefit or payable after the death of the retired member.

§ 2. Subdivision b 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:

b. Said cost-of-living adjustment shall be a percentage of the annual retirement allowance otherwise payable, computed without optional modification, but including any benefit derived from subdivision f of this section [~~and~~], any prior year's cost-of-living adjustment derived from this section and the amount of any supplemental military retirement allowance derived from subdivision eight-a of section one thousand of this chapter. Said percentage is set forth in subdivision d of this section.

§ 3. Subdivision b 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:

b. Said cost-of-living adjustment shall be a percentage of the annual retirement allowance otherwise payable, computed without optional modification, but including any benefit derived from subdivision f of this section [~~and~~], any prior year's cost-of-living adjustment derived from this section and the amount of any supplemental military retirement allowance derived from subdivision eight-a of section one thousand of this chapter. Said percentage is set forth in subdivision d of this section.

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

b. Said cost-of-living adjustment shall be a percentage of the annual retirement allowance otherwise payable, computed without optional modification, excluding any annuity derived from voluntary contributions made by members, except those made pursuant to elections under subdivision one of section five hundred eleven-a or paragraph c of subdivision three of section five hundred sixteen of this article, but including any benefit derived from subdivision f of this section [~~and~~], any prior year's cost-of-living adjustment derived from this section and the amount of any supplemental military retirement allowance derived from subdivision eight-a of section one thousand of the retirement and social security law. Said percentage is set forth in subdivision d of this section.

§ 5. Subdivision b 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:

b. Said cost-of-living adjustment shall be a percentage of the annual fixed retirement allowance otherwise payable, computed without optional modification, but including any benefit derived from subdivision f of this section [~~and~~], any prior year's cost-of-living adjustment derived from this section **and the amount of any supplemental military allowance derived from subdivision eight-a of section one thousand of the retirement and social security law**. Said percentage is set forth in subdivision d of this section.

§ 6. This act shall take effect immediately.

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

SUMMARY OF BILL: The proposed legislation would, among other things, amend Retirement and Social Security Law (RSSL) Section 1000 by adding a new subdivision 8-a to allow eligible retirees who retired from a public retirement system within the State prior to May 31, 2016, and who would have had qualifying military service had they been active members, to apply for a prospective supplemental military retirement allowance (Supplemental Retirement Allowance).

For purposes of this Fiscal Note, the New York City Employees' Retirement System (NYCERS), the New York City Teachers' Retirement System (TRS), 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) are collectively referenced as the NYCRS.

With respect to the NYCRS, the proposed legislation further amends Administrative Code of the City of New York (ACCNY) Section 13-696 to include Cost-of-Living Adjustment (COLA) increases in the calculation and payment of such Supplemental Retirement Allowance.

Effective Date: Upon enactment.

BACKGROUND: A NYCRS retiree would be eligible to receive the Supplemental Retirement Allowance (Eligible Recipient) if he or she:

* Retired prior to May 31, 2016,

* Was, due to a May 31, 2016 effective date, ineligible for Chapter 41 of the Laws of 2016,

* Would have otherwise met the current eligibility criteria of RSSL Section 1000, and

* Files an application for such benefit by December 31, 2024.

The Supplemental Retirement Allowance would be in lieu of any other retirement benefit provided for military service.

For purposes of this Fiscal Note, it is assumed that the Supplemental Retirement Allowance is provided without cost to Eligible Recipients.

IMPACT ON BENEFITS PAYABLE: With respect to NYCRS Eligible Recipients, the Supplemental Retirement Allowance would be payable as of the next retirement allowance payment following 30 days from filing an application for such benefit.

The Supplemental Retirement Allowance would be payable for the Eligible Recipient's lifetime and payable, at 50% of the Eligible Recipient's Supplemental Retirement Allowance rate, for the lifetime of an Eligible Recipient's surviving spouse who is eligible to receive a lifetime retirement allowance benefit under an existing option election.

The annual Supplemental Retirement Allowance would be equal to the retirement allowance of the Eligible Recipient (computed without optional modification, without certain annuities derived from voluntary contributions and not to exceed $15,000) multiplied by 0.25% for each month of qualifying military service (not to exceed 36 months). Therefore, the initial maximum Supplemental Retirement Allowance would not exceed $1,350 per year (i.e., $15,000 x 0.25% x 36 months = $1,350 per year), and would thereafter be subject to the COLA provisions, to the

extent the total retirement allowance including Supplemental Retirement Allowance is less than $18,000 per year, provided by ACCNY Section 13-696.

FINANCIAL IMPACT - SUMMARY: The number of members who could potentially benefit from this proposed legislation cannot be determined. For illustrative purposes only, the table below presents the estimated financial impact assuming that, (1) the percentage of retirees that would benefit is the same percentage for each of the NYCRS as the percentage of active members that have purchased military service under Chapter 41 of the Laws of 2016 as of June 30, 2021, (2) that each member purchased 2.5 years of military service, (3) that each retiree's pension is equal to or greater than $18,000 per year, and (4) that the percentage of those retirees who are receiving their pension in the form of a Joint and Survivor benefit is the same percentage as current retirees for each of the NYCRS.

| NYCRS | One-Time Increase in Employer Contributions* ($ Millions) |
|---|---|
| NYCERS | $ 6.8 |
| TRS | 0.6 |
| BERS | 0.2 |
| POLICE | 22.5 |
| FIRE | **3.3** |
| Total | $33.4 |

* Any costs may be subject to State appropriation and reimbursement pursuant to RSSL Section 25.

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 this proposed legislation, since those who would benefit are retired, the entire increase in UAL would be recognized in the first year that the increased pension was paid.

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 NYCRS.

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 2023-69 dated June 2, 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.

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

This bill would amend Section 1000 of the Retirement and Social Security Law by adding a new subdivision 8-a to allow eligible retired members of public retirement systems of New York State to receive a supplemental military retirement allowance based upon the retirement allowance of such member and up to three years of military service credit. This supplemental benefit would be in lieu of any benefit otherwise provided by military service credit. The annual supplemental military retirement allowance shall be equal to the retirement allowance of such person, computed without optional modification and not to exceed fifteen thousand dollars, multiplied by twenty-five one-hundredths of one percent per month of military service claimed. The surviving spouse of a deceased member who retired under an option which provides a continuing lifetime benefit would be entitled to receive fifty percent of the supplemental military retirement allowance that the retired member would have received. A member must have retired prior to May 31, 2016 and make application no later than December 31, 2024. This benefit is prospective only and shall commence on the next retirement allowance payable at least 30 days after the receipt of said application. There is no member cost for this benefit.

It is not possible to determine the total annual cost to the employers of members of the New York State Teachers' Retirement System since the number of retired members who would be eligible for the supplemental military retirement allowance under this bill cannot be effectively estimated. However, the cost is estimated to be, on average, approximately $11,900 for each retired member eligible for the supplemental military retirement allowance provided under this bill if 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 2023-32 dated June 2, 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:

This bill would amend Section 1000 of the Retirement and Social Security Law to allow retirees of the New York State and Local Retirement Systems to apply for a supplemental pension benefit based upon prior military service that was not creditable to the member prior to retirement. The member must have retired prior to May 31, 2016. The amount of the supplemental benefit is equal to the single life allowance plus any cost-of-living adjustment, not to exceed $15,000, multiplied by 3% for each year of military service credit granted, not to exceed three years. The surviving spouse and lifetime beneficiary of a deceased retiree shall receive half of what the deceased member would have received. An

eligible retiree must file an application for the supplemental pension no later than December 31, 2024, but will not be required to make any payment to obtain the benefit. The payment of the supplemental benefit will begin with the first monthly pension payment issued at least 30 days after receipt of the application.

The exact number of retirees that could be affected by this legislation cannot be readily determined.

Insofar as this bill affects the New York State and Local Employees' Retirement System, 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. Once a retiree applies for this benefit a cost will be generated, which will be billed to the State of New York.

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.

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 May 16, 2023, and intended for use only during the 2023 Legislative Session, is Fiscal Note No. 2023-153, prepared by the Actuary for the New York State and Local Retirement System.