STATE OF NEW YORK

7529--A

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 -- recommitted to the Committee on Civil Service and Pensions in accordance with Senate Rule 6, sec. 8 -- 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 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 retire-

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

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ment 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 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:

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.

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 2024 Legislative Session, the increase in the present value of benefits would be approximately $52.9 million.

In the NYSLERS, this benefit improvement will be funded entirely by billing a past service cost to cover retrospective benefit increases. To fund these retrospective costs, the State of New York will be required to pay $59.0 million (including interest) as of March 1, 2025.

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 $25 million.

NYSLPFRS	Increase in present value benefits	Increase in required contributions
Tiers 1 - 5	$25 million	$12 million
Tier 6	$0 million	$13 million
Total	$25 million	$25 million

In the NYSLPFRS, this benefit improvement is funded by increasing the billing rates charged annually to cover the retrospective benefit increases. The annual contribution required of all participating employers in NYSLPFRS is 0.1% of billable salary, or approximately $860,000 to

the State of New York and approximately $3.52 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 members in the NYSLPFRS.

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

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 April 12, 2024, and intended for use only during the 2024 Legislative Session, is Fiscal Note No. 2024-127, prepared by the Actuary for the New York State and Local Retirement System.

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

SUMMARY: This proposed legislation, as it relates to the New York City Retirement Systems and Pension Funds (NYCRS), would provide a supplemental military retirement allowance (Supplemental Retirement Allowance) to retirees who would have had qualifying military service as defined in Chapter 41 of the Laws of 2016, but retired prior to the effective date, May 31, 2016.

ILLUSTRATION - INCREASE (DECREASE) IN EMPLOYER CONTRIBUTIONS
by Fiscal Year for the first 25 years ($ in Millions)

Year	NYCERS	TRS	BERS	POLICE	FIRE	TOTAL
2025	7.0	0.7	0.2	24.3	3.4	35.6
2026	0	0	0	0	0	0
2027	0	0	0	0	0	0
2028	0	0	0	0	0	0
2029	0	0	0	0	0	0
2030	0	0	0	0	0	0
2031	0	0	0	0	0	0
2032	0	0	0	0	0	0
2033	0	0	0	0	0	0
2034	0	0	0	0	0	0
2035	0	0	0	0	0	0
2036	0	0	0	0	0	0
2037	0	0	0	0	0	0
2038	0	0	0	0	0	0
2039	0	0	0	0	0	0
2040	0	0	0	0	0	0
2041	0	0	0	0	0	0

2042	0	0	0	0	0	0
2043	0	0	0	0	0	0
2044	0	0	0	0	0	0
2045	0	0	0	0	0	0
2046	0	0	0	0	0	0
2047	0	0	0	0	0	0
2048	0	0	0	0	0	0
2049	0	0	0	0	0	0

The increase in employer contributions will be allocated to New York City and other applicable obligors of NYCRS.

INCREASE (DECREASE) IN ACTUARIAL LIABILITIES
as of June 30, 2023 ($ in Millions)

Present Value (PV)	NYCERS	TRS	BERS	POLICE	FIRE
PV of Benefits:	6.3	0.6	0.2	22.0	3.1
PV of Employee Contributions:	0.0	0.0	0.0	0.0	0.0
PV of Employer Contributions:	6.3	0.6	0.2	22.0	3.1
Unfunded Accrued Liabilities:	6.3	0.6	0.2	22.0	3.1

AMORTIZATION OF UNFUNDED ACCRUED LIABILITY

	NYCERS	TRS	BERS	POLICE	FIRE
Number of Payments:	1	1	1	1	1
Fiscal Year of Last Payment:	2025	2025	2025	2025	2025
Amortization Payment:	7.0 M	0.7 M	0.2 M	24.3 M	3.4 M

The Unfunded Accrued Liability increases were recognized in the first year.

CENSUS DATA: The number of members who will receive an additional benefit due to this proposed legislation is unknown. The estimates presented herein are based on preliminary census data collected as of June 30, 2023 and military service purchased under Chapter 41 of the Laws of 2016. The census data for the potentially impacted population is summarized below.

	NYCERS	TRS	BERS	POLICE	FIRE
Receiving Members					
- Number Count:	98,370	64,179	11,736	41,101	12,498
- Average Age:	76.0	78.0	79.0	66.0	71.0

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

o Retired prior to May 31, 2016 and was therefore ineligible for Chapter 41 of the Laws of 2016 due to its May 31, 2016 effective date,

o Would have otherwise met the current eligibility criteria of Retirement and Social Security Law Section 1000, and

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

IMPACT ON MEMBER BENEFITS: The annual Supplemental Retirement Allowance would be equal to 0.25% for each month of qualifying military service (not to exceed 36 months) multiplied by the retirement allowance, not to exceed $15,000. 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). The Supplemental Retirement Allowance would be in lieu of any other retirement benefit provided for military service.

The full Supplemental Retirement Allowance would be payable for the Eligible Recipient's lifetime and half of the Supplemental Retirement Allowance would be payable to a surviving spouse if the retiree chose an optional form of payment. The initial Supplemental Retirement Allowance would be subject to the Cost-of-Living Adjustment (COLA) provisions, but only to the extent that the total retirement allowance including the Supplemental Retirement Allowance is less than $18,000 per year.

ASSUMPTIONS AND METHODS: The estimates presented herein have been calculated based on the Revised 2021 Actuarial Assumptions and Methods of the impacted retirement systems. In addition:

o Military service for members who retired prior to May 31, 2016 would be consistent with active military service purchased under Chapter 41 of the Law of 2016 (i.e., percent of population with eligible service, eligible military service of 2.5 years).

o Joint and Survivor elections would be the same percentage as current retirees.

o The average COLA applicable to the Supplemental Retirement Allowance was assumed to be zero.

o The Supplemental Retirement Allowance was assumed to be provided without cost to Eligible Recipients.

The number of retirees who will benefit from this fiscal note is unknown. The cost of this proposed legislation could vary greatly depending on the number of retirees who benefit.

RISK AND UNCERTAINTY: The costs presented in this Fiscal Note depend highly on the actuarial assumptions, methods, and models 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. Quantifying these risks is beyond the scope of this Fiscal Note.

This Fiscal Note is intended to measure pension-related impacts and does not include other potential costs (e.g., administrative and Other Postemployment Benefits).

STATEMENT OF ACTUARIAL OPINION: Marek Tyszkiewicz and Gregory Zelikovsky are members of the Society of Actuaries and the American Academy of Actuaries. We are members of NYCERS but do not believe it impairs our objectivity and we meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein. To the best of our 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 2024-65 dated May 21, 2024 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 2024 Legislative Session.