STATE OF NEW YORK

6914

2025-2026 Regular Sessions

IN ASSEMBLY

March 18, 2025

Introduced by M. of A. FITZPATRICK, BLANKENBUSH, DiPIETRO, HAWLEY, TAGUE -- Multi-Sponsored by -- M. of A. MANKTELOW, MORINELLO, PAULIN, SMULLEN -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the retirement and social security law, in relation to establishing a defined contribution plan

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

Section 1. The retirement and social security law is amended by adding a new section 618 to read as follows:

§ 618. Defined contribution plan. 1. The defined contribution plan is hereby established. The comptroller shall adopt rules and regulations regarding the standards and requirements of the defined contribution plan established pursuant to this section, including selection of financial organizations for investment purposes.

2. a. Notwithstanding any other provision of law, the defined contribution plan shall be established for all non-civil service appointed employees and elected officials employed by the state of New York or any public employer which has elected to participate in the New York state and local employees' retirement system.

b. The comptroller shall enter into written agreements with one or more financial organizations to administer the defined contribution plan for members and to invest funds held pursuant to such plan.

c. The rules and regulations promulgated by the comptroller shall establish standards for the selection of financial organizations, authorized to do business in this state, to participate in such plans, including, but not limited to, the following criteria: (i) rates of commission, brokerage and other fees, administrative expenses and related service charges imposed by the financial organization; (ii) variety of types of investment opportunities offered by the financial organization and/or among the financial organizations selected and the

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

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ability to transfer among such opportunities; (iii) the stability of the financial organization as evidenced by experience, reputation, assets and holdings, ability to guarantee specific rates of return; (iv) ability to comply with reporting requirements to the comptroller and to participants in such a plan; and (v) such other factors which would be considered by a prudent investor in such a plan.

d. The president of the state civil service commission, subject to the rules and regulations of the comptroller, shall provide assistance to any public employer as is appropriate to the provisions of this section.

3. A public employer shall contribute three percent of such affected employee's annual salary towards such defined contribution plan. All non-civil service appointed employees and elected officials are required to contribute three percent of their salary towards the defined contribution plan. Such employees may contribute up to one hundred percent, not to exceed twenty-three thousand five hundred dollars of their salary towards the defined contribution plan.

4. The term "financial organization" shall mean an organization authorized to do business in the state of New York and (a) which is an authorized fiduciary to act as a trustee pursuant to the provisions of an act of congress entitled "Employee Retirement Income Security Act of 1974" as such provisions may be amended from time to time, or an insurance company; and (b) (i) is licensed or chartered by the department of financial services; (ii) is chartered by an agency of the federal government; (iii) is subject to the jurisdiction and regulation of the securities and exchange commission of the federal government; or (iv) is any other entity otherwise authorized to act in this state as a trustee pursuant to the provisions of an act of congress entitled "Employee Retirement Income Security Act of 1974" as such provisions may be amended from time to time.

5. The current retirement plans for non-civil service appointed employees and elected officials shall be frozen as of the effective date of this section. Non-civil service appointed employees and elected officials shall no longer contribute to their current retirement plan, however, such persons shall receive the benefits they have accrued up to the effective date of this section upon retirement. The membership of a non-civil service appointed employee or elected official in any state retirement system shall remain open if they become a member of the defined contribution plan.

§ 2. This act shall take effect on the first of the fiscal year next succeeding the date on which it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.

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

This bill would change the retirement plan coverage for certain existing and future elected officials and non-civil service appointees employed by the State of New York or any public employer which participates in the New York State and Local Employees' Retirement System (NYSLERS). Affected employees and their employers would be required to contribute three percent of annual compensation to a defined contribution plan. The Comptroller shall select one or more financial organizations to administer the defined contribution plan and to invest the fund assets pursuant to such plan. Pursuant to Chapter 18 of the Laws of 2012, non-union employees hired on or after July 1, 2013 whose salary is at least $75,000 currently have the option to participate in a defined contribution plan.

This legislation would freeze the benefit accruals of current affected members in NYSLERS as of the effective date. If enacted into law, this bill is likely to face a constitutional challenge based upon the guarantee that a member's benefits may not be diminished.

Further, we anticipate additional administrative costs to implement the provisions of this legislation.

Summary of relevant resources:

Membership data as of March 31, 2024 was used in measuring the impact of the proposed change, the same data used in the April 1, 2024 actuarial valuation. Distributions and other statistics can be found in the 2024 Report of the Actuary and the 2024 Annual Comprehensive Financial Report. The actuarial assumptions and methods used are described in the 2024 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, 2024 New York State and Local Retirement System Financial Statements and Supplementary Information.

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 10, 2025, and intended for use only during the 2025 Legislative Session, is Fiscal Note No. 2025-86. As Chief Actuary of the New York State and Local Retirement System, I, Aaron Schottin Young, hereby certify that this analysis complies with applicable Actuarial Standards of Practice as well as the Code of Professional Conduct and Qualification Standards for Actuaries Issuing Statements of Actuarial Opinion of the American Academy of Actuaries, of which I am a member.