



2020

Retirement Legislation

Office of the New York State Comptroller
Thomas P. DiNapoli



NYSLRS

New York State & Local Retirement System

110 State Street, Albany, New York 12244-0001

A MESSAGE FROM COMPTROLLER THOMAS P. DINAPOLI



Every year, the Legislature passes new laws that affect the New York State and Local Retirement System (NYSLRS) and other State public retirement systems.

This publication covers retirement and retirement-related legislation enacted or vetoed during the 2020 Legislative Session. Section I lists legislation directly affecting NYSLRS, our participating employers, members, retirees and beneficiaries. Section IV covers legislation affecting other New York State public retirement systems.

I hope you find this 2020 Retirement Legislation publication to be a useful reference.

Sincerely,

A handwritten signature in black ink that reads "Tom DiNapoli". The signature is written in a cursive, flowing style.

Thomas P. DiNapoli
State Comptroller

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CHAPTER TITLES

Section I

Legislation Affecting the New York State and Local Retirement System

CHAPTER NO.	PAGE	DESCRIPTION
58	3	Relates to increasing certain special accidental death benefits [S.7508/A.9508]
60	10	Makes technical corrections to the World Trade Center sick leave bill including specifically adding that workers' compensation notices of participation shall be accepted [S.6950/A.8970]
89	16	Relates to establishing a coronavirus disease 2019 (COVID-19) presumption for public employee death benefits [S.8427/A.10528]
169	40	Requires new appointments to the September 11th Workers Protection Task Force Act, set a biannual meeting requirement, expand the mandated areas of study, reset the deadline for an annual report, and extend the provisions of the act until June 10th, 2025 [S.8129/A.10249]
264	42	Authorizes the city of Cortland to offer an optional twenty-year retirement plan to firefighter Travis Marshall [S.8217/A.10316]
266	44	Authorizes the village of Malverne to offer an optional twenty-year retirement plan to police officer Thomas Smith [S.8742/A.10796]
290	46	Authorizes the town of Clarkstown to offer an optional twenty-year retirement plan to four Clarkstown police officers [S.6459/A.8300]
292	48	Authorizes William J. Cooley to receive service credit under section 384-d of the Retirement and Social Security Law [S.7532/A.9663]
293	50	Authorizes Patrick Humiston to receive service credit under section 384-d of the Retirement and Social Security Law [S.7531/A.9682]
302	52	Authorizes the village of Cobleskill to offer an optional twenty-year retirement plan to two police officers [S.8216/A.8483]
323	54	Reforms the statutory short form and other powers of attorney for purposes of financial and estate planning [S.3923/A.5630]
325	70	Establishes any paid employee of a county airport or county aviation department which performs fire response or fire rescue duties is covered by Section 207-a of the General Municipal Law [S.6144/A.7646]
379	72	Authorizes Rickly Dear to file a service retirement application with a date of retirement of April 18, 2020 and an option election form with a joint allowance full option on behalf of her deceased husband Judge Noach Dear, who died on April 19, 2020 from COVID-19 [S.8714/A.10536]

CHAPTER NO.	PAGE	DESCRIPTION
380	74	Authorizes Jolie Baynes to file a service retirement application with a date of retirement of March 25, 2020 and an option election form with a joint allowance full option on behalf of her deceased father Judge Johnny Baynes, who died on March 26, 2020 from COVID-19 [S. 8753/A.10804]

CHAPTER TITLES

Section II

Vetoed Legislation Affecting the New York State and Local Retirement System

VETO NO.	PAGE	DESCRIPTION
	77	No legislation for this section in 2020

CHAPTER TITLES

Section III

Legislation Affecting Other New York Public Retirement Systems

CHAPTER NO.	PAGE	DESCRIPTION
	81	No legislation for this section in 2020

CHAPTER TITLES

Section IV

Vetoed Legislation Affecting Other New York Public Retirement Systems

VETO NO.	PAGE	DESCRIPTION
M.70	87	Relates to retirement benefits calculation for Katherine Sweeney, a retiree of the New York State Teachers' Retirement System [S.6420-A/A.8295-A]

CROSS INDEX

Senate Bills

BILL NO.	CHAPTER	SECTION	PAGE
3923	323	I	54
6144	325	I	70
6459	290	I	46
6950	60	I	10
7508	58	I	3
7531	293	I	50
7532	292	I	48
8129	169	I	40
8216	302	I	52
8217	264	I	42
8427	89	I	16
8714	379	I	72
8742	266	I	44
8753	380	I	74

Assembly Bills

BILL NO.	CHAPTER	SECTION	PAGE
5630	323	I	54
7646	325	I	70
8300	290	I	46
8483	302	I	52
8970	60	I	10
9508	58	I	3
9663	292	I	48
9682	293	I	50
10249	169	I	40
10316	264	I	42
10528	89	I	16
10536	379	I	72
10796	266	I	44
10804	380	I	74

SECTION I

Legislation Affecting the
New York State and Local Retirement System

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STATE OF NEW YORK

S. 7508--B

A. 9508--B

SENATE - ASSEMBLY

January 22, 2020

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general municipal law and the retirement and social security law, in relation to increasing certain special accidental death benefits (Item NNN)

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

ITEM NNN

11 Section 1. Subdivision c of section 208-f of the general municipal
12 law, as amended by chapter 382 of the laws of 2019, is amended to read
13 as follows:

14 c. Commencing July first, two thousand [~~nineteen~~ twenty the special
15 accidental death benefit paid to a widow or widower or the deceased
16 member's children under the age of eighteen or, if a student, under
17 the age of twenty-three, if the widow or widower has died, shall be
18 escalated by adding thereto an additional percentage of the salary
19 of the deceased member (as increased pursuant to subdivision b of this
20 section) in accordance with the following schedule:

21	calendar year of death	
22	of the deceased member	per centum
23	1977 or prior	[246.1%] <u>256.5%</u>
24	1978	[236%] <u>246.1%</u>
25	1979	[226.2%] <u>236%</u>

26	1980	[216.7%]	<u>226.2%</u>
27	1981	[207.5%]	<u>216.7%</u>
28	1982	[198.5%]	<u>207.5%</u>
29	1983	[189.8%]	<u>198.5%</u>
30	1984	[181.4%]	<u>189.8%</u>
31	1985	[173.2%]	<u>181.4%</u>
32	1986	[165.2%]	<u>173.2%</u>
33	1987	[157.5%]	<u>165.2%</u>
34	1988	[150.0%]	<u>157.5%</u>
35	1989	[142.7%]	<u>150.0%</u>
36	1990	[135.7%]	<u>142.7%</u>
37	1991	[128.8%]	<u>135.7%</u>
38	1992	[122.1%]	<u>128.8%</u>
39	1993	[115.7%]	<u>122.1%</u>
40	1994	[109.4%]	<u>115.7%</u>
41	1995	[103.3%]	<u>109.4%</u>
42	1996	[97.4%]	<u>103.3%</u>
43	1997	[91.6%]	<u>97.4%</u>
44	1998	[86.0%]	<u>91.6%</u>
45	1999	[80.6%]	<u>86.0%</u>
46	2000	[75.4%]	<u>80.6%</u>
47	2001	[70.2%]	<u>75.4%</u>
48	2002	[65.3%]	<u>70.2%</u>
49	2003	[60.5%]	<u>65.3%</u>
50	2004	[55.8%]	<u>60.5%</u>
51	2005	[51.3%]	<u>55.8%</u>
52	2006	[46.9%]	<u>51.3%</u>
53	2007	[42.6%]	<u>46.9%</u>
54	2008	[38.4%]	<u>42.6%</u>

1	2009	[34.4%]	<u>38.4%</u>
2	2010	[30.5%]	<u>34.4%</u>
3	2011	[26.7%]	<u>30.5%</u>
4	2012	[23.0%]	<u>26.7%</u>
5	2013	[19.4%]	<u>23.0%</u>
6	2014	[15.9%]	<u>19.4%</u>
7	2015	[12.6%]	<u>15.9%</u>
8	2016	[9.3%]	<u>12.6%</u>
9	2017	[6.1%]	<u>9.3%</u>
10	2018	[3.0%]	<u>6.1%</u>
11	2019	[0.0%]	<u>3.0%</u>
12	2020		0.0%

13 § 2. Subdivision c of section 361-a of the **retirement** and social secu-
 14 rity law, as amended by chapter 382 of the laws of 2019, is amended to
 15 read as follows:

16 c. Commencing July first, two thousand [~~nineteen~~] **twenty** the special
 17 accidental death benefit paid to a widow or widower or the deceased
 18 member's children under the age of eighteen or, if a student, under
 19 the age of twenty-three, if the widow or widower has died, shall be
 20 escalated by adding thereto an additional percentage of the salary of
 21 the deceased member, as increased pursuant to subdivision b of this
 22 section, in accordance with the following schedule:

23	calendar year of death		
24	of the deceased member	per centum	
25	1977 or prior	[246.1%]	<u>256.5%</u>
26	1978	[236%]	<u>246.1%</u>
27	1979	[226.2%]	<u>236%</u>
28	1980	[216.7%]	<u>226.2%</u>
29	1981	[207.5%]	<u>216.7%</u>
30	1982	[198.5%]	<u>207.5%</u>
31	1983	[189.8%]	<u>198.5%</u>
32	1984	[181.4%]	<u>189.8%</u>
33	1985	[173.2%]	<u>181.4%</u>
34	1986	[165.2%]	<u>173.2%</u>
35	1987	[157.5%]	<u>165.2%</u>
36	1988	[150.0%]	<u>157.5%</u>
37	1989	[142.7%]	<u>150.0%</u>
38	1990	[135.7%]	<u>142.7%</u>
39	1991	[128.8%]	<u>135.7%</u>
40	1992	[122.1%]	<u>128.8%</u>
41	1993	[115.7%]	<u>122.1%</u>
42	1994	[109.4%]	<u>115.7%</u>
43	1995	[103.3%]	<u>109.4%</u>
44	1996	[97.4%]	<u>103.3%</u>
45	1997	[91.6%]	<u>97.4%</u>
46	1998	[86.0%]	<u>91.6%</u>
47	1999	[80.6%]	<u>86.0%</u>
48	2000	[75.4%]	<u>80.6%</u>
49	2001	[70.2%]	<u>75.4%</u>
50	2002	[65.3%]	<u>70.2%</u>
51	2003	[60.5%]	<u>65.3%</u>
52	2004	[55.8%]	<u>60.5%</u>
53	2005	[51.3%]	<u>55.8%</u>
54	2006	[46.9%]	<u>51.3%</u>
55	2007	[42.6%]	<u>46.9%</u>
56	2008	[38.4%]	<u>42.6%</u>

1	2009	[34.4%]	<u>38.4%</u>
2	2010	[30.5%]	<u>34.4%</u>
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4	2012	[23.0%]	<u>26.7%</u>
5	2013	[19.4%]	<u>23.0%</u>
6	2014	[15.9%]	<u>19.4%</u>
7	2015	[12.6%]	<u>15.9%</u>
8	2016	[9.3%]	<u>12.6%</u>
9	2017	[6.1%]	<u>9.3%</u>
10	2018	[3.0%]	<u>6.1%</u>
11	2019	[0.0%]	<u>3.0%</u>
12	2020		0.0%

13 § 3. This act shall take effect July 1, 2020.

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

This bill would amend both the General Municipal Law and the Retirement and Social Security Law to increase the salary used in the computation of the special accidental death benefit by 3% in cases where the date of death was before 2020.

Insofar as this bill would amend the Retirement and Social Security Law, it is estimated that there would be an additional annual cost of approximately \$606,000 above the approximately \$13.6 million current annual cost of this benefit. This cost would be shared by the State of New York and all participating employers of the New York State and Local Police and Fire Retirement System.

Summary of relevant resources:

The membership data used in measuring the impact of the proposed change was the same as that used in the March 31, 2019 actuarial valuation. Distributions and other statistics can be found in the 2019

Report of the Actuary and the 2019 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2015, 2016, 2017, 2018, and 2019 Annual Report to the Comptroller on Actuarial Assumptions, and the Codes, Rules and Regulations of the State of New York: Adult and Control.

The Market Assets and GASB Disclosures are found in the March 31, 2019 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 February 24, 2020, and intended for use only during the 2020 Legislative Session, is Fiscal Note No. 2020-57, prepared by the Actuary for the New York State and Local Retirement System.

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

SUMMARY OF BILL: This proposed legislation would amend General Municipal Law (GML) Section 208-f(c) to increase certain Special Accidental Death Benefits (SADB) for surviving spouses, dependent children, and certain other individuals (Eligible Beneficiaries) of former uniformed employees of the City of New York and the New York City Health and Hospitals Corporation, and for certain former employees of the Triborough Bridge and Tunnel Authority, who were members of certain New York City Pension Funds or Retirement Systems (NYCRS) and died as a natural

and proximate result of an accident sustained in the performance of duty.

Effective Date: July 1, 2020.

BACKGROUND: Under the GML, the basic SADB is defined as:

The salary of the deceased member at date of death (or, in certain instances, a greater salary based on a higher rank or other status) (Final Salary), less the following payments to an Eligible Beneficiary:

- * Any NYCERS death benefit as adjusted by any Supplementation or Cost-of-Living Adjustment (COLA),
- * Any Social Security death benefit, and
- * Any Workers' Compensation benefit.

The SADB is paid to the deceased member's surviving spouse, if alive. If the spouse is no longer alive, the SADB is paid to the deceased member's children until age eighteen or until age twenty-three if a student. If neither a spouse nor a dependent child is alive, the SADB may be paid to certain other individuals, if eligible, in accordance with certain laws related to the World Trade Center attack.

The GML also provides that the SADB is subject to escalation based on the calendar year in which the former member died. The SADB has traditionally been increased by a cumulative, incremental percentage of Final Salary based on the calendar year of the member's death.

IMPACT ON BENEFITS: With respect to the NYCERS, the proposed legislation would impact the SADB payable to certain survivors of members of the:

- * New York City Employees' Retirement System (NYCERS),
 - * New York City Police Pension Fund (POLICE), or
 - * New York City Fire Pension Fund (FIRE),
- and who were employed by one of the following employers in certain positions:
- * New York City Police Department - Uniformed Position,
 - * New York City Fire Department - Uniformed Position,
 - * New York City Department of Sanitation - Uniformed Position,
 - * New York City Housing Authority - Uniformed Position,
 - * New York City Transit Authority - Uniformed Position,
 - * New York City Department of Correction - Uniformed Position,
 - * New York City - Uniformed Position as Emergency Medical Technician (EMT),
 - * New York City Health and Hospitals Corporation - Uniformed Position as EMT, or
 - * Triborough Bridge and Tunnel Authority - Bridge and Tunnel Position.

Under the proposed legislation, effective July 1, 2020, an additional 3.0% of Final Salary would be applied to the SADB paid due to deaths occurring in each calendar year on and after 1977. The SADB for deaths occurring prior to 1977 would receive the same escalation as deaths occurring in 1977.

FINANCIAL IMPACT - PRESENT VALUES: Based on the Eligible Beneficiaries of deceased NYCERS members who would be impacted by this proposed legislation and the actuarial assumptions and methods described herein, the enactment of this proposed legislation would increase the Present Value of Future Benefits (PVFB) by approximately \$52.0 million.

FINANCIAL IMPACT - ANNUAL EMPLOYER CONTRIBUTIONS: As a result of the past four decades' practice of providing 3.0% COLAs on the SADB each year, and the likelihood that COLAs will continue to be granted in the future, the Actuary assumes that the SADB benefit will continue to increase 3.0% per year in the future in determining NYCERS employer contributions. Therefore, the costs of this proposed legislation have

already been accounted for and will not result in a further increase in employer contributions. There will, however, be a decrease in employer contributions if the proposed legislation is not enacted.

In accordance with Section 13-638.2(k-2) of the Administrative Code of the City of New York (ACCNY), new Unfunded Accrued Liability to benefit changes are to be amortized as determined by the Actuary, but are generally amortized over the remaining working lifetime of those impacted by the benefit changes. However, since changes in the SADB COLA paid are not known in advance, the decrease in expected pension payments due to this legislation not passing would be treated as an actuarial gain. These actuarial gains would be amortized over a 15-year period (14 payments under the One-Year Lag Methodology (OYLM)) using level dollar payments. This would result in a decrease in NYCERS annual employer contributions of approximately \$6.2 million each year.

CONTRIBUTION TIMING: For the purposes of this Fiscal Note, it is assumed that the changes in the PVFB and annual employer contributions if this proposed legislation fails to pass, would be reflected for the first time in the Final June 30, 2021 actuarial valuations of NYCERS, POLICE, and FIRE. In accordance with the OYLM used to determine employer contributions, the decrease in employer contributions would first be reflected in Fiscal Year 2023.

CENSUS DATA: The estimates presented herein are based upon the census data for such Eligible Beneficiaries provided by NYCERS.

Retirement System	Number of Deceased Members with Eligible Survivors	Annual Accidental Death Benefit Prior to Proposed July 1, 2019 Increase (\$ Millions)
NYCERS	40	\$ 3.7
POLICE	426	48.6
FIRE	<u>643</u>	<u>77.3</u>
Total	1,109	\$129.6

ACTUARIAL ASSUMPTIONS AND METHODS: The changes in the PVFB and annual employer contributions presented herein have been calculated based on the actuarial assumptions and methods in effect for the June 30, 2019 (Lag) actuarial valuations used to determine the Preliminary Fiscal Year 2021 employer contributions of NYCERS, POLICE, and FIRE.

RISK AND UNCERTAINTY: The costs presented in this Fiscal Note depend highly on the realization of the actuarial assumptions used, as well as certain demographic characteristics of NYCERS, POLICE and FIRE and other exogenous 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 of NYCERS, POLICE, and FIRE and other New York City agencies to implement the proposed legislation.

STATEMENT OF ACTUARIAL OPINION: I, Sherry S. Chan, am the Chief Actuary for, and independent of, the New York City Retirement Systems and Pension Funds. I am a Fellow of the Society of Actuaries, an Enrolled

Actuary under the Employee Retirement Income and Security Act of 1974, a Member of the American Academy of Actuaries, and a Fellow of the Conference of Consulting Actuaries. 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 2020-16 dated March 18, 2020 was prepared by the Chief Actuary for the New York City Employees' Retirement System, the New York City Police Pension Fund, and New York City Fire Pension Fund. This estimate is intended for use only during the 2020 Legislative Session.

STATE OF NEW YORK

6950

IN SENATE

January 6, 2020

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

AN ACT to amend the civil service, the general municipal law and the administrative code of the city of New York, in relation to the review of certain claims; to amend a chapter of the laws of 2019, amending the general municipal law and other laws relating to sick leave for officers and employees with a qualifying World Trade Center condition, as proposed in legislative bills numbers S.5890-A and A.7819-A, in relation to sick leave for certain individuals with a qualifying World Trade Center condition and rights of public employers and employees relating thereto; and to repeal certain provisions of the civil service law relating thereto

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

1 Section 1. Subdivision 1-a of section 6 of the civil service law, as
2 added by a chapter of the laws of 2019, amending the general municipal
3 law and other laws relating to sick leave for officers and employees
4 with a qualifying World Trade Center condition as proposed in legisla-
5 tive bills numbers S.5890-A and A.7819-A, is REPEALED.

6 § 2. Section 7 of the civil service law is amended by adding a new
7 subdivision 8 to read as follows:

8 **8. The president shall have the power to review claims for reimburse-**
9 **ment submitted by public authorities or municipal corporations other**
10 **than a city with a population of a million or more pursuant to section**
11 **ninety-two-d of the general municipal law to determine if such claim**
12 **shall be approved, reduced, amended or rejected. Such review and deter-**
13 **mination shall be made in accordance with section ninety-two-d of the**
14 **general municipal law.**

15 § 3. Section 92-d of the general municipal law, as amended by section
16 1 and subdivisions 2, 3, 4, 5, 6, 7, and 8 as added by section 2 of a
17 chapter of the laws of 2019, amending the general municipal law and
18 other laws relating to sick leave for officers and employees with a
19 qualifying World Trade Center condition, as proposed in legislative
20 bills numbers S.5890-A and A.7819-A, is amended to read as follows:

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

S

LBD03751-07-9

1 § 92-d. Sick leave for officers and employees with a qualifying World
2 Trade Center condition. 1.(a) Notwithstanding any other law, rule or
3 regulation to the contrary, officers and employees of the state, a
4 public authority or any municipal corporation outside of a city with a
5 population of one million or more who have filed and received approval
6 for such filed notice of participation in World Trade Center rescue,
7 recovery or cleanup operations or was a participant in World Trade
8 Center rescue, recovery, or cleanup operations as such term is defined
9 in section one hundred sixty-one of the workers' compensation law, who
10 does not have such filed and approved notice of participation and has
11 filed a notice of participation under section one hundred sixty-two of
12 the workers' compensation law and is now employed by the state, a public
13 authority, or any municipal corporation, and subsequently [~~develop~~
14 ~~developed~~ a qualifying World Trade Center condition, as defined in
15 section two of the retirement and social security law, shall, after the
16 receipt of a written request for line of duty sick leave, be granted
17 line of duty sick leave commencing on the date that such employee was
18 diagnosed with a qualifying World Trade Center condition regardless of
19 whether such officer or employee was employed by his or her current
20 employer at the time that such officer or employee participated in World
21 Trade Center rescue, recovery or cleanup operations. The officer or
22 employee shall be compensated at his or her regular rate of pay for
23 those regular work hours during which the officer or employee is absent
24 from work due to his or her qualifying World Trade Center condition.
25 Such leave shall be provided without loss of an officer or employee's
26 accrued sick leave.

27 (b) A public employer shall not take any adverse personnel action
28 against a public employee regarding the employee's employment because
29 either (i) the employee utilizes, or requests to utilize, sick leave or
30 any other available leave due to a qualifying World Trade Center condi-
31 tion, as such term is defined in section two of the retirement and
32 social security law, or (ii) the employee utilizes or requests to
33 utilize line of duty sick leave provided by this section.

34 (c) For purposes of this section, an "adverse personnel action" means
35 any discipline, including issuing a notice of discipline, discharge,
36 suspension, demotion, penalization, or discrimination against an employ-
37 ee utilizing line of duty sick leave pursuant to paragraph (a) of this
38 subdivision.

39 Nothing in this section shall [~~limit an employer's power pursuant to~~
40 ~~any other provision of law to discipline an officer or employee by~~
41 ~~termination, reduction of salary, or any other appropriate measure; to~~
42 ~~terminate an appointee who has not completed his or her probationary~~
43 ~~term; and to apply for ordinary or accident disability retirement for an~~
44 ~~officer or employee]~~ be deemed to diminish or impair the rights of a
45 public employee or employer under any law, rule, regulation or collec-
46 tively negotiated agreement or to prohibit any personnel action which
47 otherwise would have been taken regardless of any request to use, or
48 utilization of, any sick leave or other available leave due to a quali-
49 fying World Trade Center condition or request to use, or utilization of,
50 any line of duty sick leave provided by this section.

51 2.(a) Notwithstanding any other law, rule or regulation to the contra-
52 ry, officers and employees of a city with a population of one million or
53 more who (i) do not receive benefits similar to those provided by this
54 section pursuant to a collectively bargained agreement, section 14-122.1
55 of the administrative code of the city of New York, section 15-108.1 of
56 the administrative code of the city of New York, or other statutory

1 provision and (ii) have filed and received approval for such filed
2 notice of participation in World Trade Center rescue, recovery or clean-
3 up operations or was a participant in World Trade Center rescue, recov-
4 ery, or cleanup operations as such term is defined in section one
5 hundred sixty-one of the workers' compensation law, who does not have
6 such filed and approved notice of participation and has filed a notice
7 of participation under section one hundred sixty-two of the workers'
8 compensation law and is now employed by the state, a public authority,
9 or any municipal corporation, and subsequently [~~develop~~] developed a
10 qualifying World Trade Center condition, as defined in section two of
11 the retirement and social security law, shall, after receipt of a writ-
12 ten request for line of duty sick leave, be granted line of duty sick
13 leave commencing on the date that such employee was diagnosed with a
14 qualifying World Trade Center condition regardless of whether such offi-
15 cer or employee was employed by his or her current employer at the time
16 that such officer or employee participated in World Trade Center rescue,
17 recovery or cleanup operations. The officer or employee shall be compen-
18 sated at his or her regular rate of pay for those regular work hours
19 during which the officer or employee is absent from work due to his or
20 her qualifying World Trade Center condition. Such leave shall be
21 provided without loss of an officer or employee's accrued sick leave.

22 (b) A public employer shall not take any adverse personnel action
23 against a public employee regarding the employee's employment because
24 either (i) the employee utilizes, or requests to utilize, sick leave or
25 any other available leave due to a qualifying World Trade Center condi-
26 tion, as such term is defined in section two of the retirement and
27 social security law, or (ii) the employee utilizes or requests to
28 utilize line of duty sick leave provided by this section.

29 (c) For purposes of this section, an "adverse personnel action" means
30 any discipline, including issuing a notice of discipline, discharge,
31 suspension, demotion, penalization, or discrimination against an employ-
32 ee utilizing line of duty sick leave pursuant to subdivision one of this
33 section.

34 Nothing in this section shall [~~limit an employer's power pursuant to~~
35 ~~another provision of law to discipline an officer or employee by termi-~~
36 ~~nation, reduction of salary, or any other appropriate measure; to termi-~~
37 ~~nate an appointee who has not completed his or her probationary term;~~
38 ~~and to apply for ordinary or accident disability retirement for an offi-~~
39 ~~cer or employee]~~ be deemed to diminish or impair the rights of a public
40 employee or employer under any law, rule, regulation or collectively
41 negotiated agreement or to prohibit any personnel action which otherwise
42 would have been taken regardless of any request to use, or utilization
43 of, any sick leave or other available leave due to a qualifying World
44 Trade Center condition or request to use, or utilization of, any line of
45 duty sick leave provided by this section.

46 3. For purposes of this section, "cost" shall mean the number of days
47 of sick leave that must be restored to an officer or employee pursuant
48 to subdivision one or two of this section multiplied by such officer or
49 employee's wage rate at the time that such sick leave for which
50 reimbursement is being sought was taken.

51 4. A request, for line of duty sick leave shall be in writing and
52 include a waiver of the protection afforded to the officer or employee
53 pursuant to the health insurance portability and accountability act to
54 allow disclosure of the officer or employee's approved notice of partic-
55 ipation and any medical records concerning such officer or employee's
56 notice of participation or qualifying World Trade Center condition in

1 the possession of the retirement system or workers' compensation board
2 in which such officer or employee is a member for the purpose of review-
3 ing, processing and auditing his or her claim for line of duty sick
4 leave. Such waiver shall be in the form required by the retirement
5 system of which he or she is a member or the workers' compensation
6 board, along with the application for line of duty sick leave, with his
7 or her employer.

8 5. Notwithstanding any provision of law to the contrary, upon request
9 from the state, public authority or municipal corporation other than a
10 city with a population of one million or more for a copy of an approved
11 notice of participation in World Trade Center rescue, recovery or clean-
12 up operations for an officer or employee, the retirement system in which
13 such officer or employee is a member and to which such officer or
14 employee filed his or her notice of participation in World Trade Center
15 rescue, recovery or cleanup operations in accordance with paragraph (a)
16 of subdivision thirty-six of section two of the retirement and social
17 security law, such retirement system shall provide a verified copy of
18 such approved notice of participation that includes the date that such
19 notice was filed to such requestor. A copy of such verified notice of
20 participation shall be filed with any claim for reimbursement submitted
21 to the civil service [~~commission~~] department pursuant to subdivision
22 four of this section. Except as required for filing, review, and audit
23 purposes, such verified notice of participation and all copies of such
24 verified notice shall be confidential and not subject to disclosure
25 pursuant to article six of the public officers law.

26 6. A public authority or municipal corporation other than a city with
27 a population of one million or more shall submit any claim for
28 reimbursement under this section to the civil service [~~commission~~]
29 department. In accordance with subdivision [~~one-a~~] eight of section
30 [~~six~~] seven of the civil service law, the civil service [~~commission~~]
31 department shall review each claim to determine if such claim shall be
32 approved, reduced, amended or rejected and shall notify the submitting
33 public authority or municipal corporation, within sixty days of receipt
34 of such claim, as to its determination. Such public authority or municip-
35 al corporation shall notify the civil service [~~commission~~] department
36 within thirty days after receipt of the civil service [~~commission's~~]
37 department's notification, as to its acceptance or rejection of such
38 determination. Failure to so notify the civil service [~~commission~~]
39 department shall constitute an acceptance of the determination. If
40 accepted by such public authority or municipal corporation, such accept-
41 ance shall constitute the final and conclusive determination for such
42 claim. Notwithstanding any other law to the contrary, there shall be no
43 appeal of such determination to the civil service commission. If
44 rejected by such public authority or municipal corporation, such public
45 authority or municipal corporation [~~shall resubmit its claim, within~~
46 ~~thirty days after receipt of the civil service commission's notifica-~~
47 ~~tion, together with its reasons for objection and any additional~~
48 ~~documentation which may justify its claim. Upon receipt of a resubmitted~~
49 ~~claim, the civil service commission shall review such claim and within~~
50 ~~sixty days of receipt of such resubmitted claim, make a final determi-~~
51 ~~nation as to the amount to be approved for such claim. If such public~~
52 ~~authority or municipal corporation shall dispute such final determi-~~
53 ~~nation it~~] may commence an action[, ~~within sixty days of such final~~
54 ~~determination, in the court of claims which shall have jurisdiction to~~
55 ~~adjudicate the claim and enter judgment, which judgment shall be a final~~
56 ~~determination for purposes of this section and shall be payable in~~

1 ~~accordance with the provisions of this section]~~ in accordance with the
 2 provisions of article seventy-eight of the civil practice law and rules.

3 7. The civil service [~~commission~~] department shall certify all claims
 4 for which a final determination has been made. The civil service
 5 [~~commission~~] department shall submit all certified claims [~~to the comp-~~
 6 ~~troller of the department of audit and control]~~ for payment on or before
 7 the first day of the immediately succeeding month during which such
 8 claim was certified.

9 8. All claims certified by the civil service [~~commission~~] department
 10 shall be paid monthly [~~and shall be paid upon a warrant from the comp-~~
 11 ~~troller~~].

12 § 4. Section 12-140 of the administrative code of the city of New
 13 York, as added by a chapter of the laws of 2019, amending the general
 14 municipal law and other laws relating to sick leave for officers and
 15 employees with a qualifying World Trade Center condition, as proposed in
 16 legislative bills numbers S.5890-A and A.7819-A, is amended to read as
 17 follows:

18 § 12-140 Line of duty sick leave for World Trade Center rescue, recov-
 19 ery or cleanup operations. (a) Notwithstanding any other law, rule or
 20 regulation to the contrary, officers and employees of a city with a
 21 population of one million or more who (i) do not receive benefits simi-
 22 lar to those provided by this section pursuant to a collectively
 23 bargained agreement, section 14-122.1 of this code, section 15-108.1 of
 24 this code, or other statutory provision and (ii) filed and received
 25 approval for such filed notice of participation in World Trade Center
 26 rescue, recovery or cleanup operations or was a participant in World
 27 Trade Center rescue, recovery, or cleanup operations as such term is
 28 defined in section one hundred sixty-one of the workers' compensation
 29 law, who does not have such filed and approved notice of participation
 30 and has filed a notice of participation under section one hundred
 31 sixty-two of the workers' compensation law and is now employed by a city
 32 with a population of one million or more, and subsequently [~~develop~~]
 33 developed a qualifying World Trade Center condition, as defined in
 34 section two of the retirement and social security law, shall, after
 35 receipt of a written request for line of duty sick leave, be granted
 36 line of duty sick leave commencing on the date that such employee was
 37 diagnosed with a qualifying World Trade Center condition regardless of
 38 whether such officer or employee was employed by his or her current
 39 employer at the time that such officer or employee participated in World
 40 Trade Center rescue, recovery or cleanup operations. The officer or
 41 employee shall be compensated at his or her regular rate of pay for
 42 those regular work hours during which the officer or employee is absent
 43 from work. Such leave shall be provided without loss of an officer or
 44 employee's accrued sick leave.

45 (b) A public employer shall not take any adverse personnel action
 46 against a public employee regarding the employee's employment because
 47 either (i) the employee utilizes, or requests to utilize, sick leave or
 48 any other available leave due to a qualifying World Trade Center condi-
 49 tion, as such term is defined in section two of the retirement and
 50 social security law, or (ii) the employee utilizes or requests to
 51 utilize line of duty sick leave provided by this section.

52 (c) For purposes of this section, an "adverse personnel action" means
 53 any discipline, including issuing a notice of discipline, discharge,
 54 suspension, demotion, penalization, or discrimination against an employ-
 55 ee utilizing line of duty sick leave pursuant to subdivision (a) of this
 56 section. Nothing in this section shall [~~limit an employer's power~~

1 ~~pursuant to another provision of law to discipline an officer or employ-~~
 2 ~~ee by termination, reduction of salary, or any other appropriate meas-~~
 3 ~~ure; to terminate an appointee who has not completed his or her proba-~~
 4 ~~tionary term; and to apply for ordinary or accident disability~~
 5 ~~retirement for an officer or employee] be deemed to diminish or impair
 6 the rights of a public employee or employer under any law, rule, regu-
 7 lation or collectively negotiated agreement or to prohibit any personnel
 8 action which otherwise would have been taken regardless of any request
 9 to use, or utilization of, any sick leave or other available leave due
 10 to a qualifying World Trade Center condition or request to use, or
 11 utilization of, any line of duty sick leave provided by this section.~~

12 § 5. Section 6 of a chapter of the laws of 2019, amending the general
 13 municipal law and other laws relating to sick leave for officers and
 14 employees with a qualifying World Trade Center condition, as proposed in
 15 legislative bills numbers S.5890-A and A.7819-A, is amended to read as
 16 follows:

17 § 6. The commissioner of the department of civil service [~~in consul-~~
 18 ~~tation with the state comptroller and the commissioner of the department~~
 19 ~~of taxation and finance, shall] may promulgate rules and regulations to
 20 assist with the implementation of section 92-d of the general municipal
 21 law. [~~Such rules and regulations shall be issued no later than 90 days~~
 22 ~~after this act shall have become a law.] Notwithstanding any other
 23 provisions to the contrary in the state administrative procedure act,
 24 such rules and regulations may be adopted on an emergency basis [~~if~~
 25 ~~necessary to meet such 90-day deadline].~~~~~~

26 § 6. This act shall take effect on the same date and in the same
 27 manner as a chapter of the laws of 2019, amending the general municipal
 28 law and other laws relating to sick leave for officers and employees
 29 with a qualifying World Trade Center condition, as proposed in legisla-
 30 tive bills numbers S.5890-A and A.7819-A, takes effect.

STATE OF NEW YORK

8427

IN SENATE

May 28, 2020

Introduced by Sens. GOUNARDES, HARCKHAM -- (at request of the Governor)
-- 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, the public authorities law and the administrative code of the
city of New York, in relation to establishing a coronavirus disease
2019 (COVID-19) benefit for public employee death benefits; and
providing for the repeal of such provisions upon the expiration there-
of

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

- 1 Section 1. The retirement and social security law is amended by adding
2 a new section 61-b to read as follows:
3 § 61-b. COVID-19 benefit. a. Notwithstanding any other provision of
4 this article or of any general, special or local law to the contrary,
5 and solely for the purpose of determining eligibility for benefits under
6 this section, where:
7 1. A member reported in person to such member's usual place of public
8 employment at the direction of such member's public employer or to any
9 alternate worksite as directed by such public employer, on or after
10 March first, two thousand twenty, provided that such alternate worksite
11 was not such member's home or residence;
12 2. Such member contracted COVID-19 within forty-five days after
13 reporting to work as described in paragraph one of this subdivision as
14 confirmed by a positive laboratory test or as diagnosed before or after
15 such member's death by a licensed, certified, registered or authorized
16 physician, nurse practitioner, or physician's assistant currently in
17 good standing in any state or the District of Columbia, or a physician,
18 nurse practitioner, or physician's assistant authorized to practice in
19 New York by executive order during the declared COVID-19 state of emer-
20 gency; and
21 3. Such member died on or before December thirty-first, two thousand
22 twenty, and COVID-19 caused or contributed to such member's death, as
23 documented on such member's death certificate, or as certified by a

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

LBD12055-04-0

1 physician, nurse practitioner, or physician's assistant described in
2 paragraph two of this subdivision who determines with a reasonable
3 degree of medical certainty that COVID-19 caused or contributed to the
4 member's death, such member's statutory beneficiary shall receive an
5 accidental death benefit, unless such statutory beneficiary elects to
6 receive an ordinary death benefit.

7 b. Any amount payable as a result of this section shall be reduced by
8 any amount paid by such member's retirement system to any recipient of
9 ordinary death benefits under this article.

10 c. 1. Notwithstanding any provision of this article or of any general,
11 special or local law to the contrary, and solely for the purpose of
12 determining eligibility for benefits under this section, where a member:

13 (i) retired from his or her retirement system on or after March first,
14 two thousand twenty, and before July first, two thousand twenty;

15 (ii) on or after March first, two thousand twenty, reported in person
16 to such member's usual place of public employment at the direction of
17 such member's public employer or to any alternate worksite as directed
18 by such public employer, provided that such alternate worksite was not
19 such member's home or residence;

20 (iii) contracted COVID-19 within forty-five days after any such date
21 of reporting to work in person, as confirmed by a positive laboratory
22 test or as diagnosed before or after such member's death by a licensed,
23 certified, registered or authorized physician, nurse practitioner, or
24 physician's assistant currently in good standing in any state or the
25 District of Columbia, or a physician, nurse practitioner, or physician's
26 assistant authorized to practice in New York by executive order during
27 the declared COVID-19 state of emergency; and

28 (iv) such member died on or before December thirty-first, two thousand
29 twenty, and COVID-19 caused or contributed to such member's death, as
30 documented on such member's death certificate, or as certified by a
31 physician, nurse practitioner, or physician's assistant described in
32 subparagraph (iii) of this paragraph who determines with a reasonable
33 degree of medical certainty that COVID-19 caused or contributed to the
34 member's death, such member's statutory beneficiary shall receive an
35 accidental death benefit if such statutory beneficiary elects conversion
36 of the member's service or disability retirement benefit into an acci-
37 idental death benefit.

38 2. Such member's statutory beneficiary, as defined under this article,
39 for purposes of accidental death benefits payable from such member's
40 retirement system under this article, may, within ninety days of such
41 member's retirement or September first, two thousand twenty, whichever
42 is later, apply to such member's retirement system to request the
43 conversion of such member's service or disability retirement benefit
44 into an accidental death benefit. For purposes of the salary base upon
45 which the accidental death benefit is calculated, such member shall be
46 deemed to have died on the date of such member's retirement. At the time
47 of such conversion, such statutory beneficiary shall relinquish all
48 rights to the prospective benefits payable under the service or disabil-
49 ity retirement statute, including any post-retirement death benefits,
50 since such member's death. If the statutory beneficiary is not the only
51 beneficiary receiving or entitled to receive a benefit under the service
52 or disability retirement statute, including, but not limited to, a post-
53 retirement death benefit or benefit paid or payable pursuant to the
54 member's option selection, the accidental death benefit payments to the
55 statutory beneficiary will be reduced by any amounts paid or payable to
56 any other statutory beneficiary.

1 d. In order to be eligible for the benefit described in this section,
2 the applicable retirement system or systems are authorized to promulgate
3 rules and regulations to administer this benefit including, but not
4 limited to, requiring a statement to be filed confirming the member
5 contracted COVID-19 and the dates and locations of the member's employ-
6 ment.

7 § 2. The retirement and social security law is amended by adding a new
8 section 361-b to read as follows:

9 § 361-b. COVID-19 benefit. a. Notwithstanding any other provision of
10 this article or of any general, special or local law to the contrary,
11 and solely for the purpose of determining eligibility for benefits under
12 this section, where:

13 1. A member reported in person to such member's usual place of public
14 employment at the direction of such member's public employer or to any
15 alternate worksite as directed by such public employer, on or after
16 March first, two thousand twenty, provided that such alternate worksite
17 was not such member's home or residence;

18 2. Such member contracted COVID-19 within forty-five days after
19 reporting to work as described in paragraph one of this subdivision as
20 confirmed by a positive laboratory test or as diagnosed before or after
21 such member's death by a licensed, certified, registered or authorized
22 physician, nurse practitioner, or physician's assistant currently in
23 good standing in any state or the District of Columbia, or a physician,
24 nurse practitioner, or physician's assistant authorized to practice in
25 New York by executive order during the declared COVID-19 state of emer-
26 gency; and

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

36 b. Any amount payable as a result of this section shall be reduced by
37 any amount paid by such member's retirement system to any recipient of
38 ordinary death benefits under this article.

39 c. 1. Notwithstanding any provision of this article or of any general,
40 special or local law to the contrary, and solely for the purpose of
41 determining eligibility for benefits under this section, where a member:

42 (i) retired from his or her retirement system on or after March first,
43 two thousand twenty, and before July first, two thousand twenty;

44 (ii) on or after March first, two thousand twenty, reported in person
45 to such member's usual place of public employment at the direction of
46 such member's public employer or to any alternate worksite as directed
47 by such public employer, provided that such alternate worksite was not
48 such member's home or residence;

49 (iii) contracted COVID-19 within forty-five days after any such date
50 of reporting to work in person, as confirmed by a positive laboratory
51 test or as diagnosed before or after such member's death by a licensed,
52 certified, registered or authorized physician, nurse practitioner, or
53 physician's assistant currently in good standing in any state or the
54 District of Columbia, or a physician, nurse practitioner, or physician's
55 assistant authorized to practice in New York by executive order during
56 the declared COVID-19 state of emergency; and

1 (iv) such member died on or before December thirty-first, two thousand
 2 twenty, and COVID-19 caused or contributed to such member's death, as
 3 documented on such member's death certificate, or as certified by a
 4 physician, nurse practitioner, or physician's assistant described in
 5 subparagraph (iii) of this paragraph who determines with a reasonable
 6 degree of medical certainty that COVID-19 caused or contributed to the
 7 member's death, such member's statutory beneficiary shall receive an
 8 accidental death benefit if such statutory beneficiary elects conversion
 9 of the member's service or disability retirement benefit into an acci-
 10 dental death benefit.

11 2. Such member's statutory beneficiary, as defined under this article,
 12 for purposes of accidental death benefits payable from such member's
 13 retirement system under this article, may, within ninety days of such
 14 member's retirement or September first, two thousand twenty, whichever
 15 is later, apply to such member's retirement system to request the
 16 conversion of such member's service or disability retirement benefit
 17 into an accidental death benefit. For purposes of the salary base upon
 18 which the accidental death benefit is calculated, such member shall be
 19 deemed to have died on the date of such member's retirement. At the time
 20 of such conversion, such statutory beneficiary shall relinquish all
 21 rights to the prospective benefits payable under the service or disabili-
 22 ty retirement statute, including any post-retirement death benefits,
 23 since such member's death. If the statutory beneficiary is not the only
 24 beneficiary receiving or entitled to receive a benefit under the service
 25 or disability retirement statute, including, but not limited to, a post-
 26 retirement death benefit or benefit paid or payable pursuant to the
 27 member's option selection, the accidental death benefit payments to the
 28 statutory beneficiary will be reduced by any amounts paid or payable to
 29 any other statutory beneficiary.

30 d. In order to be eligible for the benefit described in this section,
 31 the applicable retirement system or systems are authorized to promulgate
 32 rules and regulations to administer this benefit including, but not
 33 limited to, requiring a statement to be filed confirming the member
 34 contracted COVID-19 and the dates and locations of the member's employ-
 35 ment.

36 § 3. The retirement and social security law is amended by adding a new
 37 section 509-a to read as follows:

38 § 509-a. COVID-19 benefit. a. Notwithstanding any other provision of
 39 this article or of any general, special or local law to the contrary,
 40 and solely for the purpose of determining eligibility for benefits under
 41 this section, where:

42 1. A member reported in person to such member's usual place of public
 43 employment at the direction of such member's public employer or to any
 44 alternate worksite as directed by such public employer, on or after
 45 March first, two thousand twenty, provided that such alternate worksite
 46 was not such member's home or residence;

47 2. Such member contracted COVID-19 within forty-five days after
 48 reporting to work as described in paragraph one of this subdivision as
 49 confirmed by a positive laboratory test or as diagnosed before or after
 50 such member's death by a licensed, certified, registered or authorized
 51 physician, nurse practitioner, or physician's assistant currently in
 52 good standing in any state or the District of Columbia, or a physician,
 53 nurse practitioner, or physician's assistant authorized to practice in
 54 New York by executive order during the declared COVID-19 state of emer-
 55 gency; and

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

10 b. Any amount payable as a result of this section shall be reduced by
11 any amount paid by such member's retirement system to any recipient of
12 ordinary death benefits under this article.

13 c. 1. Notwithstanding any provision of this article or of any general,
14 special or local law to the contrary, and solely for the purpose of
15 determining eligibility for benefits under this section, where a member:

16 (i) retired from his or her retirement system on or after March first,
17 two thousand twenty, and before July first, two thousand twenty;

18 (ii) on or after March first, two thousand twenty, reported in person
19 to such member's usual place of public employment at the direction of
20 such member's public employer or to any alternate worksite as directed
21 by such public employer, provided that such alternate worksite was not
22 such member's home or residence;

23 (iii) contracted COVID-19 within forty-five days after any such date
24 of reporting to work in person, as confirmed by a positive laboratory
25 test or as diagnosed before or after such member's death by a licensed,
26 certified, registered or authorized physician, nurse practitioner, or
27 physician's assistant currently in good standing in any state or the
28 District of Columbia, or a physician, nurse practitioner, or physician's
29 assistant authorized to practice in New York by executive order during
30 the declared COVID-19 state of emergency; and

31 (iv) such member died on or before December thirty-first, two thousand
32 twenty, and COVID-19 caused or contributed to such member's death, as
33 documented on such member's death certificate, or as certified by a
34 physician, nurse practitioner, or physician's assistant described in
35 subparagraph (iii) of this paragraph who determines with a reasonable
36 degree of medical certainty that COVID-19 caused or contributed to the
37 member's death, such member's statutory beneficiary shall receive an
38 accidental death benefit if such statutory beneficiary elects conversion
39 of the member's service or disability retirement benefit into an acci-
40 idental death benefit.

41 2. Such member's statutory beneficiary, as defined under this article,
42 for purposes of accidental death benefits payable from such member's
43 retirement system under this article, may, within ninety days of such
44 member's retirement or September first, two thousand twenty, whichever
45 is later, apply to such member's retirement system to request the
46 conversion of such member's service or disability retirement benefit
47 into an accidental death benefit. For purposes of the salary base upon
48 which the accidental death benefit is calculated, such member shall be
49 deemed to have died on the date of such member's retirement. At the time
50 of such conversion, such statutory beneficiary shall relinquish all
51 rights to the prospective benefits payable under the service or disabili-
52 ty retirement statute, including any post-retirement death benefits,
53 since such member's death. If the statutory beneficiary is not the only
54 beneficiary receiving or entitled to receive a benefit under the service
55 or disability retirement statute, including, but not limited to, a post-
56 retirement death benefit or benefit paid or payable pursuant to the

1 member's option selection, the accidental death benefit payments to the
2 statutory beneficiary will be reduced by any amounts paid or payable to
3 any other statutory beneficiary.

4 d. In order to be eligible for the benefit described in this section,
5 the applicable retirement system or systems are authorized to promulgate
6 rules and regulations to administer this benefit including, but not
7 limited to, requiring a statement to be filed confirming the member
8 contracted COVID-19 and the dates and locations of the member's employ-
9 ment.

10 § 4. The retirement and social security law is amended by adding a new
11 section 607-i to read as follows:

12 § 607-i. COVID-19 benefit. a. Notwithstanding any other provision of
13 this article or of any general, special or local law to the contrary,
14 and solely for the purpose of determining eligibility for benefits under
15 this section, where:

16 1. A member reported in person to such member's usual place of public
17 employment at the direction of such member's public employer or to any
18 alternate worksite as directed by such public employer, on or after
19 March first, two thousand twenty, provided that such alternate worksite
20 was not such member's home or residence;

21 2. Such member contracted COVID-19 within forty-five days after
22 reporting to work as described in paragraph one of this subdivision as
23 confirmed by a positive laboratory test or as diagnosed before or after
24 such member's death by a licensed, certified, registered or authorized
25 physician, nurse practitioner, or physician's assistant currently in
26 good standing in any state or the District of Columbia, or a physician,
27 nurse practitioner, or physician's assistant authorized to practice in
28 New York by executive order during the declared COVID-19 state of emer-
29 gency; and

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

39 b. Any amount payable as a result of this section shall be reduced by
40 any amount paid by such member's retirement system to any recipient of
41 ordinary death benefits under this article.

42 c. 1. Notwithstanding any provision of this article or of any general,
43 special or local law to the contrary, and solely for the purpose of
44 determining eligibility for benefits under this section, where a member:

45 (i) retired from his or her retirement system on or after March first,
46 two thousand twenty, and before July first, two thousand twenty;

47 (ii) on or after March first, two thousand twenty, reported in person
48 to such member's usual place of public employment at the direction of
49 such member's public employer or to any alternate worksite as directed
50 by such public employer, provided that such alternate worksite was not
51 such member's home or residence;

52 (iii) contracted COVID-19 within forty-five days after any such date
53 of reporting to work in person, as confirmed by a positive laboratory
54 test or as diagnosed before or after such member's death by a licensed,
55 certified, registered or authorized physician, nurse practitioner, or
56 physician's assistant currently in good standing in any state or the

1 District of Columbia, or a physician, nurse practitioner, or physician's
2 assistant authorized to practice in New York by executive order during
3 the declared COVID-19 state of emergency; and

4 (iv) such member died on or before December thirty-first, two thousand
5 twenty, and COVID-19 caused or contributed to such member's death, as
6 documented on such member's death certificate, or as certified by a
7 physician, nurse practitioner, or physician's assistant described in
8 subparagraph (iii) of this paragraph who determines with a reasonable
9 degree of medical certainty that COVID-19 caused or contributed to the
10 member's death, such member's statutory beneficiary shall receive an
11 accidental death benefit if such statutory beneficiary elects conversion
12 of the member's service or disability retirement benefit into an acci-
13 dental death benefit.

14 2. Such member's statutory beneficiary, as defined under this article,
15 for purposes of accidental death benefits payable from such member's
16 retirement system under this article, may, within ninety days of such
17 member's retirement or September first, two thousand twenty, whichever
18 is later, apply to such member's retirement system to request the
19 conversion of such member's service or disability retirement benefit
20 into an accidental death benefit. For purposes of the salary base upon
21 which the accidental death benefit is calculated, such member shall be
22 deemed to have died on the date of such member's retirement. At the time
23 of such conversion, such statutory beneficiary shall relinquish all
24 rights to the prospective benefits payable under the service or disabili-
25 ty retirement statute, including any post-retirement death benefits,
26 since such member's death. If the statutory beneficiary is not the only
27 beneficiary receiving or entitled to receive a benefit under the service
28 or disability retirement statute, including, but not limited to, a post-
29 retirement death benefit or benefit paid or payable pursuant to the
30 member's option selection, the accidental death benefit payments to the
31 statutory beneficiary will be reduced by any amounts paid or payable to
32 any other statutory beneficiary.

33 d. In order to be eligible for the benefit described in this section,
34 the applicable retirement system or systems are authorized to promulgate
35 rules and regulations to administer this benefit including, but not
36 limited to, requiring a statement to be filed confirming the member
37 contracted COVID-19 and the dates and locations of the member's employ-
38 ment.

39 § 5. Section 512 of the education law is amended by adding a new
40 subdivision h to read as follows:

41 h. 1. Notwithstanding any other provision of this article or of any
42 general, special or local law to the contrary, and solely for the
43 purpose of determining eligibility for benefits under this section,
44 where:

45 (A) a member reported in person to such member's usual place of public
46 employment at the direction of such member's public employer or to any
47 alternate worksite as directed by such public employer, on or after
48 March first, two thousand twenty, provided that such alternate worksite
49 was not such member's home or residence;

50 (B) such member contracted COVID-19 within forty-five days after
51 reporting to work as described in subparagraph (A) of this paragraph as
52 confirmed by a positive laboratory test or as diagnosed before or after
53 such member's death by a licensed, certified, registered or authorized
54 physician, nurse practitioner, or physician's assistant currently in
55 good standing in any state or the District of Columbia, or a physician,
56 nurse practitioner, or physician's assistant authorized to practice in

1 New York by executive order during the declared COVID-19 state of emer-
2 gency; and

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

12 2. Any amount payable as a result of this section shall be reduced by
13 any amount paid by such member's retirement system to any recipient of
14 ordinary death benefits under this article.

15 3. (A) Notwithstanding any provision of this article or of any gener-
16 al, special or local law to the contrary, and solely for the purpose of
17 determining eligibility for benefits under this section, where a member:

18 (i) retired from his or her retirement system on or after March first,
19 two thousand twenty, and before July first, two thousand twenty;

20 (ii) on or after March first, two thousand twenty, reported in person
21 to such member's usual place of public employment at the direction of
22 such member's public employer or to any alternate worksite as directed
23 by such public employer, provided that such alternate worksite was not
24 such member's home or residence;

25 (iii) contracted COVID-19 within forty-five days after any such date
26 of reporting to work in person, as confirmed by a positive laboratory
27 test or as diagnosed before or after such member's death by a licensed,
28 certified, registered or authorized physician, nurse practitioner, or
29 physician's assistant currently in good standing in any state or the
30 District of Columbia, or a physician, nurse practitioner, or physician's
31 assistant authorized to practice in New York by executive order during
32 the declared COVID-19 state of emergency; and

33 (iv) such member died on or before December thirty-first, two thousand
34 twenty, and COVID-19 caused or contributed to such member's death, as
35 documented on such member's death certificate, or as certified by a
36 physician, nurse practitioner, or physician's assistant described in
37 clause (iii) of this subparagraph who determines with a reasonable
38 degree of medical certainty that COVID-19 caused or contributed to the
39 member's death, such member's statutory beneficiary shall receive an
40 accidental death benefit if such statutory beneficiary elects conversion
41 of the member's service or disability retirement benefit into an acci-
42 dental death benefit.

43 (B) Such member's statutory beneficiary, as defined under this arti-
44 cle, for purposes of accidental death benefits payable from such
45 member's retirement system under this article, may, within ninety days
46 of such member's retirement or September first, two thousand twenty,
47 whichever is later, apply to such member's retirement system to request
48 the conversion of such member's service or disability retirement benefit
49 into an accidental death benefit. For purposes of the salary base upon
50 which the accidental death benefit is calculated, such member shall be
51 deemed to have died on the date of such member's retirement. At the time
52 of such conversion, such statutory beneficiary shall relinquish all
53 rights to the prospective benefits payable under the service or disabil-
54 ity retirement statute, including any post-retirement death benefits,
55 since such member's death. If the statutory beneficiary is not the only
56 beneficiary receiving or entitled to receive a benefit under the service

1 or disability retirement statute, including, but not limited to, a post-
2 retirement death benefit or benefit paid or payable pursuant to the
3 member's option selection, the accidental death benefit payments to the
4 statutory beneficiary will be reduced by any amounts paid or payable to
5 any other statutory beneficiary.

6 4. In order to be eligible for the benefit described in this subdivi-
7 sion, the applicable retirement system or systems are authorized to
8 promulgate rules and regulations to administer this benefit including,
9 but not limited to, requiring a statement to be filed confirming the
10 member contracted COVID-19 and the dates and locations of the member's
11 employment.

12 § 6. Section 2575 of the education law is amended by adding a new
13 subdivision 26 to read as follows:

14 26. (a) Notwithstanding any other provision of this article or of any
15 general, special or local law to the contrary, and solely for the
16 purpose of determining eligibility for benefits under this section,
17 where:

18 (i) a member reported in person to such member's usual place of public
19 employment at the direction of such member's public employer or to any
20 alternate worksite as directed by such public employer, on or after
21 March first, two thousand twenty, provided that such alternate worksite
22 was not such member's home or residence;

23 (ii) such member contracted COVID-19 within forty-five days after
24 reporting to work as described in subparagraph (i) of this paragraph as
25 confirmed by a positive laboratory test or as diagnosed before or after
26 such member's death by a licensed, certified, registered or authorized
27 physician, nurse practitioner, or physician's assistant currently in
28 good standing in any state or the District of Columbia, or a physician,
29 nurse practitioner, or physician's assistant authorized to practice in
30 New York by executive order during the declared COVID-19 state of emer-
31 gency; and

32 (iii) such member died on or before December thirty-first, two thou-
33 sand twenty, and COVID-19 caused or contributed to such member's death,
34 as documented on such member's death certificate, or as certified by a
35 physician, nurse practitioner, or physician's assistant described in
36 subparagraph (ii) of this paragraph who determines with a reasonable
37 degree of medical certainty that COVID-19 caused or contributed to the
38 member's death, such member's statutory beneficiary shall receive an
39 accidental death benefit, unless such statutory beneficiary elects to
40 receive an ordinary death benefit.

41 (b) Any amount payable as a result of this subdivision shall be
42 reduced by any amount paid by such member's retirement system to any
43 recipient of ordinary death benefits under this article.

44 (c) (i) Notwithstanding any provision of this article or of any gener-
45 al, special or local law to the contrary, and solely for the purpose of
46 determining eligibility for benefits under this section, where a member:

47 (1) retired from his or her retirement system on or after March first,
48 two thousand twenty, and before July first, two thousand twenty;

49 (2) on or after March first, two thousand twenty, reported in person
50 to such member's usual place of public employment at the direction of
51 such member's public employer or to any alternate worksite as directed
52 by such public employer, provided that such alternate worksite was not
53 such member's home or residence;

54 (3) contracted COVID-19 within forty-five days after any such date of
55 reporting to work in person, as confirmed by a positive laboratory test
56 or as diagnosed before or after such member's death by a licensed,

1 certified, registered or authorized physician, nurse practitioner, or
 2 physician's assistant currently in good standing in any state or the
 3 District of Columbia, or a physician, nurse practitioner, or physician's
 4 assistant authorized to practice in New York by executive order during
 5 the declared COVID-19 state of emergency; and

6 (4) such member died on or before December thirty-first, two thousand
 7 twenty, and COVID-19 caused or contributed to such member's death, as
 8 documented on such member's death certificate, or as certified by a
 9 physician, nurse practitioner, or physician's assistant described in
 10 clause three of this subparagraph who determines with a reasonable
 11 degree of medical certainty that COVID-19 caused or contributed to the
 12 member's death, such member's statutory beneficiary shall receive an
 13 accidental death benefit if such statutory beneficiary elects conversion
 14 of the member's service or disability retirement benefit into an acci-
 15 idental death benefit.

16 (ii) Such member's statutory beneficiary, as defined under this
 17 section, for purposes of accidental death benefits payable from such
 18 member's retirement system under this section, may, within ninety days
 19 of such member's retirement or September first, two thousand twenty,
 20 whichever is later, apply to such member's retirement system to request
 21 the conversion of such member's service or disability retirement benefit
 22 into an accidental death benefit. For purposes of the salary base upon
 23 which the accidental death benefit is calculated, such member shall be
 24 deemed to have died on the date of such member's retirement. At the time
 25 of such conversion, such statutory beneficiary shall relinquish all
 26 rights to the prospective benefits payable under the service or disabil-
 27 ity retirement statute, including any post-retirement death benefits,
 28 since such member's death. If the statutory beneficiary is not the only
 29 beneficiary receiving or entitled to receive a benefit under the service
 30 or disability retirement statute, including, but not limited to, a post-
 31 retirement death benefit or benefit paid or payable pursuant to the
 32 member's option selection, the accidental death benefit payments to the
 33 statutory beneficiary will be reduced by any amounts paid or payable to
 34 any other statutory beneficiary.

35 (d) In order to be eligible for the benefit described in this subdivi-
 36 sion, the applicable retirement system or systems are authorized to
 37 promulgate rules and regulations to administer this benefit including,
 38 but not limited to, requiring a statement to be filed confirming the
 39 member contracted COVID-19 and the dates and locations of the member's
 40 employment.

41 § 7. Section 1266-h of the public authorities law is amended by adding
 42 a new subdivision 8 to read as follows:

43 8. (a) Notwithstanding any other provision of this section or of any
 44 general, special or local law to the contrary, and solely for the
 45 purpose of determining eligibility for benefits under this section,
 46 where:

47 (i) a member reported in person to such member's usual place of public
 48 employment at the direction of such member's public employer or to any
 49 alternate worksite as directed by such public employer, on or after
 50 March first, two thousand twenty, provided that such alternate worksite
 51 was not such member's home or residence;

52 (ii) such member contracted COVID-19 within forty-five days after
 53 reporting to work pursuant to subparagraph (i) of this paragraph, as
 54 confirmed by a positive laboratory test or as diagnosed before or after
 55 such member's death by a licensed, certified, registered or authorized
 56 physician, nurse practitioner, or physician's assistant currently in

1 good standing in any state or the District of Columbia, or a physician,
2 nurse practitioner, or physician's assistant authorized to practice in
3 New York by executive order during the declared COVID-19 state of emer-
4 gency; and

5 (iii) Such member died on or before December thirty-first, two thou-
6 sand twenty, and COVID-19 caused or contributed to such member's death,
7 as documented on such member's death certificate, or as certified by a
8 physician, nurse practitioner, or physician's assistant described in
9 subparagraph (ii) of this paragraph who determines with a reasonable
10 degree of medical certainty that COVID-19 caused or contributed to the
11 member's death, such member's statutory beneficiary shall receive an
12 accidental death benefit, unless such statutory beneficiary elects to
13 receive an ordinary death benefit.

14 (b) Any amount payable as a result of this section shall be reduced by
15 any amount paid by such member's retirement system to any recipient of
16 ordinary death benefits pursuant to this section.

17 (c) Notwithstanding any provision of this section or of any general,
18 special or local law to the contrary, and solely for the purpose of
19 determining eligibility for benefits under this section, where a member:

20 (1) retired from his or her retirement system on or after March first,
21 two thousand twenty, and before July first, two thousand twenty;

22 (2) on or after March first, two thousand twenty, reported in person
23 to such member's usual place of public employment at the direction of
24 such member's public employer or to any alternate worksite as directed
25 by such public employer, provided that such alternate worksite was not
26 such member's home or residence;

27 (3) contracted COVID-19 within forty-five days after any such date of
28 reporting to work in person, as confirmed by a positive laboratory test
29 or as diagnosed before or after such member's death by a licensed,
30 certified, registered or authorized physician, nurse practitioner, or
31 physician's assistant currently in good standing in any state or the
32 District of Columbia, or a physician, nurse practitioner, or physician's
33 assistant authorized to practice in New York by executive order during
34 the declared COVID-19 state of emergency; and

35 (4) Such member died on or before December thirty-first, two thousand
36 twenty, and COVID-19 caused or contributed to such member's death, as
37 documented on such member's death certificate, or as certified by a
38 physician, nurse practitioner, or physician's assistant described in
39 subparagraph three of this paragraph who determines with a reasonable
40 degree of medical certainty that COVID-19 caused or contributed to the
41 member's death, such member's statutory beneficiary shall receive an
42 accidental death benefit if such statutory beneficiary elects conversion
43 of the member's service or disability retirement benefit into an acci-
44 dental death benefit.

45 (d) Such member's statutory beneficiary, as defined pursuant to this
46 section, for purposes of accidental death benefits payable from such
47 member's retirement system under this section, may, within ninety days
48 of such member's retirement or September first, two thousand twenty,
49 whichever is later, apply to such member's retirement system to request
50 the conversion of such member's service or disability retirement benefit
51 into an accidental death benefit. For purposes of the salary base upon
52 which the accidental death benefit is calculated, such member shall be
53 deemed to have died on the date of such member's retirement. At the time
54 of such conversion, such statutory beneficiary shall relinquish all
55 rights to the prospective benefits payable under the service or disabil-
56 ity retirement statute, including any post-retirement death benefits,

1 since such member's death. If the statutory beneficiary is not the only
2 beneficiary receiving or entitled to receive a benefit under the service
3 or disability retirement statute including, but not limited to, a post-
4 retirement death benefit or benefit paid or payable pursuant to the
5 member's option selection, the accidental death benefit payments to the
6 statutory beneficiary will be reduced by any amounts paid or payable to
7 any other statutory beneficiary.

8 (e) In order to be eligible for the benefit described in this subdivi-
9 sion, the applicable retirement system or systems are authorized to
10 promulgate rules and regulations to administer this benefit including,
11 but not limited to, requiring a statement to be filed confirming the
12 member contracted COVID-19 and the dates and locations of such member's
13 employment.

14 § 8. The administrative code of the city of New York is amended by
15 adding a new section 13-149.1 to read as follows:

16 § 13-149.1 COVID-19 benefit. 1. Notwithstanding any other provision
17 of this title or of any general, special or local law to the contrary,
18 and solely for the purpose of determining eligibility for benefits under
19 this section, where:

20 (a) a member reported in person to such member's usual place of public
21 employment at the direction of such member's public employer or to any
22 alternate worksite as directed by such public employer, on or after
23 March first, two thousand twenty, provided that such alternate worksite
24 was not such member's home or residence;

25 (b) such member contracted COVID-19 within forty-five days after
26 reporting to work as described in paragraph (a) of this subdivision, as
27 confirmed by a positive laboratory test or as diagnosed before or after
28 such member's death by a licensed, certified, registered or authorized
29 physician, nurse practitioner, or physician's assistant currently in
30 good standing in any state or the District of Columbia, or a physician,
31 nurse practitioner, or physician's assistant authorized to practice in
32 New York by executive order during the declared COVID-19 state of emer-
33 gency; and

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

43 2. Any amount payable as a result of this title shall be reduced by
44 any amount paid by such member's retirement system to any recipient of
45 ordinary death benefits under this title.

46 3. Notwithstanding any provision of this title or of any general,
47 special or local law to the contrary, and solely for the purpose of
48 determining eligibility for benefits under this section, where a member:

49 (a) retired from his or her retirement system on or after March first,
50 two thousand twenty, and before July first, two thousand twenty;

51 (b) on or after March first, two thousand twenty, reported in person
52 to such member's usual place of public employment at the direction of
53 such member's public employer or to any alternate worksite as directed
54 by such public employer, provided that such alternate worksite was not
55 such member's home or residence;

1 (c) contracted COVID-19 within forty-five days after any such date of
2 reporting to work in person, as confirmed by a positive laboratory test
3 or as diagnosed before or after such member's death by a licensed,
4 certified, registered or authorized physician, nurse practitioner, or
5 physician's assistant currently in good standing in any state or the
6 District of Columbia, or a physician, nurse practitioner, or physician's
7 assistant authorized to practice in New York by executive order during
8 the declared COVID-19 state of emergency; and

9 (d) Such member died on or before December thirty-first, two thousand
10 twenty, and COVID-19 caused or contributed to such member's death, as
11 documented on such member's death certificate, or as certified by a
12 physician, nurse practitioner, or physician's assistant described in
13 paragraph (c) of this subdivision who determines with a reasonable
14 degree of medical certainty that COVID-19 caused or contributed to the
15 member's death, such member's statutory beneficiary shall receive an
16 accidental death benefit if such statutory beneficiary elects conversion
17 of the member's service or disability retirement benefit into an acci-
18 dental death benefit.

19 4. Such member's statutory beneficiary, as defined pursuant to this
20 title, for purposes of accidental death benefits payable from such
21 member's retirement system under this title, may, within ninety days of
22 such member's retirement or September first, two thousand twenty, which-
23 ever is later, apply to such member's retirement system to request the
24 conversion of such member's service or disability retirement benefit
25 into an accidental death benefit. For purposes of the salary base upon
26 which the accidental death benefit is calculated, such member shall be
27 deemed to have died on the date of such member's retirement. At the time
28 of such conversion, such statutory beneficiary shall relinquish all
29 rights to the prospective benefits payable under the service or disabili-
30 ty retirement statute, including any post-retirement death benefits,
31 since such member's death. If the statutory beneficiary is not the only
32 beneficiary receiving or entitled to receive a benefit under the service
33 or disability retirement statute including, but not limited to, a post-
34 retirement death benefit or benefit paid or payable pursuant to the
35 member's option selection, the accidental death benefit payments to the
36 statutory beneficiary will be reduced by any amounts paid or payable to
37 any other statutory beneficiary.

38 5. In order to be eligible for the benefit described in this title,
39 the applicable retirement system or systems are authorized to promulgate
40 rules and regulations to administer this benefit including, but not
41 limited to, requiring a statement to be filed confirming the member
42 contracted COVID-19 and the dates and locations of such member's employ-
43 ment.

44 § 9. The administrative code of the city of New York is amended by
45 adding a new section 13-244.1 to read as follows:

46 § 13-244.1 COVID-19 benefit. 1. Notwithstanding any other provision
47 of this title or of any general, special or local law to the contrary,
48 and solely for the purpose of determining eligibility for benefits under
49 this section, where:

50 (a) a member reported in person to such member's usual place of public
51 employment at the direction of such member's public employer or to any
52 alternate worksite as directed by such public employer, on or after
53 March first, two thousand twenty, provided that such alternate worksite
54 was not such member's home or residence;

55 (b) such member contracted COVID-19 within forty-five days after
56 reporting to work as described in paragraph (a) of this subdivision, as

1 confirmed by a positive laboratory test or as diagnosed before or after
2 such member's death by a licensed, certified, registered or authorized
3 physician, nurse practitioner, or physician's assistant currently in
4 good standing in any state or the District of Columbia, or a physician,
5 nurse practitioner, or physician's assistant authorized to practice in
6 New York by executive order during the declared COVID-19 state of emer-
7 gency; and

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

17 2. Any amount payable as a result of this title shall be reduced by
18 any amount paid by such member's retirement system to any recipient of
19 ordinary death benefits under this title.

20 3. Notwithstanding any provision of this title or of any general,
21 special or local law to the contrary, and solely for the purpose of
22 determining eligibility for benefits under this section, where a member:

23 (a) retired from his or her retirement system on or after March first,
24 two thousand twenty, and before July first, two thousand twenty;

25 (b) on or after March first, two thousand twenty, reported in person
26 to such member's usual place of public employment at the direction of
27 such member's public employer or to any alternate worksite as directed
28 by such public employer, provided that such alternate worksite was not
29 such member's home or residence;

30 (c) contracted COVID-19 within forty-five days after any such date of
31 reporting to work in person, as confirmed by a positive laboratory test
32 or as diagnosed before or after such member's death by a licensed,
33 certified, registered or authorized physician, nurse practitioner, or
34 physician's assistant currently in good standing in any state or the
35 District of Columbia, or a physician, nurse practitioner, or physician's
36 assistant authorized to practice in New York by executive order during
37 the declared COVID-19 state of emergency; and

38 (d) Such member died on or before December thirty-first, two thousand
39 twenty, and COVID-19 caused or contributed to such member's death, as
40 documented on such member's death certificate, or as certified by a
41 physician, nurse practitioner, or physician's assistant described in
42 paragraph (c) of this subdivision who determines with a reasonable
43 degree of medical certainty that COVID-19 caused or contributed to the
44 member's death, such member's statutory beneficiary shall receive an
45 accidental death benefit if such statutory beneficiary elects conversion
46 of the member's service or disability retirement benefit into an acci-
47 dental death benefit.

48 4. Such member's statutory beneficiary, as defined pursuant to this
49 title, for purposes of accidental death benefits payable from such
50 member's retirement system under this title, may, within ninety days of
51 such member's retirement or September first, two thousand twenty, which-
52 ever is later, apply to such member's retirement system to request the
53 conversion of such member's service or disability retirement benefit
54 into an accidental death benefit. For purposes of the salary base upon
55 which the accidental death benefit is calculated, such member shall be
56 deemed to have died on the date of such member's retirement. At the time

1 of such conversion, such statutory beneficiary shall relinquish all
 2 rights to the prospective benefits payable under the service or disabili-
 3 ty retirement statute, including any post-retirement death benefits,
 4 since such member's death. If the statutory beneficiary is not the only
 5 beneficiary receiving or entitled to receive a benefit under the service
 6 or disability retirement statute including, but not limited to, a post-
 7 retirement death benefit or benefit paid or payable pursuant to the
 8 member's option selection, the accidental death benefit payments to the
 9 statutory beneficiary will be reduced by any amounts paid or payable to
 10 any other statutory beneficiary.

11 5. In order to be eligible for the benefit described in this title,
 12 the applicable retirement system or systems are authorized to promulgate
 13 rules and regulations to administer this benefit including, but not
 14 limited to, requiring a statement to be filed confirming the member
 15 contracted COVID-19 and the dates and locations of such member's employ-
 16 ment.

17 § 10. The administrative code of the city of New York is amended by
 18 adding a new section 13-347.1 to read as follows:

19 § 13-347.1 COVID-19 benefit. 1. Notwithstanding any other provision of
 20 this title or of any general, special or local law to the contrary, and
 21 solely for the purpose of determining eligibility for benefits under
 22 this section, where:

23 (a) a member reported in person to such member's usual place of public
 24 employment at the direction of such member's public employer or to any
 25 alternate worksite as directed by such public employer, on or after
 26 March first, two thousand twenty, provided that such alternate worksite
 27 was not such member's home or residence;

28 (b) such member contracted COVID-19 within forty-five days after
 29 reporting to work as described in paragraph (a) of this subdivision, as
 30 confirmed by a positive laboratory test or as diagnosed before or after
 31 such member's death by a licensed, certified, registered or authorized
 32 physician, nurse practitioner, or physician's assistant currently in
 33 good standing in any state or the District of Columbia, or a physician,
 34 nurse practitioner, or physician's assistant authorized to practice in
 35 New York by executive order during the declared COVID-19 state of emer-
 36 gency; and

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

46 2. Any amount payable as a result of this title shall be reduced by
 47 any amount paid by such member's retirement system to any recipient of
 48 ordinary death benefits under this title.

49 3. Notwithstanding any provision of this title or of any general,
 50 special or local law to the contrary, and solely for the purpose of
 51 determining eligibility for benefits under this section, where a member:

52 (a) retired from his or her retirement system on or after March first,
 53 two thousand twenty, and before July first, two thousand twenty;

54 (b) on or after March first, two thousand twenty, reported in person
 55 to such member's usual place of public employment at the direction of
 56 such member's public employer or to any alternate worksite as directed

1 by such public employer, provided that such alternate worksite was not
 2 such member's home or residence;

3 (c) contracted COVID-19 within forty-five days after any such date of
 4 reporting to work in person, as confirmed by a positive laboratory test
 5 or as diagnosed before or after such member's death by a licensed,
 6 certified, registered or authorized physician, nurse practitioner, or
 7 physician's assistant currently in good standing in any state or the
 8 District of Columbia, or a physician, nurse practitioner, or physician's
 9 assistant authorized to practice in New York by executive order during
 10 the declared COVID-19 state of emergency; and

11 (d) Such member died on or before December thirty-first, two thousand
 12 twenty, and COVID-19 caused or contributed to such member's death, as
 13 documented on such member's death certificate, or as certified by a
 14 physician, nurse practitioner, or physician's assistant described in
 15 paragraph (c) of this subdivision who determines with a reasonable
 16 degree of medical certainty that COVID-19 caused or contributed to the
 17 member's death, such member's statutory beneficiary shall receive an
 18 accidental death benefit if such statutory beneficiary elects conversion
 19 of the member's service or disability retirement benefit into an acci-
 20 dental death benefit.

21 4. Such member's statutory beneficiary, as defined pursuant to this
 22 title, for purposes of accidental death benefits payable from such
 23 member's retirement system under this title, may, within ninety days of
 24 such member's retirement or September first, two thousand twenty, which-
 25 ever is later, apply to such member's retirement system to request the
 26 conversion of such member's service or disability retirement benefit
 27 into an accidental death benefit. For purposes of the salary base upon
 28 which the accidental death benefit is calculated, such member shall be
 29 deemed to have died on the date of such member's retirement. At the time
 30 of such conversion, such statutory beneficiary shall relinquish all
 31 rights to the prospective benefits payable under the service or disabili-
 32 ty retirement statute, including any post-retirement death benefits,
 33 since such member's death. If the statutory beneficiary is not the only
 34 beneficiary receiving or entitled to receive a benefit under the service
 35 or disability retirement statute including, but not limited to, a post-
 36 retirement death benefit or benefit paid or payable pursuant to the
 37 member's option selection, the accidental death benefit payments to the
 38 statutory beneficiary will be reduced by any amounts paid or payable to
 39 any other statutory beneficiary.

40 5. In order to be eligible for the benefit described in this title,
 41 the applicable retirement system or systems are authorized to promulgate
 42 rules and regulations to administer this benefit including, but not
 43 limited to, requiring a statement to be filed confirming the member
 44 contracted COVID-19 and the dates and locations of such member's employ-
 45 ment.

46 § 11. The administrative code of the city of New York is amended by
 47 adding a new section 13-544.1 to read as follows:

48 § 13-544.1 COVID-19 benefit. 1. Notwithstanding any other provision
 49 of this title or of any general, special or local law to the contrary,
 50 and solely for the purpose of determining eligibility for benefits under
 51 this section, where:

52 (a) a member reported in person to such member's usual place of public
 53 employment at the direction of such member's public employer or to any
 54 alternate worksite as directed by such public employer, on or after
 55 March first, two thousand twenty, provided that such alternate worksite
 56 was not such member's home or residence;

1 (b) such member contracted COVID-19 within forty-five days after
2 reporting to work as described in paragraph (a) of this subdivision, as
3 confirmed by a positive laboratory test or as diagnosed before or after
4 such member's death by a licensed, certified, registered or authorized
5 physician, nurse practitioner, or physician's assistant currently in
6 good standing in any state or the District of Columbia, or a physician,
7 nurse practitioner, or physician's assistant authorized to practice in
8 New York by executive order during the declared COVID-19 state of emer-
9 gency; and

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

19 2. Any amount payable as a result of this title shall be reduced by
20 any amount paid by such member's retirement system to any recipient of
21 ordinary death benefits under this title.

22 3. Notwithstanding any provision of this title or of any general,
23 special or local law to the contrary, and solely for the purpose of
24 determining eligibility for benefits under this section, where a member:

25 (a) retired from his or her retirement system on or after March first,
26 two thousand twenty, and before July first, two thousand twenty;

27 (b) on or after March first, two thousand twenty, reported in person
28 to such member's usual place of public employment at the direction of
29 such member's public employer or to any alternate worksite as directed
30 by such public employer, provided that such alternate worksite was not
31 such member's home or residence;

32 (c) contracted COVID-19 within forty-five days after any such date of
33 reporting to work in person, as confirmed by a positive laboratory test
34 or as diagnosed before or after such member's death by a licensed,
35 certified, registered or authorized physician, nurse practitioner, or
36 physician's assistant currently in good standing in any state or the
37 District of Columbia, or a physician, nurse practitioner, or physician's
38 assistant authorized to practice in New York by executive order during
39 the declared COVID-19 state of emergency; and

40 (d) Such member died on or before December thirty-first, two thousand
41 twenty, and COVID-19 caused or contributed to such member's death, as
42 documented on such member's death certificate, or as certified by a
43 physician, nurse practitioner, or physician's assistant described in
44 paragraph (c) of this subdivision who determines with a reasonable
45 degree of medical certainty that COVID-19 caused or contributed to the
46 member's death, such member's statutory beneficiary shall receive an
47 accidental death benefit if such statutory beneficiary elects conversion
48 of the member's service or disability retirement benefit into an acci-
49 dental death benefit.

50 4. Such member's statutory beneficiary, as defined pursuant to this
51 title, for purposes of accidental death benefits payable from such
52 member's retirement system under this title, may, within ninety days of
53 such member's retirement or September first, two thousand twenty, which-
54 ever is later, apply to such member's retirement system to request the
55 conversion of such member's service or disability retirement benefit
56 into an accidental death benefit. For purposes of the salary base upon

1 which the accidental death benefit is calculated, such member shall be
2 deemed to have died on the date of such member's retirement. At the time
3 of such conversion, such statutory beneficiary shall relinquish all
4 rights to the prospective benefits payable under the service or disabil-
5 ity retirement statute, including any post-retirement death benefits,
6 since such member's death. If the statutory beneficiary is not the only
7 beneficiary receiving or entitled to receive a benefit under the service
8 or disability retirement statute including, but not limited to, a post-
9 retirement death benefit or benefit paid or payable pursuant to the
10 member's option selection, the accidental death benefit payments to the
11 statutory beneficiary will be reduced by any amounts paid or payable to
12 any other statutory beneficiary.

13 5. In order to be eligible for the benefit described in this title,
14 the applicable retirement system or systems are authorized to promulgate
15 rules and regulations to administer this benefit including, but not
16 limited to, requiring a statement to be filed confirming the member
17 contracted COVID-19 and the dates and locations of such member's employ-
18 ment.

19 § 12. The heads and boards of the retirement systems described herein
20 are hereby authorized to promulgate rules and regulations to implement
21 the provisions of this act, including guidance on what shall constitute
22 a positive diagnosis of COVID-19 from a physician, nurse practitioner,
23 or physician's assistant in the absence of a laboratory test.

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

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

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

This bill would amend sections of the Education Law and the Retirement and Social Security Law to provide an enhanced death benefit to the beneficiary of an eligible member of the New York State Teachers' Retirement System (NYSTRS) who died due to contracting COVID-19. A 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 on or before December 31, 2020 either due to COVID-19, or had COVID-19 as a contributing factor in the member's death. The member's statutory beneficiary can elect to receive either the accidental death benefit, consisting of a lifetime annuity of 50% of the member's most recent year's salary, or the ordinary death benefit, generally consisting of a lump sum equal to three times the member's salary. If any ordinary death benefit has already been paid it will be used as an offset against the accidental death benefit. If a member retired on or after March 1, 2020 but before July 1, 2020, reported to work at the direction of such member's employer, contracted COVID-19 within 45 days of reporting to work, and then died on or before December 31, 2020 either due to COVID-19, or had COVID-19 as a contributing factor in the member's death, the member's statutory beneficiary may, within 90 days of such member's retirement, or September 1, 2020, whichever is later, elect to convert the retirement benefit into an accidental death benefit. Any other benefit paid will be used as an offset against the accidental death benefit.

This act shall be deemed to have been in full force and effect as of March 1, 2020, but shall expire and be deemed repealed as of December 31, 2020.

Under current law, the beneficiary of an active member who dies in service with three or more years of service is generally eligible for a benefit equal to three times the member's most recent year's salary. Currently, the beneficiary of a retiree who dies within the first year of retirement is generally eligible for a benefit equal to one and one-half times the retiree's last year of salary, and possibly, depending upon the retiree's benefit option elected at retirement, a continuation of all or a portion of the retiree's monthly benefit.

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 3 to 4 times salary. The average cost per individual member impacted, however, in terms of additional present value of liability, is estimated as follows:

Member age 30: \$210,000

Member age 40: \$300,000

Member age 50: \$310,000

Eligible retirees: Anticipated overall negligible cost, given that NYSTRS expects to receive no more than a handful of cases.

The actual cost per member would be dependent on the member and beneficiary's age, tier, years of service, and salary, and for retirees the optional form of payment elected at retirement. The costs above are determined based on averages, so the actual cost for a member could be higher or lower. The cost for an eligible retiree could vary greatly depending upon the option chosen at retirement.

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 Comprehensive Annual Financial Report (CAFR). System assets are as reported in the System's financial statements and can also be found in the CAFR. Actuarial assumptions and methods are provided in the System's Actuarial Valuation Report.

The source of this estimate is Fiscal Note 2020-30 dated May 28, 2020 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2020 Legislative Session. I, Richard A. Young, am the 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 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, and
- b. contracted COVID-19 within 45 days from such a work date, and
- c. died from such disease on or before December 31, 2020.

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.

Insofar as this bill will affect the New York State and Local Employees' Retirement System (ERS) and the New York State and Local Police and

Fire Retirement System (PFRS), 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
PFRS benefit increase/cost:	8 times salary	13 times salary
ERS benefit increase/cost:	3.5 times salary	3.5 times salary

The number of members who could be affected by this legislation cannot be readily determined. However, all of ERS and PFRS 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 PFRS will be shared by the State of New York and all the participating employers in the PFRS. All costs incurred in the ERS will be shared by the State of New York and all the participating employers in the ERS.

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:

The membership data used in measuring the impact of the proposed change was the same as that used in the March 31, 2019 actuarial valuation. Distributions and other statistics can be found in the 2019 Report of the Actuary and the 2019 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2015, 2016, 2017, 2018, and 2019 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, 2019 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 28, 2020, and intended for use only during the 2020 Legislative Session, is Fiscal Note No. 2020-121, prepared by the Actuary for the New York State and Local Retirement System.

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

SUMMARY OF BILL: This proposed legislation (see Appendix), as it relates to the New York City Pension Funds and Retirement Systems (NYCRS), would add new Sections to the Retirement and Social Security Law (RSSL), the Administrative Code of the City of New York (ACCNY), and the Education Law to provide Accidental Death Benefits, less other statutory benefits paid or payable, to beneficiaries of certain members and retirees of NYCRS who physically reported to non-home work sites on and after March 1, 2020 and died on or before December 31, 2020 due to Coronavirus Disease 2019 (COVID-19) that was contracted within 45 days of such reporting to work.

Beneficiaries of deceased members, including beneficiaries of those who retired between March 1, 2020 and July 1, 2020, who meet the enumerated qualifications would be eligible for an Accidental Death Benefit, less any other statutory benefits paid or payable.

In determining whether Accidental Death Benefits should be awarded, a deceased member or retiree must have a positive lab test for COVID-19 within 45 days of reporting to such work assignment, or have been diagnosed with such condition, within the same period, from a qualified medical provider, either before or after the member's or retiree's death. The beneficiary of such deceased member or retiree would also have to show that that COVID-19 was the cause or contributing factor in the member's or retiree's death, as documented by a death certificate or by a qualified health care provider.

Effective Date: Upon enactment, and retroactive to March 1, 2020, except that the provisions would expire upon the later of December 31, 2020 and the date of the expiration of the state disaster emergency declared by the Governor in executive order number 202.

IMPACT ON BENEFITS PAYABLE: Under the proposed legislation, the benefits payable to beneficiaries of active members of NYCERS who die due to COVID-19 would be revised from a lump sum Ordinary Death Benefit generally equal to three times a member's last salary to a lifetime Accidental Death Benefit equal to 50% of Final Average Salary plus, if applicable, the Special Accidental Death Benefit payable under General Municipal Law section 208-f. Accidental Death Benefits, less any other benefits paid or payable, are also payable to beneficiaries of those who retired between March 1, 2020 and July 1, 2020 and died due to COVID-19. Costs for these retirees, due to the limited scope and unknown optional payments, are not included in this Fiscal Note.

FINANCIAL IMPACT - OVERVIEW: There is no data available to estimate the number of members who might die due to COVID-19 and potentially benefit from this proposed legislation. Therefore, the estimated financial impact has been calculated on a per event basis equal to the increase in the Present Value of Future Benefits (PVFB) for an average member who dies from COVID-19 and would benefit from the proposed legislation.

With respect to an individual member, the additional cost of this proposed legislation could vary greatly depending on the member's length of service, age, and salary history.

FINANCIAL IMPACT - PRESENT VALUES: Based on the census data and the actuarial assumptions and methods described herein, the enactment of this proposed legislation would result in an increase in PVFB. A breakdown of the PVFB by NYCERS on average for each occurrence of death is shown in the table below.

Estimated Additional Present Value of Future Benefits due to COVID-19 Death			
	NYCERS	TRS	BERS
Age < 40	\$ 543,300	\$ 326,200	\$ 256,000
40 <= Age < 60	398,700	297,500	172,100
Age >= 60	<u>210,200</u>	<u>188,800</u>	<u>105,900</u>
All Ages	\$ 406,700	\$ 296,700	\$ 174,800
	POLICE	FIRE	All Systems
Age < 40	\$ 1,926,300	\$ 1,816,100	\$ 731,600
40 <= Age < 60	2,226,300	2,302,700	534,000
Age >= 60	<u>1,695,600</u>	<u>1,633,600</u>	<u>204,400</u>
All Ages	\$ 2,042,700	\$ 2,055,400	\$ 557,200

FINANCIAL IMPACT - ANNUAL EMPLOYER CONTRIBUTIONS: Enactment of this proposed legislation would increase employer contributions, where such amount would depend on the number of members affected as well as other

characteristics including the age, years of service, and salary history of the member. As there is no data currently available to estimate the number of members who might die from COVID-19, the financial impact would be recognized at the time of event. Consequently, changes in employer contributions have been estimated assuming that the increase in the PVFB will be financed over the same time period used for actuarial losses in accordance with Section 13-638.2(k-2) of the ACCNY. Using this approach, the additional PVFB would be amortized over a closed 15-year period (14 payments under the One-Year Lag Methodology) using level dollar payments.

Based on the Actuary's actuarial assumptions and methods in effect as of June 30, 2019, the enactment of this proposed legislation is estimated to increase annual employer contributions on average for each death benefit due to COVID-19 as shown in the table below.

Estimated Additional Annual Employer Contributions due to COVID-19 Death

	NYCERS	TRS	BERS
Age < 40	\$ 64,300	\$ 38,600	\$ 30,300
40 <= Age < 60	47,200	35,200	20,400
Age >= 60	<u>24,900</u>	<u>22,300</u>	<u>12,500</u>
All Ages	\$ 48,100	\$ 35,100	\$ 20,300

	POLICE	FIRE	All Systems
Age < 40	\$ 227,800	\$ 214,800	\$ 86,500
40 <= Age < 60	263,300	272,400	63,200
Age >= 60	<u>200,600</u>	<u>193,200</u>	<u>24,200</u>
All Ages	\$ 241,600	\$ 243,100	\$ 65,900

With respect to the timing, increases in employer contributions would depend upon when members die due to COVID-19 but, generally, increased employer contributions will first occur the second fiscal year following approval of the performance of duty death benefit.

CENSUS DATA: The estimates presented herein are based on the census data used in the Preliminary June 30, 2019 (Lag) actuarial valuation of NYCERS to determine the Preliminary Fiscal Year 2021 employer contributions.

Counts	NYCERS	TRS	BERS
Age < 40	52,782	48,861	4,810
40 <= Age < 60	106,335	60,632	14,809
Age >= 60	<u>32,384</u>	<u>13,843</u>	<u>6,206</u>
All Ages	191,501	123,336	25,825

Counts	POLICE	FIRE	All Systems
Age < 40	21,945	5,369	133,767
40 <= Age < 60	14,267	5,623	201,666
Age >= 60	<u>189</u>	<u>252</u>	<u>52,874</u>
All Ages	36,401	11,244	388,307

Average Age	NYCERS	TRS	BERS
Age < 40	33.0	32.5	33.3
40 <= Age < 60	50.1	48.7	50.7
Age >= 60	<u>64.1</u>	<u>64.3</u>	<u>64.5</u>
All Ages	47.7	44.1	50.8

Average Age	POLICE	FIRE	All Systems
Age < 40	32.1	32.7	32.7
40 <= Age < 60	46.1	47.0	49.3
Age >= 60	<u>61.9</u>	<u>61.9</u>	<u>64.2</u>

All Ages	37.7	40.5	45.6
Average Service	NYCERS	TRS	BERS
Age < 40	4.7	5.8	3.5
40 <= Age < 60	13.6	14.9	9.1
Age >= 60	<u>19.7</u>	<u>19.8</u>	<u>14.0</u>
All Ages	12.2	11.8	9.2
Average Service	POLICE	FIRE	All Systems
Age < 40	7.0	6.6	5.5
40 <= Age < 60	18.7	19.7	14.2
Age >= 60	<u>31.7</u>	<u>34.9</u>	<u>19.2</u>
All Ages	11.7	13.8	11.9
Average Salary	NYCERS	TRS	BERS
Age < 40	\$ 68,800	\$ 78,800	\$ 58,700
40 <= Age < 60	81,800	95,900	52,700
Age >= 60	<u>81,900</u>	<u>89,700</u>	<u>46,700</u>
All Ages	\$ 78,200	\$ 88,400	\$ 52,400
Average Salary	POLICE	FIRE	All Systems
Age < 40	\$ 101,800	\$ 93,600	\$ 78,500
40 <= Age < 60	138,800	141,300	89,600
Age >= 60	<u>163,300</u>	<u>158,200</u>	<u>80,500</u>
All Ages	\$ 116,600	\$ 118,900	\$ 84,500

ACTUARIAL ASSUMPTIONS AND METHODS: The changes in the PVFB and annual employer contributions presented herein have been calculated based on the actuarial assumptions and methods in effect for the June 30, 2019 (Lag) actuarial valuations used to determine the Preliminary Fiscal Year 2021 employer contributions of NYCERS.

RISK AND UNCERTAINTY: The costs presented in this Fiscal Note depend highly on the realization of the actuarial assumptions used, as well as certain demographic characteristics of NYCERS and other exogenous 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.

- * The impact of this proposed legislation on Other Postemployment Benefit (OPEB) costs.

STATEMENT OF ACTUARIAL OPINION: I, Sherry S. Chan, am the Chief Actuary for, and independent of, the New York City Retirement Systems and Pension Funds. I am a Fellow of the Society of Actuaries, an Enrolled Actuary under the Employee Retirement Income and Security Act of 1974, a Member of the American Academy of Actuaries, and a Fellow of the Conference of Consulting Actuaries. 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 2020-45 dated May 28, 2020 was prepared by the Chief Actuary for the five New York City

Retirement Systems and Pension Funds. This estimate is intended for use only during the 2020 Legislative Session.

STATE OF NEW YORK

8129

IN SENATE

March 24, 2020

Introduced by Sen. GOUNARDES -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT amending part B of chapter 104 of the laws of 2005 enacting the September 11th worker protection task force act, in relation to requiring appointment of members, convening of meetings and extending the effectiveness of the provisions of such act

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

1 Section 1. Sections 4 and 5, paragraph (f) of section 9 and sections
2 10 and 11 of part B of chapter 104 of the laws of 2005, enacting the
3 September 11th worker protection task force act, paragraph (f) of
4 section 9 as amended by chapter 93 of the laws of 2005 and subdivision
5 11 as amended by chapter 45 of the laws of 2015, are amended to read as
6 follows:

7 § 4. Time of appointment. The appointing authorities shall make their
8 appointments to the task force not later than thirty days after the
9 adjournment of the [2005] 2020 regular legislative session. The
10 original appointing authority, using the criteria set out in this
11 section for the original appointment shall fill a vacancy on the task
12 force.

13 § 5. Time of convention. The task force shall convene within ninety
14 days after the adjournment of the [2005] 2020 regular legislative
15 session and meet [~~at least quarterly or more frequently at the call of~~
16 ~~the chairperson~~] on a biannual basis.

17 (f) to identify and examine the limitations of any existing laws,
18 regulations, programs, and services with regard to coverage, extent of
19 disability, process for determination, including average processing
20 times for claims of disability and notices of participation and approval
21 rates for such claims and notices, adequacy of coverage and treatment of
22 specific types of disabilities, including lack of coverage for public
23 employees who participated in rescue, recovery, or cleanup operations in
24 either a professional or volunteer capacity but had not joined a retire-
25 ment system at the time of such participation, appeals processes for
26 claims both within public retirement systems and the court system,

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

LBD15959-01-0

1 opportunities to synchronize various World Trade Center-related benefit
2 programs at the federal and state level, and methods for identifying all
3 participants in the rescue, recovery, or clean up operations so that the
4 state may work to proactively treat the conditions described in subdivi-
5 sion g of section 63 of the retirement and social security law, and to
6 undertake any recommendations;

7 § 10. Report. Beginning June 1, [~~2006~~] 2021, and on June first each
8 year thereafter, the task force shall submit a report to the governor,
9 the temporary president of the senate and the speaker of the assembly.
10 Each such annual report shall address:

11 (a) progress being made in fulfilling the duties of the task force and
12 in developing recommendations; and

13 (b) recommended strategies or actions for ongoing monitoring and
14 treatment of individuals.

15 § 11. This act shall take effect September 11, 2005, and shall expire
16 and be deemed repealed on June 10, [~~2020~~] 2025.

17 § 2. This act shall take effect immediately.

STATE OF NEW YORK

10316

IN ASSEMBLY

April 22, 2020

Introduced by M. of A. LIFTON -- read once and referred to the Committee on Governmental Employees

AN ACT to authorize the city of Cortland, in the county of Cortland to offer an optional twenty-year retirement plan to firefighter Travis Marshall

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

1 Section 1. Notwithstanding any other provision of law to the contrary,
2 the city of Cortland, in the county of Cortland, a participating employ-
3 er in the New York state and local police and fire retirement system,
4 which previously elected to offer the optional twenty-year retirement
5 plan, established pursuant to section 384-d of the retirement and social
6 security law, to firefighters employed by such city, is hereby author-
7 ized to make participation in such plan available to Travis Marshall, a
8 firefighter employed by the city of Cortland, who, for reasons not
9 ascribable to his own negligence, failed to make a timely application to
10 participate in such optional twenty-year retirement plan. The city of
11 Cortland may so elect by filing with the state comptroller, within 12
12 months of the effective date of this act, a resolution of its own common
13 council together with certification that such firefighter did not bar
14 himself from participation in such retirement plan as a result of his
15 own negligence. Thereafter, such firefighter may elect to be covered by
16 the provisions of section 384-d of the retirement and social security
17 law, and shall be entitled to the full rights and benefits associated
18 with coverage under such section, by filing a request to that effect
19 with the state comptroller within 6 months of the city of Cortland's
20 filing.

21 § 2. All past costs associated with implementing the provisions of
22 this act shall be borne by the city of Cortland, and may be amortized
23 over a period of ten years.

24 § 3. This act shall take effect immediately.

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

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

LBD15532-02-0

This bill would allow the City of Cortland to elect to reopen the provisions of Section 384-d of the Retirement and Social Security Law for firefighter Travis Marshall.

If this bill is enacted during the 2020 legislative session and Travis Marshall becomes covered under the provisions of Section 384-d, we anticipate that there will be an increase of approximately \$2,600 in the annual contributions of the City of Cortland for the fiscal year ending March 31, 2021. In future years, this cost will vary as the billing rates and salary of Travis Marshall change.

In addition to the annual contributions discussed above, there will be an immediate past service cost of \$13,600, which will be borne by the City of Cortland as a one-time payment. This estimate is based on the assumption that payment will be made on February 1, 2021. If the City of Cortland elects to amortize this cost over a 10 year period, the cost for the first year would be \$1,790.

Summary of relevant resources:

The membership data used in measuring the impact of the proposed change was the same as that used in the March 31, 2019 actuarial valuation. Distributions and other statistics can be found in the 2019 Report of the Actuary and the 2019 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2015, 2016, 2017, 2018, and 2019 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, 2019 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 12, 2020, and intended for use only during the 2020 Legislative Session, is Fiscal Note No. 2020-82, prepared by the Actuary for the New York State and Local Retirement System.

STATE OF NEW YORK

10796

IN ASSEMBLY

July 10, 2020

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Griffin) -- read once and referred to the Committee on Governmental Employees

AN ACT to authorize the village of Malverne, in the county of Nassau, to offer a twenty-year retirement plan to police officer Thomas Smith

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

1 Section 1. Notwithstanding any other provision of law to the contrary,
2 the village of Malverne, in the county of Nassau, a participating
3 employer in the New York state and local police and fire retirement
4 system, which previously elected to offer the optional twenty-year
5 retirement plan, established pursuant to section 384-d of the retirement
6 and social security law, to police officers employed by such village, is
7 hereby authorized to make participation in such plan available to Thomas
8 Smith, a police officer employed by the village of Malverne, who, for
9 reasons not ascribable to his own negligence, failed to make a timely
10 application to participate in such optional twenty-year retirement plan.
11 The village of Malverne may so elect by filing with the state comp-
12 troller, within 12 months of the effective date of this act, a resol-
13 ution of the village board of trustees together with certification that
14 such police officer did not bar himself from participation in such
15 retirement plan as a result of his own negligence. Thereafter, such
16 police officer may elect to be covered by the provisions of section
17 384-d of the retirement and social security law, and shall be entitled
18 to the full rights and benefits associated with coverage under such
19 section, by filing a request to that effect with the state comptroller
20 within 6 months of the village of Malverne's filing.

21 § 2. All past costs associated with implementing the provisions of
22 this act shall be borne by the village of Malverne, and may be amortized
23 over a period of ten years.

24 § 3. This act shall take effect immediately.

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

This bill would allow Thomas Smith, a member of the New York State and Local Police and Fire Retirement System (PFRS) employed by the Village of Malverne and currently covered under an age 55 retirement plan, to

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

LBD16890-03-0

elect to participate in the 20 year retirement plan established by Section 384-d of the Retirement and Social Security Law.

If this bill is enacted during the 2020 legislative session and Thomas Smith becomes covered under the provisions of Section 384-d, we anticipate that there will be an increase of approximately \$13,000 in the annual contributions of the Village of Malverne for the fiscal year ending March 31, 2021. In future years, this cost will vary as the billing rates and salary of Thomas Smith change.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately \$101,000 which will be borne by the Village of Malverne as a one-time payment. This estimate is based on the assumption that payment will be made on February 1, 2021. If the Village of Malverne elects to amortize this cost over a 10 year period, the cost for the first year including interest would be \$13,300.

Summary of relevant resources:

The membership data used in measuring the impact of the proposed change was the same as that used in the March 31, 2019 actuarial valuation. Distributions and other statistics can be found in the 2019 Report of the Actuary and the 2019 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2015, 2016, 2017, 2018, and 2019 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, 2019 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 July 10, 2020, and intended for use only during the 2020 Legislative Session, is Fiscal Note No. 2020-127, prepared by the Actuary for the New York State and Local Retirement System.

STATE OF NEW YORK

8300--A

2019-2020 Regular Sessions

IN ASSEMBLY

June 13, 2019

Introduced by M. of A. ZEBROWSKI -- 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 authorize the town of Clarkstown to offer a certain retirement option to Clarkstown police officers Edward Fairclough, Kyle McKiernan, Corry Doyle, and Sean Weaver

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

1 Section 1. Notwithstanding any other provision of law to the contrary,
2 the town of Clarkstown, a participating employer in the New York state
3 and local police and fire retirement system, which previously elected to
4 offer the optional retirement plan established pursuant to section 384-d
5 of the retirement and social security law to police officers employed by
6 such police department, is hereby authorized to make participation in
7 such plan available to police officer Edward Fairclough who, on the
8 effective date of this act is covered under the provisions of section
9 375-i of the retirement and social security law, and to police officers
10 Kyle McKiernan, Corry Doyle, and Sean Weaver who, on the effective date
11 of this act are covered under the provisions of section 384 of the
12 retirement and social security law and who, for reasons not ascribable
13 to their own negligence failed to make a timely application to partic-
14 ipate in such optional retirement plan. Thereafter, police officers
15 Edward Fairclough, Kyle McKiernan, Corry Doyle, and Sean Weaver may
16 elect to be covered by the provisions of section 384-d of the retirement
17 and social security law, and shall be entitled to the full rights and
18 benefits associated with coverage under such section, by filing a
19 request to that effect with the state comptroller within one year of the
20 effective date of this act.

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

LBD11974-05-0

1 § 2. All past service costs associated with implementing the
2 provisions of this act shall be borne by the town of Clarkstown.

3 § 3. This act shall take effect immediately.

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

This bill will allow the town of Clarkstown to reopen the provisions of Section 384-d of the Retirement and Social Security Law (RSSL) for police officers Edward Fairclough, Kyle McKiernan, Corry Doyle and Sean Weaver.

If this bill is enacted during the 2020 legislative session and Edward Fairclough, Kyle McKiernan, Corry Doyle and Sean Weaver become covered under the provisions of Section 384-d, we anticipate that there will be an increase of approximately \$24,000 in the annual contributions of the town of Clarkstown for the fiscal year ending March 31, 2021. In future years, this cost will vary as the billing rates and salary of these police officers change.

In addition to the annual contributions discussed above, there will be an immediate past service cost of \$106,000 which will be borne by the town of Clarkstown as a one-time payment. This estimate is based on the assumption that payment will be made on February 1, 2021.

Summary of relevant resources:

The membership data used in measuring the impact of the proposed change was the same as that used in the March 31, 2019 actuarial valuation. Distributions and other statistics can be found in the 2019 Report of the Actuary and the 2019 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2015, 2016, 2017, 2018, and 2019 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, 2019 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 February 24, 2020, and intended for use only during the 2020 Legislative Session, is Fiscal Note No. 2020-46, prepared by the Actuary for the New York State and Local Retirement System.

STATE OF NEW YORK

9663

IN ASSEMBLY

February 4, 2020

Introduced by M. of A. RYAN -- read once and referred to the Committee on Governmental Employees

AN ACT to authorize William J. Cooley to receive certain service credit under section 384-d of the retirement and social security law

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

1 Section 1. Notwithstanding any other provision of law, William J.
2 Cooley, currently a city of Buffalo police officer and member of the New
3 York state and local police and fire retirement system covered by
4 section 384-d of the retirement and social security law, who for the
5 period beginning June 16, 2003 and ending July 15, 2006, was employed as
6 a deputy sheriff by the Erie County Sheriff's Department where he was a
7 member of the New York state and local employees' retirement system, and
8 who, for reasons not ascribable to his own negligence, was not granted
9 service credit under section 384-d of the retirement and social security
10 law for such period of employment with the Erie County Sheriff's Depart-
11 ment, shall be granted such service credit under section 384-d of the
12 retirement and social security law, and shall be entitled to the full
13 rights and benefits associated with coverage under such section as well
14 as section 384-e of such law, provided that a request to that effect is
15 filed with the state comptroller within one year from the effective date
16 of this act.

17 § 2. All past service costs incurred in implementing the provisions of
18 this act shall be borne by the city of Buffalo.

19 § 3. This act shall take effect immediately.

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

This bill will grant service credit under section 384-d together with section 384-e of the Retirement and Social Security Law to William J. Cooley, a current member of the New York State and Local Police and Fire Retirement System (PFRS), for the period of June 16, 2003 through July 15, 2006, during which he was employed as a deputy sheriff in Erie County. Currently, deputy sheriff service is not creditable in a PFRS twenty year police retirement plan.

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

LBD14537-04-0

If this bill is enacted during the 2020 legislative session, there will be an immediate past service cost of approximately \$303,000 which will be borne by the City of Buffalo as a one-time payment. This estimate is based on the assumption that payment will be made on February 1, 2021.

There will be no increase in the annual contributions of the City of Buffalo.

Summary of relevant resources:

The membership data used in measuring the impact of the proposed change was the same as that used in the March 31, 2019 actuarial valuation. Distributions and other statistics can be found in the 2019 Report of the Actuary and the 2019 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2015, 2016, 2017, 2018 and 2019 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, 2019 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 January 22, 2020, and intended for use only during the 2020 Legislative Session, is Fiscal Note No. 2020-35, prepared by the Actuary for the New York State and Local Retirement System.

STATE OF NEW YORK

9682

IN ASSEMBLY

February 4, 2020

Introduced by M. of A. BURKE -- read once and referred to the Committee on Governmental Employees

AN ACT to authorize Patrick Humiston to receive certain service credit under section 384-d of the retirement and social security law

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

1 Section 1. Notwithstanding any other provision of law, Patrick Humi-
2 ston, currently a city of Buffalo police officer and member of the New
3 York State and local police and fire retirement system covered under
4 section 384-d of the retirement and social security law, who for a peri-
5 od beginning May 26, 2004 and ending August 21, 2006, was employed as a
6 deputy sheriff by the Erie County Sheriff's Department where he was a
7 member of the New York state and local employees' retirement system, and
8 who, for reasons not ascribable to his own negligence, was not granted
9 service credit under section 384-d of the retirement and social security
10 law for such period of employment with the Erie County Sheriff's Depart-
11 ment, shall be granted such service credit under section 384-d of the
12 retirement and social security law and shall be entitled to the full
13 rights and benefits associated with coverage under such section as well
14 as section 384-e of such law, provided that a request to that effect is
15 filed with the state comptroller within one year from the effective date
16 of this act.

17 § 2. All past service costs incurred in implementing the provisions of
18 this act shall be borne by the city of Buffalo.

19 § 3. This act shall take effect immediately.

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

This bill will grant service credit under section 384-d together with section 384-e of the Retirement and Social Security Law to Patrick J. Humiston, a current member of the New York State and Local Police and Fire Retirement System (PFRS), for the period of May 26, 2004 through August 21, 2006, during which he was employed as a deputy sheriff in Erie County. Currently, deputy sheriff service is not creditable in a PFRS twenty year police retirement plan.

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

LBD14538-03-0

If this bill is enacted during the 2020 legislative session, there will be an immediate past service cost of approximately \$127,000 which will be borne by the City of Buffalo as a one-time payment. This estimate is based on the assumption that payment will be made on February 1, 2021.

There will be no increase in the annual contributions of the City of Buffalo.

Summary of relevant resources:

The membership data used in measuring the impact of the proposed change was the same as that used in the March 31, 2019 actuarial valuation. Distributions and other statistics can be found in the 2019 Report of the Actuary and the 2019 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2015, 2016, 2017, 2018 and 2019 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, 2019 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 January 22, 2020, and intended for use only during the 2020 Legislative Session, is Fiscal Note No. 2020-36, prepared by the Actuary for the New York State and Local Retirement System.

STATE OF NEW YORK

8216--A

IN SENATE

April 22, 2020

Introduced by Sen. SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to authorize certain police officers to receive certain service credit under section 384-d of the retirement and social security law

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

1 Section 1. Notwithstanding any other provision of law to the contrary,
2 Christopher R. Sniffen and Cody N. Whittaker, members of the New York
3 state and local police and fire retirement system, who were appointed as
4 police officers with the village of Cobleskill on July 7, 2014, and who,
5 through no fault of their own, were enrolled to participate in the
6 special twenty-five year retirement plan contained in section 384 of the
7 retirement and social security law, shall be given full credit in the
8 special twenty year retirement plan contained in section 384-d of the
9 retirement and social security law for such service upon the election of
10 the village of Cobleskill to assume the additional cost of such service.
11 The village of Cobleskill may so elect by filing with the state comp-
12 troller within 180 days of the effective date of this act, a resolution
13 of its legislative body, together with certification that such police
14 officers did not bar themselves from participation in such retirement
15 plan as a result of their own negligence. Thereafter, such officers may
16 elect to be covered by the provisions of section 384-d of the retirement
17 and social security law, and shall be entitled to the full rights and
18 benefits associated with coverage under such section, by filing a
19 request to this effect with the state comptroller within one year of the
20 effective date of this act.

21 § 2. All past service costs associated with implementing the
22 provisions of this act shall be borne by the village of Cobleskill and
23 may be amortized over a ten year period.

24 § 3. This act shall take effect immediately.

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

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

LBD13305-04-0

This bill will allow the village of Cobleskill to reopen the provisions of section 384-d of the Retirement and Social Security Law for police officers Christopher R. Sniffen and Cody N. Whittaker.

If this bill is enacted during the 2020 legislative session, and Christopher R. Sniffen and Cody N. Whittaker become covered under the provisions of section 384-d, there will be an increase of approximately \$4,400 in the annual contributions of the village of Cobleskill for the fiscal year ending March 31, 2021. In future years, this cost will vary as the billing rates and salary of these police officers change.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately \$20,200 which will be borne by the village of Cobleskill as a one-time payment. This estimate is based on the assumption that payment will be made on February 1, 2021. If the village of Cobleskill elects to amortize this cost over a 10 year period, the cost for the first year would be approximately \$2,670.

Summary of relevant resources:

The membership data used in measuring the impact of the proposed change was the same as that used in the March 31, 2019 actuarial valuation. Distributions and other statistics can be found in the 2019 Report of the Actuary and the 2019 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2015, 2016, 2017, 2018 and 2019 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, 2019 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 January 2, 2020, and intended for use only during the 2020 Legislative Session, is Fiscal Note No. 2020-22, prepared by the Actuary for the New York State and Local Retirement System.

STATE OF NEW YORK

3923--A
Cal. No. 589

2019-2020 Regular Sessions

IN SENATE

February 21, 2019

Introduced by Sen. HOYLMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- recommitted to the Committee on Judiciary in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the general obligations law, in relation to reforming the statutory short form and other powers of attorney for purposes of financial and estate planning; and to repeal certain provisions of such law relating to statutory gift riders

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

1 Section 1. Paragraph (j) of subdivision 2 of section 5-1501 of the
2 general obligations law, as amended by chapter 340 of the laws of 2010,
3 is amended to read as follows:

4 (j) "Power of attorney" means a written document, other than a docu-
5 ment referred to in section 5-1501C of this title, by which a principal
6 with capacity designates an agent to act on his or her behalf and
7 includes both a statutory short form power of attorney and a non-statu-
8 tory power of attorney.

9 § 2. Paragraph (n) of subdivision 2 of section 5-1501 of the general
10 obligations law is REPEALED, and paragraphs (o), (p) and (q) are relet-
11 tered paragraphs (n), (o) and (p).

12 § 3. Paragraph (n) of subdivision 2 of section 5-1501 of the general
13 obligations law, as amended by chapter 340 of the laws of 2010 and as
14 relettered by section two of this act, is amended to read as follows:

15 (n) "Statutory short form power of attorney" means a power of attorney
16 that meets the requirements of paragraphs (a), (b) and (c) of subdivi-
17 sion one of section 5-1501B of this title, and that [contains the exact]
18 substantially conforms to the wording of the form set forth in section
19 5-1513 of this title; provided however, that any section indicated as

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

LBD00875-03-0

1 "Optional" that is not used may be omitted and replaced by the words
 2 "Intentionally Omitted". [A mistake in wording, such as in spelling,
 3 punctuation or formatting, or the use of bold or italic type, shall not
 4 prevent a] A given power of attorney [from being deemed a statutory
 5 short form power of attorney, but the wording of the form] substantially
 6 conforms to the form required pursuant to section 5-1513 of this title
 7 notwithstanding that the form contains (i) an insignificant mistake in
 8 wording, spelling, punctuation or formatting, or the use of bold or
 9 italic type; or (ii) uses language that is essentially the same as, but
 10 is not identical to, the statutory form, including utilizing language
 11 from a previous statute. The determination of whether there is substan-
 12 tial conformity with the form set forth in section 5-1513 of this title
 13 [shall govern] shall not depend on the presence or absence of a partic-
 14 ular clause. Failing to include clauses that are not relevant to a
 15 given power of attorney shall not in itself cause such power of attorney
 16 to be found to not substantially conform with the requirements of such
 17 form. The use of the form set forth in section 5-1513 of this title is
 18 lawful and when used, it shall be construed as a statutory short form
 19 power of attorney. A statutory short form power of attorney may be used
 20 to grant authority provided in sections 5-1502A through 5-1502N of this
 21 title. A "statutory short form power of attorney" may contain modifica-
 22 tions or additions as provided in section 5-1503 of this title[~~, but in~~
 23 ~~no event may it be modified to grant any authority provided in section~~
 24 ~~5-1514 of this title. If the authority (SGR) on the statutory short form~~
 25 ~~is initialed by the principal, the statutory short form power of attor-~~
 26 ~~ney must be executed in the manner provided in section 5-1501B of this~~
 27 ~~title, simultaneously with the statutory gifts rider. A statutory short~~
 28 ~~form power of attorney and a statutory gifts rider which supplements it~~
 29 ~~must be read together as a single instrument].~~

30 § 4. Subdivisions 1 and 2 of section 5-1501B of the general obli-
 31 gations law, as added by chapter 644 of the laws of 2008, the opening
 32 paragraph and paragraphs (b) and (c) of subdivision 1, and the opening
 33 paragraph and paragraph (a) of subdivision 2 as amended by chapter 340
 34 of the laws of 2010, are amended to read as follows:

35 1. To be valid, except as otherwise provided in section 5-1512 of this
 36 title, a statutory short form power of attorney, or a non-statutory
 37 power of attorney, executed in this state by a principal, must:

38 (a) Be typed or printed using letters which are legible or of clear
 39 type no less than twelve point in size, or, if in writing, a reasonable
 40 equivalent thereof.

41 (b) Be signed, initialed and dated by a principal with capacity, or in
 42 the name of such principal by another person, other than a person desig-
 43 nated as the principal's agent or successor agent, in the principal's
 44 presence and at the principal's direction, in either case with the
 45 signature of the [~~principal~~] person signing duly acknowledged in the
 46 manner prescribed for the acknowledgment of a conveyance of real proper-
 47 ty in the presence of the principal. When a person signs at the direc-
 48 tion of a principal he or she shall sign by writing or printing the
 49 principal's name, and printing and signing his or her own name.

50 (c) Be signed and dated by any agent acting on behalf of the principal
 51 with the signature of the agent duly acknowledged in the manner
 52 prescribed for the acknowledgment of a conveyance of real property. A
 53 power of attorney executed pursuant to this section is not invalid sole-
 54 ly because there has been a lapse of time between the date of acknowl-
 55 edgment of the signature of the principal and the date or dates of
 56 acknowledgment of the signature or signatures of any agent or agents or

1 successor agent or successor agents authorized to act on behalf of the
 2 principal or because the principal became incapacitated during any such
 3 lapse of time.

4 (d) ~~[Contain the exact]~~ Substantially conform to the wording of the:

5 (1) "Caution to the Principal" in paragraph (a) of subdivision one of
 6 section 5-1513 of this title; and

7 (2) "Important Information for the Agent" in paragraph (n) of subdivi-
 8 sion one of section 5-1513 of this title.

9 ~~2. [In addition to the requirements of subdivision one of this~~
 10 ~~section, to be valid for the purpose of authorizing the agent to make~~
 11 ~~certain gift transactions described in section 5-1514 of this title:~~

12 ~~(a) a statutory short form power of attorney must contain the authori-~~
 13 ~~ty (SCR) initialed by the principal and be accompanied by a valid statu-~~
 14 ~~tory gifts rider; and~~

15 ~~(b) a non-statutory power of attorney must be executed pursuant to the~~
 16 ~~requirements of paragraph (b) of subdivision nine of section 5-1514 of~~
 17 ~~this title.]~~

18 Insubstantial variation in the wording of the "Caution to
 19 the Principal" of paragraph (a) of subdivision one of section 5-1513 of
 20 this title or of the "Important Information for the Agent" of paragraph
 21 (n) of subdivision one of section 5-1513 of this title shall not prevent
 22 a power of attorney from being deemed a statutory short form power of
 23 attorney or a non-statutory power of attorney.

24 § 5. Subdivisions 2 and 9 of section 5-1502A of the general obli-
 25 gations law, as amended by chapter 340 of the laws of 2010, are amended
 26 to read as follows:

27 2. To sell, to exchange, to convey either with or without covenants,
 28 to quit-claim, to release, to surrender, to mortgage, to incumber, to
 29 partition or to consent to the partitioning, to create, modify or revoke
 30 a trust ~~[unless such creation, modification or revocation is a gift~~
 31 ~~transaction governed by section 5-1514 of this title,~~] to grant options
 32 concerning, to lease or to sublet, or otherwise to dispose of, any
 33 estate or interest in land;

34 9. To execute, to acknowledge, to seal and to deliver any deed,
 35 creation, modification or revocation of a trust ~~[unless such creation,~~
 36 ~~modification or revocation is a gift transaction governed by section~~
 37 ~~5-1514 of this title],~~ mortgage, lease, notice, check or other instru-
 38 ment which the agent may think useful for the accomplishment of any of
 39 the purposes enumerated in this section;

40 § 6. Subdivisions 2 and 7 of section 5-1502B of the general obli-
 41 gations law, as amended by chapter 340 of the laws of 2010, are amended
 42 to read as follows:

43 2. To sell, to exchange, to convey either with or without covenants,
 44 to release, to surrender, to mortgage, to incumber, to pledge, to
 45 hypothecate, to pawn, to create, modify or revoke a trust ~~[unless such~~
 46 ~~creation, modification or revocation is a gift transaction governed by~~
 47 ~~section 5-1514 of this title]~~ to grant options concerning, to lease or
 48 to sublet to others, or otherwise to dispose of any chattel or goods or
 49 any interest in any chattel or goods;

50 7. To execute, to acknowledge, to seal and to deliver any conveyance,
 51 mortgage, lease, creation, revocation or modification of a trust ~~[unless~~
 52 ~~such creation, modification or revocation is a gift transaction governed~~
 53 ~~by section 5-1514 of this title],~~ notice, check or other instrument
 54 which the agent may think useful for the accomplishment of any of the
 purposes enumerated in this section;

1 § 7. Subdivisions 2 and 9 of section 5-1502C of the general obli-
 2 gations law, as amended by chapter 340 of the laws of 2010, are amended
 3 to read as follows:

4 2. To sell (including short sales), to exchange, to transfer either
 5 with or without a guaranty, to release, to surrender, to hypothecate, to
 6 pledge, to create, modify or revoke a trust [~~unless such creation,
 7 modification or revocation is a gift transaction governed by section
 8 5-1514 of this title,~~] to grant options concerning, to loan, to trade
 9 in, or otherwise to dispose of any bond, share, instrument of similar
 10 character, commodity interest or any instrument with respect thereto;

11 9. To execute, to acknowledge, to seal and to deliver any consent,
 12 agreement, authorization, creation, modification or revocation of a
 13 trust [~~unless such creation, declaration, modification or revocation is
 14 a gift transaction governed by section 5-1514 of this title,~~] assign-
 15 ment, notice, waiver of notice, check, or other instrument which the
 16 agent may think useful for the accomplishment of any of the purposes
 17 enumerated in this section;

18 § 8. Subdivision 1 of section 5-1502D of the general obligations law,
 19 as amended by chapter 644 of the laws of 2008, paragraphs (a) and (b) as
 20 amended by chapter 340 of the laws of 2010, is amended to read as
 21 follows:

22 1. To continue, to modify, to terminate and to make deposits to and
 23 withdrawals from any deposit account, including any joint account with
 24 the agent or totten trust for the benefit of the agent, or other banking
 25 arrangement made by or on behalf of the principal prior to the creation
 26 of the agency, provided, however, that:

27 (a) with respect to joint accounts existing at the creation of the
 28 agency, the authority granted hereby shall not include the power to
 29 change the title of the account by the addition of a new joint tenant or
 30 the deletion of an existing joint tenant, unless the authority to make
 31 such changes is [~~conveyed in a statutory gifts rider to~~] expressly stat-
 32 ed otherwise in the "Modifications" section of a statutory short form
 33 power of attorney or in a non-statutory power of attorney signed and
 34 dated by the principal with the signature of the principal duly acknowl-
 35 edged in the manner prescribed for the acknowledgement of a conveyance
 36 of real property, and which is executed pursuant to the requirements of
 37 [~~paragraph (b) of subdivision nine of~~] section [~~5-1514~~] 5-1501B of this
 38 title, and

39 (b) with respect to totten trust accounts existing at the creation of
 40 the agency, the authority granted hereby shall not include the power to
 41 add, delete, or otherwise change the designation of beneficiaries in
 42 effect for any such accounts, unless the authority to make such addi-
 43 tions, deletions or changes is [~~conveyed in a statutory gifts rider to~~]
 44 expressly stated otherwise in the "Modifications" section of a statutory
 45 short form power of attorney or in a non-statutory power of attorney
 46 signed and dated by the principal with the signature of the principal
 47 duly acknowledged in the manner prescribed for the acknowledgment of a
 48 conveyance of real property, and which is executed pursuant to the
 49 requirements of [~~paragraph (b) of subdivision nine of~~] section [~~5-1514~~]
 50 5-1501B of this title.

51 § 8-a. Section 5-1502D of the general obligations law is amended by
 52 adding a new subdivision 18 to read as follows:

53 18. If a power of attorney requires that two or more agents act
 54 together as co-agents, one or more agents may delegate to the co-agent
 55 the authority to conduct banking transactions if the principal initialed

1 subject (o) in the grant of authority provisions of paragraph (f) of the
 2 statutory short form set forth in section 15-1513 of this title.

3 § 9. Subdivisions 1 and 3 of section 5-1502F of the general obli-
 4 gations law, as amended by chapter 340 of the laws of 2010, are amended
 5 to read as follows:

6 1. To continue, to pay the premium or assessment on, to modify, to
 7 rescind, to release or to terminate any contract of life, accident,
 8 health, disability or liability insurance or any combination of such
 9 insurance procured by or on behalf of the principal prior to the
 10 creation of the agency which insures either the principal or any other
 11 person, without regard to whether the principal is or is not a benefici-
 12 ary thereunder; provided, however, with respect to life insurance
 13 contracts existing at the creation of the agency, the authority granted
 14 hereby shall not include the power to add, delete or otherwise change
 15 the designation of beneficiaries in effect for any such contract, unless
 16 the authority to make such additions, deletions or changes is [~~conveyed~~
 17 ~~in a statutory gifts rider to~~] stated otherwise in the "Modifications"
 18 section of a statutory short form power of attorney or in a non-statuto-
 19 ry power of attorney signed and dated by the principal with the signa-
 20 ture of the principal duly acknowledged in the manner prescribed for the
 21 acknowledgment of a conveyance of real property, and which is executed
 22 pursuant to the requirements of [~~paragraph (b) of subdivision nine of~~
 23 section [~~5-1514~~] 5-1501B of this title;

24 3. To apply for and to receive any available loan on the security of
 25 the contract of insurance, whether for the payment of a premium or for
 26 the procuring of cash, to surrender and thereupon to receive the cash
 27 surrender value, to exercise an election as to beneficiary or mode of
 28 payment, to change the manner of paying premiums, and to change or to
 29 convert the type of insurance contract, with respect to any contract of
 30 life, accident, health, disability or liability insurance as to which
 31 the principal has, or claims to have, any one or more of the powers
 32 described in this section; provided, however, that the authority granted
 33 hereby shall not include the power to add, delete or otherwise change
 34 the designation of beneficiaries in effect for any such contract, unless
 35 the authority to make such additions, deletions or changes is [~~conveyed~~
 36 ~~in a statutory gifts rider to~~] expressly stated otherwise in the
 37 "Modifications" section of a statutory short form power of attorney or
 38 in a non-statutory power of attorney signed and dated by the principal
 39 with the signature of the principal duly acknowledged in the manner
 40 prescribed for the acknowledgment of a conveyance of real property, and
 41 which is executed pursuant to the requirements of [~~paragraph (b) of~~
 42 ~~subdivision nine of~~] section [~~5-1514~~] 5-1501B of this title;

43 § 10. Subdivision 14 of section 5-1502I of the general obligations
 44 law, as amended by chapter 340 of the laws of 2010, is amended to read
 45 as follows:

46 14. To continue gifts that the principal customarily made to individ-
 47 uals and charitable organizations prior to the creation of the agency,
 48 provided that in any one calendar year all such gifts shall not exceed
 49 five [~~hundred~~] thousand dollars in the aggregate; and

50 § 11. The section heading, opening paragraph and subdivision 1 of
 51 section 5-1502K of the general obligations law, as amended by chapter
 52 644 of the laws of 2008, are amended to read as follows:

53 Construction--matters related to health care [~~billing and payment~~
 54 ~~matters, records, reports and statements~~]. In a statutory short form
 55 power of attorney, the language conferring general authority with
 56 respect to "matters related to health care [~~billing and payment matters,~~

1 ~~records, reports and statements~~]," or in a statutory short form power of
 2 attorney properly executed in accordance with the laws in effect at the
 3 time of its execution, the language conferring authority with respect to
 4 "records, reports and statements," must be construed to mean that the
 5 principal authorizes the agent:

6 1. ~~[To access records relating to the provision of health care and to~~
 7 ~~make decisions relating to the past, present or future payment for the~~
 8 ~~provision of health care consented to by or on behalf of the principal~~
 9 ~~or the principal's health care agent authorized under state law. In so~~
 10 ~~doing the agent is acting as the principal's personal representative~~
 11 ~~pursuant to sections 1171 through 1179 of the Social Security Act, as~~
 12 ~~added by sections 262 and 264 of Public Law 104-191, and applicable~~
 13 ~~regulations. This authority shall not include authorization for the~~
 14 ~~agent to make other medical or health care decisions for the principal]~~
 15 To be responsible for matters relating to the principal's health care,
 16 including, but not limited to, benefit entitlements and payment obli-
 17 gations, and in so doing, notwithstanding any law to the contrary, to
 18 receive from "health care providers" and "health plans," information,
 19 including, but not limited to, "protected health information" as defined
 20 in federal and state law, rules and regulations, in order to ascertain
 21 the benefits to which the principal is entitled and to determine the
 22 legitimacy and accuracy of charges for health care provided to the prin-
 23 cipal; to obtain for the principal the health care benefits to which the
 24 principal is entitled; to meet the principal's financial obligations,
 25 and pay bills due and owing, for health care provided to the principal;
 26 and to represent the principal, and to act as the principal's personal
 27 representative, with respect to matters pertaining to the principal's
 28 health care. The authority granted by this subdivision is limited to
 29 health care financial matters and shall not include authorization for
 30 the agent to make health care decisions for the principal;

31 § 12. Subdivisions 2 and 4 of section 5-1502L of the general obli-
 32 gations law, as amended by chapter 340 of the laws of 2010, are amended
 33 to read as follows:

34 2. To make investment directions, to select and change payment
 35 options, and to exercise any other election for the principal with
 36 regard to any retirement benefit or plan in which the principal has an
 37 interest, provided, however, that the authority granted hereby shall not
 38 include the authority to add, delete, or otherwise change the desig-
 39 nation of beneficiaries in effect for any such retirement benefit or
 40 plan, unless the authority to make such additions, deletions or changes
 41 is ~~[conveyed in a statutory gifts rider to]~~ expressly stated otherwise
 42 in the "Modifications" section of a statutory short form power of attor-
 43 ney or in a non-statutory power of attorney signed and dated by the
 44 principal with the signature of the principal duly acknowledged in the
 45 manner prescribed for the acknowledgment of a conveyance of real proper-
 46 ty, and which is executed pursuant to the requirements of ~~[paragraph (b)~~
 47 ~~of subdivision nine of]~~ section ~~[5-1514]~~ 5-1501B of this title;

48 4. To prepare, execute and deliver any application, agreement, trust
 49 agreement ~~[unless such trust agreement is a gift transaction governed by~~
 50 ~~section 5-1514 of this title]~~, authorization, check or other instrument
 51 or document which may be required under the terms of any retirement
 52 benefit or plan in which the principal has an interest or by the admin-
 53 istrator thereof, or which the agent deems useful for the accomplishment
 54 of any of the purposes enumerated in this section;

55 § 13. Section 5-1503 of the general obligations law, as amended by
 56 chapter 340 of the laws of 2010, is amended to read as follows:

1 § 5-1503. Modifications of the statutory short form power of attorney
2 [~~and of the statutory gifts rider~~]. A power of attorney which satisfies
3 the requirements of paragraphs (a), (b) and (c) of subdivision one of
4 section 5-1501B and section 5-1513 of this title is not prevented from
5 being a "statutory short form power of attorney", [~~and a document which~~
6 ~~satisfies the requirements of section 5-1514 of this title is not~~
7 ~~prevented from being a "statutory gifts rider" as either of these terms~~
8 ~~is used in the sections of this title,~~] by the fact that it also
9 contains additional language at the section labeled "modifications"
10 which:

11 1. Eliminates from the statutory short form power of attorney [~~or from~~
12 ~~the statutory gifts rider~~] one or more of the powers enumerated in one
13 or more of the constructional sections of this title with respect to a
14 subdivision of the statutory short form power of attorney [~~or of the~~
15 ~~statutory gifts rider~~], affirmatively chosen by the principal; or

16 2. Supplements one or more of the powers enumerated in one or more of
17 the constructional sections in this title with respect to a subdivision
18 of the statutory short form power of attorney [~~or of the statutory gifts~~
19 ~~rider~~], affirmatively chosen by the principal, by specifically listing
20 additional powers of the agent; or

21 3. Makes some additional provision which is not inconsistent with the
22 other provisions of the statutory short form power of attorney [~~or of~~
23 ~~the statutory gifts rider~~], including a provision revoking one or more
24 powers of attorney previously executed by the principal.

25 § 14. Section 5-1504 of the general obligations law, as amended by
26 chapter 644 of the laws of 2008, the opening paragraph, subparagraphs 1
27 and 9 of paragraph (a) and paragraph (b) of subdivision 1, subdivisions
28 2, 3 and 5 as amended and subdivision 7 as added by chapter 340 of the
29 laws of 2010, is amended to read as follows:

30 § 5-1504. Acceptance of and reliance upon acknowledged statutory short
31 form power of attorney. 1. (a) For purposes of this section, "acknowl-
32 edged" means purportedly verified before a notary public or other indi-
33 vidual authorized to take acknowledgements.

34 (b) A person that in good faith accepts an acknowledged power of
35 attorney without actual knowledge that the signature is not genuine may
36 rely upon the presumption that the signature is genuine.

37 (c) A person that in good faith accepts an acknowledged power of
38 attorney without actual knowledge that the power of attorney is void,
39 invalid, or terminated, that the purported agent's authority is void,
40 invalid, or terminated, or that the agent is exceeding or improperly
41 exercising the agent's authority may rely upon the power of attorney as
42 if the power of attorney were genuine, valid and still in effect, the
43 agent's authority were genuine, valid and still in effect, and the agent
44 had not exceeded and had properly exercised the authority.

45 (d) A person that is asked to accept an acknowledged power of attorney
46 may request, and rely upon, without further investigation:

47 (1) an agent's certification under penalty of perjury of any factual
48 matter concerning the principal, agent or power of attorney; and

49 (2) an opinion of counsel as to any matter of law concerning the power
50 of attorney if the person making the request provides in a writing or
51 other record the reason for the request.

52 (e) An opinion of counsel requested under this section must be
53 provided at the principal's expense unless the request is made more than
54 ten business days after the power of attorney is presented for accept-
55 ance.

1 (f) For purposes of this section, a person that conducts activities
 2 through employees is without actual knowledge of a fact relating to a
 3 power of attorney, a principal, or an agent if the employee conducting
 4 the transaction involving the power of attorney is without actual know-
 5 ledge of the fact after making reasonable inquiry with respect thereto.

6 2. No third party located or doing business in this state shall
 7 refuse, without reasonable cause, to honor a statutory short form power
 8 of attorney properly executed in accordance with section 5-1501B of this
 9 title, [~~including a statutory short form power of attorney which is~~
 10 ~~supplemented by a statutory gifts rider,~~] or a statutory short form
 11 power of attorney properly executed in accordance with the laws in
 12 effect at the time of its execution.

13 (a) Reasonable cause under this subdivision shall include, but not be
 14 limited to:

15 (1) the refusal by the agent to provide an original power of attorney
 16 or a copy certified by an attorney pursuant to section twenty-one
 17 hundred five of the civil practice law and rules, or by a court or other
 18 government entity;

19 (2) the third party's good faith referral of the principal and the
 20 agent or a person acting for or with the agent to the local adult
 21 protective services unit;

22 (3) actual knowledge of a report having been made by any person to the
 23 local adult protective services unit alleging physical or financial
 24 abuse, neglect, exploitation or abandonment of the principal by the
 25 agent or a person acting for or with the agent;

26 (4) actual knowledge of the principal's death or a reasonable basis
 27 for believing the principal has died;

28 (5) actual knowledge of the incapacity of the principal or a reason-
 29 able basis for believing that the principal is incapacitated where the
 30 power of attorney tendered is a nondurable power of attorney;

31 (6) actual knowledge or a reasonable basis for believing that the
 32 principal was incapacitated at the time the power of attorney was
 33 executed;

34 (7) actual knowledge or a reasonable basis for believing that the
 35 power of attorney was procured through fraud, duress or undue influence;

36 (8) actual notice, pursuant to subdivision [~~three~~] five of this
 37 section, of the termination or revocation of the power of attorney; [~~or~~]

38 (9) the refusal by a title insurance company to underwrite title
 39 insurance for a gift of real property made pursuant to a statutory
 40 [~~gifts rider~~] short form power of attorney or non-statutory power of
 41 attorney that does not contain express instructions or purposes of the
 42 principal with respect to gifts in the modifications section of the
 43 statutory short form power of attorney or in the non-statutory power of
 44 attorney; or

45 (10) the refusal of a request for a certification or an opinion of
 46 counsel under paragraph (d) of subdivision one of this section.

47 (b) It shall be deemed unreasonable for a third party to refuse to
 48 honor a statutory short form power of attorney[~~, including a statutory~~
 49 ~~short form power of attorney which is supplemented by a statutory gifts~~
 50 ~~rider,~~] properly executed in accordance with section 5-1501B of this
 51 title or a statutory short form power of attorney properly executed in
 52 accordance with the laws in effect at the time of its execution, if the
 53 only reason for the refusal is any of the following:

54 (1) the power of attorney is not on a form prescribed by the third
 55 party to whom the power of attorney is presented.

1 (2) there has been a lapse of time since the execution of the power of
2 attorney.

3 (3) on the face of the statutory short form power of attorney, there
4 is a lapse of time between the date of acknowledgment of the signature
5 of the principal and the date of acknowledgment of the signature of any
6 agent.

7 ~~[2-]~~ 3. (a) Not later than the tenth business day after presentation
8 of an original or attorney certified copy of a statutory short form
9 power of attorney properly executed in accordance with section 5-1501B
10 of this title or in accordance with the laws in effect at the time of
11 its execution to a third party for acceptance, such third party shall
12 either (a) honor the statutory short form power of attorney, or (b)
13 reject the statutory short form power of attorney in a writing that sets
14 forth the reasons for such rejection, which writing shall be sent to the
15 principal and the agent at the addresses on the power of attorney and
16 such other addresses as provided by the principal or the agent, or (c)
17 request the agent to execute an acknowledged affidavit pursuant to
18 subdivision seven of this section stating that the power of attorney is
19 in full force and effect if the statutory short form power of attorney
20 was not submitted for acceptance together with such an acknowledged
21 affidavit. Such reasons for rejection may include, but not be limited to
22 non-conforming form, missing or wrong signature, invalid notarization,
23 or unacceptable identification. In the event that the statutory short
24 form power of attorney presented is not an original or attorney certi-
25 fied copy, as part of the initial rejection, such short form power of
26 attorney may be rejected for such reason, provided, however, in explain-
27 ing the reason for rejecting the short form power of attorney, the third
28 party shall also identify such other provisions of the short form power
29 of attorney, if any, that would otherwise constitute cause for rejection
30 of the statutory short form power of attorney. If the third party
31 initially rejects the statutory short form power of attorney in a writ-
32 ing that sets forth the reasons for such rejection, the third party
33 shall within seven business days after receipt of a writing in response
34 to the reasons for such rejection (i) honor the statutory short form
35 power of attorney, or (ii) finally reject the statutory short form power
36 of attorney in a writing that sets forth the reasons for such rejection.
37 Such writing shall be sent to the address provided on the power of
38 attorney, to the address of the agent, if any, and may also be sent to
39 such other address as shall be provided on the account documents, or to
40 the address of the attorney as provided in an opinion of counsel pursu-
41 ant to this section. If the third party requests the agent to execute
42 such an acknowledged affidavit, the third party shall honor such statu-
43 tory short form power of attorney within seven business days after
44 receipt by the third party of an acknowledged affidavit which complies
45 with the provisions of subdivision seven of this section, stating that
46 the power of attorney is in full force and effect unless reasonable
47 cause exists as described in paragraph (a) of subdivision two of this
48 section. For the purposes of this subdivision, notice shall be consid-
49 ered delivered at the time such notice is mailed and the time require-
50 ments in which to honor or reject the statutory short form power of
51 attorney or request the agent to execute an acknowledged affidavit shall
52 not apply to the department of audit and control or a public retirement
53 system of the state as defined in subdivision six of section one hundred
54 fifty-two of the retirement and social security law.

55 (b) Notice to the agent as required by paragraph (a) of this subdivi-
56 sion shall not be sent until after a determination is made by adult

1 protective services if the reason for rejection is a reason set forth in
 2 subdivision two of this section and is otherwise prohibited by law or
 3 regulation.

4 4. (a) Once reasonably accepted, if a third party conducts a trans-
 5 action in reliance on a properly executed statutory short form power of
 6 attorney, the third party shall be held harmless from liability for the
 7 transaction.

8 (b) Except as provided in subdivision [~~three~~ five] of this section, it
 9 shall be deemed unlawful for a third party to unreasonably refuse to
 10 honor a properly executed statutory short form power of attorney[~~7~~
 11 including a statutory short form power of attorney which is supplemented
 12 by a statutory gifts rider,] executed in accordance with section 5-1501B
 13 of this title or a statutory short form power of attorney properly
 14 executed in accordance with the laws in effect at the time of its
 15 execution. [A] If a special proceeding as authorized by section 5-1510
 16 of this title is brought to compel the third party to honor the statuto-
 17 ry short form power of attorney, the court may award damages, including
 18 reasonable attorney's fees and costs, if the court finds that the third
 19 party acted unreasonably in refusing to honor the agent's authority
 20 under the statutory short form power of attorney. Such special proceed-
 21 ing shall be the exclusive remedy for a violation of this section.

22 [~~3-~~ 5. In the absence of actual knowledge that the principal lacked
 23 capacity to execute a statutory short form power of attorney or that the
 24 statutory short form power of attorney was procured through fraud,
 25 duress or undue influence, no third party receiving and retaining a
 26 [~~properly executed~~] statutory short form power of attorney properly
 27 executed in accordance with section 5-1501B of this title, [~~including a~~
 28 statutory short form power of attorney which is supplemented by a statu-
 29 tory gifts rider] or a statutory short form power of attorney properly
 30 executed in accordance with the laws in effect at the time of its
 31 execution, or a complete photostatic copy of the properly executed
 32 original thereof, nor any officer, agent, attorney-in-fact or employee
 33 of such third party shall incur any liability by reason of acting upon
 34 the authority thereof unless the third party shall have received actual
 35 notice of the revocation or termination of such power of attorney.

36 If a principal maintains an account at a financial institution, the
 37 financial institution is deemed to have actual notice after it has had a
 38 reasonable opportunity to act on a written notice of the revocation or
 39 termination following its receipt of the same at its office where such
 40 account is located.

41 [~~4-~~ 6. If the application of the provisions of subdivision [~~one or~~]
 42 two or four of this section shall be held invalid to any third party the
 43 application of such provisions to any third party other than those to
 44 which it is held invalid, shall not be affected thereby.

45 [~~5-~~ 7. When the power of attorney is presented to a third party, it
 46 shall not be deemed unreasonable for a third party to require the agent
 47 to execute an acknowledged affidavit pursuant to this subdivision stat-
 48 ing that the power of attorney is in full force and effect. Such an
 49 affidavit is conclusive proof to the third party relying on the power of
 50 attorney that the power of attorney is valid and effective, and has not
 51 been terminated, revoked or modified, except as to any third party who
 52 had actual notice that the power of attorney had terminated, been
 53 revoked or been modified prior to the execution of the affidavit. Such
 54 affidavit shall state that:

55 (a) the agent does not have, at the time of the transaction, actual
 56 notice of the termination or revocation of the power of attorney, or

1 notice of any facts indicating that the power of attorney has been
2 terminated or revoked;

3 (b) the agent does not have, at the time of the transaction, actual
4 notice that the power of attorney has been modified in any way that
5 would affect the ability of the agent to authorize or engage in the
6 transaction, or notice of any facts indicating that the power of attor-
7 ney has been so modified;

8 (c) if the agent was named as a successor agent, the prior agent is no
9 longer able or willing to serve; and

10 (d) if the agent has been the principal's spouse, the power of attor-
11 ney expressly provides that divorce or annulment as defined in subpara-
12 graph two of paragraph (f) of section 5-1.4 of the estates, powers and
13 trusts law does not terminate the agent's authority thereunder, or the
14 agent does not have actual notice that the marriage has been terminated
15 by divorce or annulment as defined in subparagraph two of paragraph (f)
16 of section 5-1.4 of the estates, powers and trusts law at the time of
17 the transaction.

18 ~~[6.]~~ **8.** Nothing in this section shall require the acceptance of a form
19 that is not a statutory short form power of attorney.

20 ~~[7.]~~ **9.** A statutory short form power of attorney or a non-statutory
21 power of attorney that meets the requirements of subdivision one of
22 section 5-1501B of this title shall be accepted for recording so long as
23 it has been signed by one agent named therein whose signature has been
24 acknowledged. If two or more agents acting on behalf of the principal
25 are required to act together, the power of attorney shall be accepted
26 for recording as long as their signatures have been acknowledged. When a
27 successor or co-agent authorized to act separately from any other agents
28 presents a certified copy of a recorded statutory short form power of
29 attorney or non-statutory power of attorney with the agent's signature
30 acknowledged, the instrument shall be accepted for recording.

31 § 15. Subparagraph 2 of paragraph (a) of subdivision 2 of section
32 5-1505 of the general obligations law, as amended by chapter 340 of the
33 laws of 2010, is amended to read as follows:

34 (2) To keep the principal's property separate and distinct from any
35 other property owned or controlled by the agent, except for property
36 that is jointly owned by the principal and agent at the time of the
37 execution of the power of attorney, and property that becomes jointly
38 owned after the execution of the power of attorney as the result of the
39 agent's acquisition of an interest in the principal's property by reason
40 of the agent's exercise of authority granted in the modifications
41 section of a statutory [gifts rider] short form power of attorney or in
42 a non-statutory power of attorney ~~[signed and dated by the principal~~
43 ~~with the signature of the principal duly acknowledged in the manner~~
44 ~~prescribed for the acknowledgment of a conveyance of real property, and~~
45 ~~which is executed pursuant to the requirements of paragraph (b) of~~
46 ~~subdivision nine of section 5-1514 of this title]~~. The agent may not
47 make gifts ~~[to]~~ of the principal's property to himself or herself with-
48 out specific authorization in a power of attorney.

49 § 16. Paragraphs (h) and (i) of subdivision 2 of section 5-1510 of the
50 general obligations law, as added by chapter 644 of the laws of 2008,
51 are amended to read as follows:

52 (h) to construe any provision of a power of attorney; or

53 (i) to compel acceptance of the power of attorney ~~[in which event the~~
54 ~~relief to be granted is limited to an order compelling acceptance]~~.

55 § 17. Section 5-1513 of the general obligations law, as amended by
56 chapter 340 of the laws of 2010, is amended to read as follows:

1 § 5-1513. Statutory short form power of attorney. [~~1-~~] The use of the
 2 following form, or one which substantially conforms to the following
 3 form, in the creation of a power of attorney is lawful, and, when used,
 4 and executed in accordance with subdivision one of section 5-1501B of
 5 this title, it shall be construed as a statutory short form power of
 6 attorney in accordance with the provisions of this title; provided
 7 however, that any section indicated as "Optional" which is not used may
 8 be omitted and replaced by the words "Intentionally Omitted":

9 "POWER OF ATTORNEY
 10 NEW YORK STATUTORY SHORT FORM

11 (a) CAUTION TO THE PRINCIPAL: Your Power of Attorney is an important
 12 document. As the "principal," you give the person whom you choose (your
 13 "agent") authority to spend your money and sell or dispose of your prop-
 14 erty during your lifetime without telling you. You do not lose your
 15 authority to act even though you have given your agent similar authori-
 16 ty.

17 When your agent exercises this authority, he or she must act according
 18 to any instructions you have provided or, where there are no specific
 19 instructions, in your best interest. "Important Information for the
 20 Agent" at the end of this document describes your agent's responsibil-
 21 ities.

22 Your agent can act on your behalf only after signing the Power of
 23 Attorney before a notary public.

24 You can request information from your agent at any time. If you are
 25 revoking a prior Power of Attorney, you should provide written notice of
 26 the revocation to your prior agent(s) and to any third parties who may
 27 have acted upon it, including the financial institutions where your
 28 accounts are located.

29 You can revoke or terminate your Power of Attorney at any time for any
 30 reason as long as you are of sound mind. If you are no longer of sound
 31 mind, a court can remove an agent for acting improperly.

32 Your agent cannot make health care decisions for you. You may execute
 33 a "Health Care Proxy" to do this.

34 The law governing Powers of Attorney is contained in the New York
 35 General Obligations Law, Article 5, Title 15. This law is available at a
 36 law library, or online through the New York State Senate or Assembly
 37 websites, [~~www.senate.state.ny.us~~] www.nysenate.gov or
 38 [~~www.assembly.state.ny.us~~] www.nyassembly.gov.

39 If there is anything about this document that you do not understand,
 40 you should ask a lawyer of your own choosing to explain it to you.

41 (b) DESIGNATION OF AGENT(S):
 42 I, _____, hereby appoint:
 43 _____ name and address of principal
 44 _____ as my agent(s)
 45 _____ name(s) and address(es) of agent(s)

46 If you designate more than one agent above and you do not initial a
 47 statement below, they must act together [~~unless you initial the state-~~
 48 ~~ment below~~].

49 () My agents must act TOGETHER.

1 () My successor agents may act SEPARATELY.
 2 (c) DESIGNATION OF SUCCESSOR AGENT(S): (OPTIONAL)
 3 If any agent designated above is unable or unwilling to serve, I
 4 appoint as my successor agent(s):
 5 _____
 6 name(s) and address(es) of successor agent(s)
 7 ~~[Successor]~~ **If you do not initial a statement below, successor** agents
 8 designated above must act together ~~[unless you initial the statement~~
 9 ~~below]~~.

10 **() My agents must act TOGETHER.**

11 () My successor agents may act SEPARATELY.
 12 You may provide for specific succession rules in this section. Insert
 13 specific succession provisions here:
 14 (d) This POWER OF ATTORNEY shall not be affected by my subsequent inca-
 15 pacity unless I have stated otherwise below, under "Modifications".

16 (e) This POWER OF ATTORNEY DOES NOT REVOKE any Powers of Attorney previ-
 17 ously executed by me unless I have stated otherwise below, under
 18 "Modifications."

19 ~~[If you do NOT intend to revoke your prior Powers of Attorney, and if~~
 20 ~~you have granted the same authority in this Power of Attorney as you~~
 21 ~~granted to another agent in a prior Power of Attorney, each agent can~~
 22 ~~act separately unless you indicate under "Modifications" that the agents~~
 23 ~~with the same authority are to act together.]~~

24 (f) GRANT OF AUTHORITY:

25 To grant your agent some or all of the authority below, either
 26 (1) Initial the bracket at each authority you grant, or
 27 (2) Write or type the letters for each authority you grant on the
 28 blank line at (P), and initial the bracket at (P). If you initial
 29 (P), you do not need to initial the other lines.

30 I grant authority to my agent(s) with respect to the following
 31 subjects as defined in sections 5-1502A through 5-1502N of the New York
 32 General Obligations Law:

- 33 () (A) real estate transactions;
 34 () (B) chattel and goods transactions;
 35 () (C) bond, share, and commodity transactions;
 36 () (D) banking transactions;
 37 () (E) business operating transactions;
 38 () (F) insurance transactions;
 39 () (G) estate transactions;
 40 () (H) claims and litigation;
 41 () (I) personal and family maintenance. If you grant your agent
 42 this authority, it will allow the agent to make gifts
 43 that you customarily have made to individuals, including
 44 the agent, and charitable organizations. The total
 45 amount of all such gifts in any one calendar year cannot
 46 exceed five ~~[hundred]~~ **thousand** dollars;
 47 () (J) benefits from governmental programs or civil or military
 48 service;
 49 () (K) **financial matters related to** health care ~~[billing and~~
 50 ~~payment matters]~~; records, reports, and statements;
 51 () (L) retirement benefit transactions;
 52 () (M) tax matters;

1 () (N) all other matters;
 2 () (O) full and unqualified authority to my agent(s) to dele-
 3 gate any or all of the foregoing powers to any person or
 4 persons whom my agent(s) select;
 5 () (P) EACH of the matters identified by the following
 6 letters_____.
 7 You need not initial the other lines if you initial line (P).

8 (g) ~~[MODIFICATIONS: (OPTIONAL)]~~
 9 ~~In this section, you may make additional provisions, including~~
 10 ~~language to limit or supplement authority granted to your agent.~~
 11 ~~However, you cannot use this Modifications section to grant your agent~~
 12 ~~authority to make gifts or changes to interests in your property. If~~
 13 ~~you wish to grant your agent such authority, you MUST complete the Stat-~~
 14 ~~utory Gifts Rider.~~

15 ~~(h)] CERTAIN GIFT TRANSACTIONS: [STATUTORY GIFTS RIDER] (OPTIONAL)~~
 16 ~~In order to authorize your agent to make gifts in excess of an annual~~
 17 ~~total of [~~\$500~~] \$5,000 for all gifts described in (I) of the grant of~~
 18 ~~authority section of this document (under personal and family mainte-~~
 19 ~~nance), and/or to make changes to interest in your property, you must~~
 20 ~~[initial the statement below and execute a Statutory Gifts Rider at the~~
 21 ~~same time as this instrument. Initialing the statement below by itself~~
 22 ~~does not authorize your agent to make gifts. The preparation of the~~
 23 ~~Statutory Gifts Rider] expressly grant that authorization in the Modifi-~~
 24 ~~cations section below. If you wish to authorize your agent to make gifts~~
 25 ~~to himself or herself, you must expressly grant such authorization in~~
 26 ~~the Modifications section below. Granting such authority to your agent~~
 27 ~~gives your agent the authority to take actions which could significantly~~
 28 ~~reduce your property and/or change how your property is distributed at~~
 29 ~~your death. Your choice to grant such authority should be [~~supervised~~~~
 30 ~~by] discussed with a lawyer.~~

31 () [~~(SCR)~~] I grant my agent authority to make gifts in accord-
 32 ance with the terms and conditions of the [~~Statutory Gifts Rider]~~
 33 Modifications that [~~supplements~~] supplement this Statutory Power of
 34 Attorney.

35 (h) MODIFICATIONS: (OPTIONAL)
 36 In this section, you may make additional provisions, including, but
 37 not limited to, language to limit or supplement authority granted to
 38 your agent, language to grant your agent the specific authority to make
 39 gifts to himself or herself, and/or language to grant your agent the
 40 specific authority to make other gift transactions and/or changes to
 41 interests in your property. Your agent is entitled to be reimbursed from
 42 your assets for reasonable expenses incurred on your behalf. In this
 43 section, you may make additional provisions if you ALSO wish your
 44 agent(s) to be compensated from your assets for services rendered on
 45 your behalf, and you may define "reasonable compensation."

46 (i) DESIGNATION OF MONITOR(S): (OPTIONAL)
 47 If you wish to appoint monitor(s), initial and fill in the section
 48 below:
 49 () I wish to designate _____, whose address(es)
 50 is (are) _____,
 51 as monitor(s). Upon the request of the monitor(s), my agent(s) must
 52 provide the monitor(s) with a copy of the power of attorney and a record
 53 of all transactions done or made on my behalf. Third parties holding

1 records of such transactions shall provide the records to the monitor(s)
2 upon request.

3 (j) COMPENSATION OF AGENT(S): [~~(OPTIONAL)~~]

4 Your agent is entitled to be reimbursed from your assets for reason-
5 able expenses incurred on your behalf. If you ALSO wish your agent(s) to
6 be compensated from your assets for services rendered on your behalf,
7 [~~initial the statement below. If you~~] and/or you wish to define "reason-
8 able compensation", you may do so above, under "Modifications"[-

9 ~~() My agent(s) shall be entitled to reasonable compensation for~~
10 ~~services rendered.]~~

11 (k) ACCEPTANCE BY THIRD PARTIES: I agree to indemnify the third party
12 for any claims that may arise against the third party because of reli-
13 ance on this Power of Attorney. I understand that any termination of
14 this Power of Attorney, whether the result of my revocation of the Power
15 of Attorney or otherwise, is not effective as to a third party until the
16 third party has actual notice or knowledge of the termination.

17 (l) TERMINATION: This Power of Attorney continues until I revoke it or
18 it is terminated by my death or other event described in section 5-1511
19 of the General Obligations Law.

20 Section 5-1511 of the General Obligations Law describes the manner in
21 which you may revoke your Power of Attorney, and the events which termi-
22 nate the Power of Attorney.

23 (m) SIGNATURE AND ACKNOWLEDGMENT:

24 In Witness Whereof I have hereunto signed my name on _____, 20__.

25 PRINCIPAL signs here: ==> _____

26 (acknowledgment)

27 (n) IMPORTANT INFORMATION FOR THE AGENT:

28 When you accept the authority granted under this Power of Attorney, a
29 special legal relationship is created between you and the principal.
30 This relationship imposes on you legal responsibilities that continue
31 until you resign or the Power of Attorney is terminated or revoked. You
32 must:

33 (1) act according to any instructions from the principal, or, where
34 there are no instructions, in the principal's best interest;

35 (2) avoid conflicts that would impair your ability to act in the prin-
36 cipal's best interest;

37 (3) keep the principal's property separate and distinct from any
38 assets you own or control, unless otherwise permitted by law;

39 (4) keep a record [~~or~~] of all [~~receipts, payments, and~~] transactions
40 conducted for the principal or keep all receipts of payments and trans-
41 actions conducted for the principal; and

42 (5) disclose your identity as an agent whenever you act for the prin-
43 cipal by writing or printing the principal's name and signing your own
44 name as "agent" in either of the following manners: (Principal's Name)
45 by (Your Signature) as Agent, or (your signature) as Agent for (Princi-
46 pal's Name).

47 You may not use the principal's assets to benefit yourself or anyone
48 else or make gifts to yourself or anyone else unless the principal has
49 specifically granted you that authority in the modifications section of

1 this document[, ~~which is either a Statutory Gifts Rider attached to a~~
 2 ~~Statutory Short Form Power of Attorney~~] or a Non-Statutory Power of
 3 Attorney. If you have that authority, you must act according to any
 4 instructions of the principal or, where there are no such instructions,
 5 in the principal's best interest. You may resign by giving written
 6 notice to the principal and to any co-agent, successor agent, monitor if
 7 one has been named in this document, or the principal's guardian if one
 8 has been appointed. If there is anything about this document or your
 9 responsibilities that you do not understand, you should seek legal
 10 advice.

11 Liability of agent:

12 The meaning of the authority given to you is defined in New York's
 13 General Obligations Law, Article 5, Title 15. If it is found that you
 14 have violated the law or acted outside the authority granted to you in
 15 the Power of Attorney, you may be liable under the law for your
 16 violation.

17 (o) AGENT'S SIGNATURE AND ACKNOWLEDGMENT OF APPOINTMENT:

18 It is not required that the principal and the agent(s) sign at the
 19 same time, nor that multiple agents sign at the same time.

20 I/we, _____, have read the forego-
 21 ing Power of Attorney. I am/we are the person(s) identified therein as
 22 agent(s) for the principal named therein.

23 I/we acknowledge my/our legal responsibilities.

24 **In Witness Whereof I have hereunto signed my name on**
 25 **20** .

26 Agent(s) sign(s) here:==> _____

27 (acknowledgment(s))

28 (p) SUCCESSOR AGENT'S SIGNATURE AND ACKNOWLEDGMENT OF APPOINTMENT:

29 It is not required that the principal and the SUCCESSOR agent(s), if
 30 any, sign at the same time, nor that multiple SUCCESSOR agents sign at
 31 the same time. Furthermore, successor agents can not use this power of
 32 attorney unless the agent(s) designated above is/are unable or unwilling
 33 to serve.

34 I/we, _____, have read the forego-
 35 ing Power of Attorney. I am/we are the person(s) identified therein as
 36 SUCCESSOR agent(s) for the principal named therein.

37 **In Witness Whereof I have hereunto signed my name on**
 38 **20** .

39 Successor Agent(s) sign(s) here:==> _____

40 (acknowledgment(s)) "

41 § 18. Section 5-1514 of the general obligations law is REPEALED.

42 § 19. This act shall take effect on the one hundred eightieth day
 43 after it shall have become a law, provided, that any statutory short
 44 form power of attorney and any statutory gifts rider executed by a prin-
 45 cipal and valid at the time executed by such principal shall remain
 46 valid, as will any revocation of a prior power of attorney that was
 47 delivered to an agent prior to the effective date of this act.

STATE OF NEW YORK

7646--A

2019-2020 Regular Sessions

IN ASSEMBLY

May 14, 2019

Introduced by M. of A. BRONSON, JOHNS, KOLB -- read once and referred to the Committee on Local Governments -- recommitted to the Committee on Local Governments 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 general municipal law, in relation to ensuring paid employees of a county airport or county aviation department which perform fire response or fire rescue duties are eligible for equal benefits as other paid firefighters

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

1 Section 1. Subdivision 1 of section 207-a of the general municipal
2 law, as amended by chapter 476 of the laws of 2018, is amended to read
3 as follows:

4 1. Any paid firefighter which term as used in this section shall mean
5 any paid officer or member of an organized fire company or fire depart-
6 ment of a city of less than one million population, or town, village or
7 fire district, or any paid employee of a county airport or county
8 aviation department which performs fire response or fire rescue duties,
9 who is injured in the performance of his or her duties or who is taken
10 sick as a result of the performance of his or her duties so as to neces-
11 sitate medical or other lawful remedial treatment, shall be paid by the
12 municipality or fire district by which he or she is employed the full
13 amount of his or her regular salary or wages until his or her disability
14 arising therefrom has ceased, and, in addition, such municipality or
15 fire district shall be liable for all medical treatment and hospital
16 care furnished during such disability. Provided, however, and notwith-
17 standing the foregoing provisions of this section, the municipal health
18 authorities or any physician appointed for the purpose by the munici-
19 pality or fire district, may attend any such injured or sick firefight-
20 er, from time to time, for the purpose of providing medical, surgical or

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

LBD10185-04-0

1 other treatment, or for making inspections and the municipality or fire
2 district shall not be liable for salary or wages payable to such a fire-
3 fighter, or for the cost of medical or hospital care or treatment
4 furnished, after such date as the health authorities or such physician
5 shall certify that such injured or sick firefighter has recovered and is
6 physically able to perform his or her regular duties in the company or
7 department. Any injured or sick firefighter who shall refuse to accept
8 such medical treatment or hospital care or shall refuse to permit
9 medical inspections as herein authorized, including examinations result-
10 ing from the application of subdivision two hereof, shall be deemed to
11 have waived his or her rights under this section in respect to expenses
12 incurred for medical treatment or hospital care or salary or wages paya-
13 ble after such refusal.

14 Notwithstanding any provision of law to the contrary, a provider of
15 medical treatment or hospital care furnished pursuant to the provisions
16 of this section shall not collect or attempt to collect reimbursement
17 for such treatment or care from any such member of the fire department
18 of any such city.

19 § 2. This act shall take effect immediately.

STATE OF NEW YORK

10536

IN ASSEMBLY

May 28, 2020

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Eichenstein)
-- read once and referred to the Committee on Governmental Employees

AN ACT to authorize Rickly Dear, the widow of Noach Dear, to file a new service retirement application and option election form with the New York state and local employees' retirement system on behalf of her deceased husband

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

1 Section 1. Notwithstanding any other provision of law to the contrary,
2 Rickly Dear, the widow of Noach Dear, who was a member of the unified
3 court system and member of the New York state and local employees'
4 retirement system, who died on April 19, 2020 from COVID-19 related
5 complications prior to filing for retirement, shall be authorized to
6 file a new service retirement application and an option election form on
7 behalf of her deceased husband with a joint allowance full option, if,
8 within one year from the effective date of this act, she shall submit a
9 request therefor to the state comptroller. In addition, his date of
10 retirement shall be deemed to have been April 18, 2020. Once such appli-
11 cation is received, any rights or benefits to the pre-retirement ordi-
12 nary death benefit payable upon the death of a member in service pursu-
13 ant to section 448 of the retirement and social security law shall be
14 waived. Any amounts paid by the New York state and local employees'
15 retirement system as the result of the death of Noach Dear prior to the
16 filing of the request for a service retirement benefit pursuant to this
17 section shall be deducted from the service retirement benefit payable on
18 an actuarially equivalent basis over the expected future lifetime of
19 Rickly Dear.

20 § 2. Any additional costs for this act shall be paid by the state of
21 New York.

22 § 3. This act shall take effect immediately.

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

This bill would authorize Rickly Dear to file a service retirement application with a date of retirement of April 18, 2020 and an option election form with a joint allowance full option on behalf of her

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

LBD16472-02-0

deceased husband Noach Dear, who died on April 19, 2020. Any amounts paid as a result of Mr. Dear's death will be deducted from the service retirement benefit payable on an actuarially equivalent basis.

If this bill is enacted during the 2020 legislative session, there will be an immediate past service cost of approximately \$1.06 million that would be borne by the State of New York as a one-time payment. This estimate is based on the assumption that payment will be made on March 1, 2021.

Summary of relevant resources:

The membership data used in measuring the impact of the proposed change was the same as that used in the March 31, 2019 actuarial valuation. Distributions and other statistics can be found in the 2019 Report of the Actuary and the 2019 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2015, 2016, 2017, 2018, and 2019 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, 2019 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 26, 2020, and intended for use only during the 2020 Legislative Session, is Fiscal Note No. 2020-119, prepared by the Actuary for the New York State and Local Retirement System.

STATE OF NEW YORK

8753

IN SENATE

July 14, 2020

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

AN ACT to authorize Jolie Louise Baynes, the daughter of Johnny Baynes, to file a new service retirement application and option election form with the New York state and local employees' retirement system on behalf of her deceased father

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

1 Section 1. Notwithstanding any other provision of law to the contrary,
2 Jolie Louise Baynes, the daughter of Johnny Baynes, who was a member of
3 the unified court system and member of the New York state and local
4 employees' retirement system, who died on March 26, 2020 from COVID-19
5 related complications prior to filing for retirement, shall be author-
6 ized to file a new service retirement application and an option election
7 form on behalf of her deceased father with a joint allowance full
8 option, if, within one year from the effective date of this act, she
9 shall submit a request therefor to the state comptroller. In addition,
10 his date of retirement shall be deemed to have been March 25, 2020. Once
11 such application is received, any rights or benefits to the pre-retire-
12 ment ordinary death benefit payable upon the death of a member in
13 service pursuant to section 448 of the retirement and social security
14 law shall be waived. Any amounts paid by the New York state and local
15 employees' retirement system as the result of the death of Johnny Baynes
16 prior to the filing of the request for a service retirement benefit
17 pursuant to this section shall be deducted from the service retirement
18 benefit payable on an actuarially equivalent basis over the expected
19 future lifetime of Jolie Louise Baynes.

20 § 2. Any additional costs for this act shall be paid by the state of
21 New York.

22 § 3. This act shall take effect immediately.

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

This bill would authorize Jolie Louise Baynes to file a service retirement application with a date of retirement of March 25, 2020 and an option election form with a joint allowance full option on behalf of

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

LBD16790-02-0

her deceased father Johnny Baynes. Any amounts paid as a result of Mr. Baynes' death will be deducted from the service retirement benefit payable.

If this bill is enacted during the 2020 legislative session, there will be an immediate past service cost of approximately \$1.26 million that would be borne by the State of New York as a one-time payment. This estimate is based on the assumption that payment will be made on March 1, 2021.

Summary of relevant resources:

The membership data used in measuring the impact of the proposed change was the same as that used in the March 31, 2019 actuarial valuation. Distributions and other statistics can be found in the 2019 Report of the Actuary and the 2019 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2015, 2016, 2017, 2018, and 2019 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, 2019 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 July 13, 2020, and intended for use only during the 2020 Legislative Session, is Fiscal Note No. 2020-129, prepared by the Actuary for the New York State and Local Retirement System.

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SECTION II

Vetoed Legislation Affecting the
New York State and Local Retirement System

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No legislation for this section in 2020.

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SECTION III

Legislation Affecting Other
New York Public Retirement Systems

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No legislation for this section in 2020.

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SECTION IV

Vetoed Legislation Affecting Other
New York Public Retirement Systems

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STATE OF NEW YORK

8295--A

2019-2020 Regular Sessions

IN ASSEMBLY

June 13, 2019

Introduced by M. of A. SALKA -- 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 -- committed-discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT relating to the miscalculation of benefits paid to Katherine Sweeney

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

1 Section 1. Notwithstanding any other provision of law to the contrary,
2 Katherine Sweeney, a member of the New York state teachers' retirement
3 system from June 24, 1968 through June 30, 2004, shall continue to
4 receive the revised benefit amount as determined by the New York state
5 teachers' retirement system that took effect with her benefit payment
6 dated August 31, 2019.

7 § 2. The New York state teachers' retirement system shall pay all
8 costs associated with the overpayment to Katherine Sweeney in the amount
9 of \$64,275.

10 § 3. This act shall take effect immediately.

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

This bill would allow Katherine Sweeney, a retired member of the New York State Teachers' Retirement System (NYSTRS), to continue to receive her revised benefit amount as determined by NYSTRS that took effect with her benefit payment dated August 31, 2019. Furthermore, NYSTRS will absorb the \$64,275 in overpayments made to Ms. Sweeney since her date of retirement.

The cost of this benefit is equal to the overpayment amount of \$64,275 to be absorbed by NYSTRS on Ms. Sweeney's behalf. This cost is to be borne by the employers of members of the NYSTRS.

Member data is from the System's most recent actuarial valuation files, consisting of data provided by the employers to the Retirement

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System. Data distributions and statistics can be found in the System's Comprehensive Annual Financial Report (CAFR). System assets are as reported in the System's financial statements and can also be found in the CAFR. Actuarial assumptions and methods are provided in the System's Actuarial Valuation Report.

The source of this estimate is **Fiscal Note** 2020-18 dated March 26, 2020 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2020 Legislative Session. I, Richard A. Young, am the 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.

VETO MESSAGE - No. 70

TO THE ASSEMBLY:

I am returning herewith, without my approval, the following bill:

Assembly Bill Number 8295-A, entitled:

"AN ACT relating to the miscalculation of benefits paid to Katherine Sweeney"

NOT APPROVED

The bill allows Katherine Sweeney, a retired teacher, not to pay an overpayment to her retirement benefits. Ms. Sweeney retired in 2004, and the New York State Teachers' Retirement System (NYSTRS) incorrectly calculated her pension, resulting in a significant overpayment. This bill would require NYSTRS to absorb the prior costs of the error.

This bill would be an unprecedented method of correcting a retirement benefit. Public retirement systems must correct pension benefit errors and collect overpayments from members or beneficiaries as a requirement of their fiduciary obligations. This bill would set aside this law, which the courts have consistently affirmed. Article 78 of the Civil Practice Laws and Rules provides due process for situations like this. After the NYSTRS issued her a final determination letter stating that the retirement system would begin paying her a reduced benefit amount, Ms. Sweeney could have brought an Article 78 proceeding in court. She chose not to bring such a proceeding.

I am grateful to Ms. Sweeney's service. NYSTRS erred in calculating Ms. Sweeney's pension benefit, and the NYSTRS should revisit their determinations as to repayment to make its best efforts to minimize her reduction in her monthly pension benefit as it was solely the error of NYSTRS. Unfortunately, this bill, by contrast, would simply require the NYSTRS to absorb the costs, as it does not provide any funding. Therefore, the costs would be socialized across all schools in the NYSTRS. NYSTRS needs to redouble its efforts to examine benefits in a timely manner to ensure that such errors do not persist, resulting in such large corrections. As a result, I am compelled to veto this bill.

The bill is disapproved.

(signed) ANDREW M. CUOMO

Z01750

Rev. 2/21

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