CITIZENS BUDGET COMMISSION

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Andrew S. Rein

November 29, 2023

The Honorable Kathy Hochul
Governor of the State of New York
New York State Capitol Building
Albany, NY 12224

Dear Governor Hochul:

The Citizens Budget Commission (CBC) urges you to veto S5027/A5208 and 19 other bills because they enhance benefits and increase costs to New York State and local governments outside of the budget process, without enhancing services or finding offsetting savings.

These 20 bills, detailed below, passed both houses of the Legislature this year; 10 would enhance pension benefits; 9 would expand disability or death benefits, and 1 would grant other benefits. Complete fiscal notes are attached to 14 of the bills, with estimated costs of at least $50.7 million immediately and $30.3 million annually thereafter. Another five bills have fiscal notes that estimate per-employee costs, but do not estimate total fiscal impacts. One bill has no fiscal note attached and would increase costs by an undetermined amount.

Granting targeted benefit enhancements not only increases costs but also may encourage further expansions that also increase the public's costs. These 20 bills are in addition to 6 sweeteners that—despite rightly being vetoed last year—were included in the Fiscal Year 2024 Enacted Budget. Those 6 sweeteners will cost an estimated $1 million immediately and $12.2 million annually thereafter.

CBC recommends that the following bills be vetoed.

Pension Benefits: 10 bills expand eligibility and/or pension benefits for public employees:

- S4972/A5136 would extend to Tier 6 members of the Police and Fire Retirement System a one-year final average salary calculation if their locality had maintained a one-year final average salary calculation prior to enactment of Tier 6. The cost of this bill is an estimated $23.4 million in immediate past service costs followed by annual costs beginning at $3.9 million. A previous version of the bill, S8401/A981, was vetoed in 2022 (veto no. 116).
- S5653/A5679 would allow any Tier 6 uniformed court officers and peace officers employed by the New York State Unified Court System to retire without an early age reduction upon attaining 30 years of creditable service and reaching the age of 55. It would also reduce the normal retirement age from 63 to 62 and lessen the reductions in benefits for those who retire prior to normal retirement age. The cost of this bill is an estimated $12.2 million in immediate past service costs followed by annual costs beginning at $1.6 million. A previous version of this bill, S3659/A5940, was vetoed in 2019 (veto no. 249). Prior versions were also vetoed in 2016, 2017, and 2018.
- S5239/A5716 would establish a 25-year retirement plan for firefighters and training and safety officers in the New York State Division of Military and Naval Affairs. The cost of this bill is an estimated $2 million in immediate past service costs followed by annual costs beginning at $180,000. A previous version of this bill, S4859/A6062, was vetoed in 2021 (veto no. 78).
- S6339/A6571 would remove the age of 50 as an eligibility requirement for service retirement for Tier 4 and 6 members of the New York City Employees' Retirement System (NYCERS) in The Triborough Bridge and Tunnel Authority's 20/50 plans. The estimated initial cost of this bill is $1.7 million annually.
- S5744/A6156 would reopen the NYCERS 55/25 plans for active or retired Tier 2 and Tier 4 City Council employees who were members and employed as of June 28, 1995. The cost of this bill is an estimated $359,000 in immediate past service costs followed by annual costs beginning at $167,000.

- S6416/A6750 would permit certain Tier 2 or 3 correction officer members of NYCERS to take loans against their accumulated Additional Member Contributions with interest. The cost of this bill is an estimated $4 million annually.
- S6097/A6651 would exempt members of the NYCERS or New York City Board of Education Retirement System (NYCBERS) in certain physically taxing titles from required additional member contributions if they will not reach 25 years of service prior to 57 years of age. The cost of this bill is an estimated $860,000 annually. A previous version of this bill, S6981-B/A7971-A, was vetoed in 2022 (veto no. 127).
- S6976/A7420 would allow eligible Tier 4 and 6 Emergency Medical Technicians (EMT) members who opted out of the NYCERS EMT 25-Year Plan another opportunity to join the plan by filing an application with NYCERS within 180 days. The cost of this bill is an estimated $284,000 annually.
- S7242-A/A7613 would establish an enhanced 25-year pension plan for certain positions in fire districts of Suffolk County participating in the New York State and Local Employees' Retirement System (NYSLRS). The bill does not have an aggregate fiscal estimate but notes that immediate costs will be equal to approximately 20 percent of total salaries and recurring annual costs equal to approximately 5 percent of total salaries.
- S6536/A7220 would allow police officers of the New York City Department of Environmental Protection to transfer service credit to the New York State and Local Police and Fire Retirement System. This bill does not include an estimate of the total cost of implementation. A previous version of this bill, S5557-A/A7383-A, was vetoed in 2022 (veto no. 146).

Disability and Death Benefits: Nine bills would enhance disability and/or death benefits for public employees:

- S5849/A5630 would extend the "death gamble" benefit—which allows beneficiaries to receive an employee's full pension benefits if the retiree passes away before taking retirement—to retirement-eligible members of the NYSLRS who are employed by New York State as correction officers and security hospital treatment assistants. The cost of

this bill is an estimated $10.6 million in immediate past service costs followed by annual costs beginning at $1.8 million.

- S6598/A6731 would establish an improved accidental disability benefit for eligible members of the NYSLRS in Tiers 3 through 6 who are employed by Suffolk County as deputy sheriffs. The improved disability benefit would be three-quarters of the member's final average salary (FAS), less workers' compensation. The current disability benefit is two-thirds of FAS, less workers' compensation. The cost of this bill is an estimated $351,000 in immediate past service costs followed by annual costs beginning at $77,500.
- S5254/A6081 would establish an improved accidental disability benefit for eligible members of the NYSLRS in Tiers 3 through 6 who are employed by Nassau County as deputy sheriffs. The improved disability benefit would be three-quarters of the member's final average salary (FAS), less workers' compensation. The current disability benefit is two-thirds of FAS, less workers' compensation. The cost of this bill is an estimated $62,800 in immediate past service costs followed by annual costs beginning at $14,000.
- S5027/A5208 would provide presumptive eligibility for accidental disability benefits for conditions of the heart to certain members of the NYSLERS employed as correction officers, correction supervisors, deputy sheriff patrol, or deputy sheriff patrol supervisors. The fiscal note indicates that immediate and recurring costs would be negligible. A previous version of this bill, S8558-A/A4607-B, was vetoed in 2022 (veto no. 112).
- S7519/A5710 would provide presumptive work-related eligibility for heart-related disabilities experienced by State University of New York police officers. The fiscal note indicates that immediate and recurring costs would be negligible. A previous version of this bill, S3841/A5301, was vetoed in 2019 (veto no. 265).
- S6216/A6499 would provide special accidental-death benefits to eligible beneficiaries of members of the NYCERS who are employed in certain deputy sheriff titles and die as a natural and proximate result of an accident sustained in the performance of duty. The bill does not have an aggregate fiscal estimate, but notes that recurring annual costs would be approximately $135,000 per affected employee.
- S7289-A/A7679 would provide presumptive eligibility for accidental disability or accidental death benefits to certain New York City firefighters retired for five years or less for the development of impairment of health stemming from thyroid cancer or other

cancers of the endocrine system. The bill does not have an aggregate fiscal estimate but notes that recurring annual costs would be approximately $55,400 per disability benefit, or $267,100 for each death benefit.

- S6253/A6749 would provide presumptive eligibility for accidental disability or accidental death benefits to certain New York City deputy sheriffs retired for five years or less as a result of lung disease. The bill does not have an aggregate fiscal estimate but notes that recurring annual costs would be approximately $41,300 per disability benefit, or $50,500 for each death benefit.
- S6254/A6755 would provide presumptive eligibility for accidental disability or accidental death benefits to certain New York City deputy sheriffs retired for five years or less asa result of heart disease. The bill does not have an aggregate fiscal estimate but notes that recurring annual costs would be approximately $41,300 per disability benefit, or $50,500 for each death benefit.

Other: One other bill would provide other benefits for public employees:

- S6861/A7156 would passively enroll part-time, temporary, and other NYCBERS employees into the System, if they are not already a member of another retirement system. Impacted employees would have an opportunity to opt out of enrollment. The cost of this bill is an annual increase of $17.4 million to $22.6 million. A previous version of this bill, S8644/A9620, was vetoed in 2022 (veto no. 45). Prior versions were also vetoed in 2017 and 2018.

Thank you for your consideration of our position. We are available to discuss these issues at your convenience.

Sincerely,

Andrew S. Rein
President
Citizens Budget Commission

cc:
Senator Robert Jackson, Chair of the Civil Service and Pensions Committee
Assemblymember Stacey Pheffer Amato, Chair of the Governmental Employees Committee