

STATE OF NEW YORK

7306--A

2019-2020 Regular Sessions

IN ASSEMBLY

April 22, 2019

Introduced by M. of A. CUSICK, ORTIZ, PHEFFER AMATO, CROUCH, BYRNE, D'URSO, GIGLIO, GRIFFIN, TAYLOR, PICHARDO, CRUZ, DAVILA, REILLY, DeSTEFANO, MORINELLO, RA -- Multi-Sponsored by -- M. of A. COOK, McDONOUGH, SIMON -- 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 amend the retirement and social security law and the administrative code of the city of New York, in relation to the establishment of twenty-five year retirement programs for members of the New York city employees' retirement system employed as water supply police; and in relation to providing for employer pick up, pursuant to provisions of the internal revenue code, of certain additional member contributions required to be made by certain participants in the twenty-five year retirement programs; and providing for the repeal of certain provisions upon expiration thereof

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

1 Section 1. Subdivision b of section 440 of the retirement and social
2 security law, as amended by chapter 682 of the laws of 2003, is amended
3 to read as follows:
4 b. The provisions of this article shall not be construed to extend
5 coverage to an employee not otherwise eligible for membership in a
6 retirement system or to provide an increase in benefits to a member of a
7 retirement system other than as provided by section four hundred forty-
8 five-d, or section four hundred forty-five-f, ~~[or]~~ section four hundred
9 forty-five-h, section four hundred forty-five-j, or section four hundred
10 forty-eight of this article.

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

LBD00385-05-0

§ 2. Subdivision a of section 444 of the retirement and social security law, as amended by section 141 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

a. Except as provided in subdivision c of section four hundred forty-five-a of this article, subdivision c of section four hundred forty-five-b of this article, subdivision c of section four hundred forty-five-c of this article, subdivision c of section four hundred forty-five-d of this article as added by chapter four hundred seventy-two of the laws of nineteen hundred ninety-five, subdivision c of section four hundred forty-five-e of this article, subdivision c of section four hundred forty-five-f of this article and subdivision c of section four hundred forty-five-h of this article, and subdivision c of section four hundred forty-five-j of this article, the maximum retirement benefit computed without optional modification provided to a member of a retirement system who is subject to the provisions of this article, other than a police officer, a firefighter, an investigator member of the New York city employees' retirement system, a member of the uniformed personnel in institutions under the jurisdiction of the New York city department of correction who receives a performance of duty disability retirement allowance, a member of the uniformed personnel in institutions under the jurisdiction of the department of corrections and community supervision or a security hospital treatment assistant, as those terms are defined in subdivision i of section eighty-nine of this chapter, who receives a performance of duty disability retirement allowance, a member of a teachers' retirement system, New York city employees' retirement system, New York city board of education retirement system or a member of the New York state and local employees' retirement system or a member of the New York city employees' retirement system or New York city board of education retirement system employed as a special officer, parking control specialist, school safety agent, campus peace officer, taxi and limousine inspector ~~[or]~~, a police communications member, or a member of the water supply police and who receives a performance of duty disability pension, from funds other than those based on a member's own or increased-take-home-pay contributions, shall, before any reduction for early retirement, be sixty per centum of the first fifteen thousand three hundred dollars of final average salary, and fifty per centum of final average salary in excess of fifteen thousand three hundred dollars, and forty per centum of final average salary in excess of twenty-seven thousand three hundred dollars, provided, however, that the benefits provided by subdivision c of section four hundred forty-five-d of this article as added by chapter four hundred seventy-two of the laws of nineteen hundred ninety-five based upon the additional member contributions required by subdivision d of such section four hundred forty-five-d shall be subject to the maximum retirement benefit computations set forth in this section. The maximum retirement benefit computed without optional modification payable to a police officer, an investigator member of the New York city employees' retirement system or a firefighter shall equal that payable upon completion of thirty years of service, except that the maximum service retirement benefit computed without optional modification shall equal that payable upon completion of thirty-two years of service.

§ 3. Subdivision a of section 445 of the retirement and social security law, as amended by chapter 476 of the laws of 2018, is amended to read as follows:

a. No member of a retirement system who is subject to the provisions of this article shall retire without regard to age, exclusive of retire-

1 ment for disability, unless he or she is a police officer, an investi-
2 gator member of the New York city employees' retirement system, fire-
3 fighter, correction officer, a qualifying member as defined in section
4 eighty-nine-t of this chapter, as added by chapter six hundred fifty-
5 seven of the laws of nineteen hundred ninety-eight, [~~of this chapter~~,]
6 sanitation worker, a special officer (including persons employed by the
7 city of New York in the title urban park ranger or associate urban park
8 ranger), school safety agent, campus peace officer or a taxi and limou-
9 sine commission inspector member of the New York city employees' retire-
10 ment system or the New York city board of education retirement system, a
11 dispatcher member of the New York city employees' retirement system, a
12 police communications member of the New York city employees' retirement
13 system, a member of the water supply police in a position referred to in
14 paragraph (o) of subdivision thirty-four of section 1.20 of the criminal
15 procedure law, an EMT member of the New York city employees' retirement
16 system, a deputy sheriff member of the New York city employees' retire-
17 ment system, a correction officer of the Westchester county correction
18 department as defined in section eighty-nine-e of this chapter or
19 employed in Suffolk county as a peace officer, as defined in section
20 eighty-nine-s of this chapter, as added by chapter five hundred eighty-
21 eight of the laws of nineteen hundred ninety-seven, [~~of this chapter~~,]
22 employed in Suffolk county as a correction officer, as defined in
23 section eighty-nine-f of this chapter, or employed in Nassau county as a
24 correction officer, uniformed correction division personnel, sheriff,
25 undersheriff or deputy sheriff, as defined in section eighty-nine-g of
26 this chapter, or employed in Nassau county as an ambulance medical tech-
27 nician, an ambulance medical technician/supervisor or a member who
28 performs ambulance medical technician related services, as defined in
29 section eighty-nine-s of this chapter, as amended by chapter five
30 hundred seventy-eight of the laws of nineteen hundred ninety-eight, [~~of~~
31 ~~this chapter~~,] or employed in Nassau county as a peace officer, as
32 defined in section eighty-nine-s of this chapter, as added by chapter
33 five hundred ninety-five of the laws of nineteen hundred ninety-seven,
34 [~~of this chapter~~,] or employed in Albany county as a sheriff, undersher-
35 iff, deputy sheriff, correction officer or identification officer, as
36 defined in section eighty-nine-h of this chapter or is employed in St.
37 Lawrence county as a sheriff, undersheriff, deputy sheriff or correction
38 officer, as defined in section eighty-nine-i of this chapter or is
39 employed in Orleans county as a sheriff, undersheriff, deputy sheriff or
40 correction officer, as defined in section eighty-nine-l of this chapter
41 or is employed in Jefferson county as a sheriff, undersheriff, deputy
42 sheriff or correction officer, as defined in section eighty-nine-j of
43 this chapter or is employed in Onondaga county as a deputy sheriff-jail
44 division competitively appointed or as a correction officer, as defined
45 in section eighty-nine-k of this chapter or is employed in a county
46 which makes an election under subdivision j of section eighty-nine-p of
47 this chapter as a sheriff, undersheriff, deputy sheriff or correction
48 officer as defined in such section eighty-nine-p or is employed in
49 Broome County as a sheriff, undersheriff, deputy sheriff or correction
50 officer, as defined in section eighty-nine-m of this chapter or is a
51 Monroe county deputy sheriff-court security, or deputy sheriff-jailor as
52 defined in section eighty-nine-n of this chapter, as added by chapter
53 five hundred ninety-seven of the laws of nineteen hundred ninety-one,
54 [~~of this chapter~~] or is employed in Greene county as a sheriff, under-
55 sheriff, deputy sheriff or correction officer, as defined in section
56 eighty-nine-o of this chapter or is a traffic officer with the town of

1 Elmira as defined in section eighty-nine-q of this chapter or is
2 employed by Suffolk county as a park police officer, as defined in
3 section eighty-nine-r of this chapter or is a peace officer employed by
4 a county probation department as defined in section eighty-nine-t of
5 this chapter, as added by chapter six hundred three of the laws of nine-
6 teen hundred ninety-eight, ~~[of this chapter]~~ or is employed in Rockland
7 county as a deputy sheriff-civil as defined in section eighty-nine-v of
8 this chapter as added by chapter four hundred forty-one of the laws of
9 two thousand one, or is employed in Rockland county as a superior
10 correction officer as defined in section eighty-nine-v of this chapter
11 as added by chapter five hundred fifty-six of the laws of two thousand
12 one or is a paramedic employed by the police department in the town of
13 Tonawanda and retires under the provisions of section eighty-nine-v of
14 this chapter, as added by chapter four hundred seventy-two of the laws
15 of two thousand one, or is a county fire marshal, supervising fire
16 marshal, fire marshal, assistant fire marshal, assistant chief fire
17 marshal or chief fire marshal employed by the county of Nassau as
18 defined in section eighty-nine-w of this chapter and is in a plan which
19 permits immediate retirement upon completion of a specified period of
20 service without regard to age. Except as provided in subdivision c of
21 section four hundred forty-five-a of this article, subdivision c of
22 section four hundred forty-five-b of this article, subdivision c of
23 section four hundred forty-five-c of this article, subdivision c of
24 section four hundred forty-five-d of this article, subdivision c of
25 section four hundred forty-five-e of this article, subdivision c of
26 section four hundred forty-five-f of this article ~~[and]~~, subdivision c
27 of section four hundred forty-five-h of this article, and subdivision c
28 of section four hundred forty-five-j of this article, a member in such a
29 plan and such an occupation, other than a police officer or investigator
30 member of the New York city employees' retirement system or a firefight-
31 er, shall not be permitted to retire prior to the completion of twenty-
32 five years of credited service; provided, however, if such a member in
33 such an occupation is in a plan which permits retirement upon completion
34 of twenty years of service regardless of age, he or she may retire upon
35 completion of twenty years of credited service and prior to the
36 completion of twenty-five years of service, but in such event the bene-
37 fit provided from funds other than those based on such a member's own
38 contributions shall not exceed two per centum of final average salary
39 per each year of credited service.

40 § 4. The retirement and social security law is amended by adding a new
41 section 445-j to read as follows:

42 § 445-j. Optional twenty-five year improved benefit retirement program
43 for water supply police members. a. Definitions. The following words and
44 phrases as used in this section shall have the following meanings unless
45 a different meaning is plainly required by the context.

46 1. "Retirement system" shall mean the New York city employees' retire-
47 ment system.

48 2. "Water supply police member" shall mean a member of the retirement
49 system who is subject to the provisions of this article, who is employed
50 by the city of New York in a position referred to by paragraph (o) of
51 subdivision thirty-four of section 1.20 of the criminal procedure law.

52 3. "Twenty-five year improved benefit retirement program" shall mean
53 all the terms and conditions of this section.

54 4. "Starting date of the twenty-five year improved benefit retirement
55 program" shall mean the effective date of this section, as such date is
56 certified pursuant to section forty-one of the legislative law.

1 5. "Participant in the twenty-five year improved benefit retirement
2 program" shall mean any water supply police member who, under the appli-
3 cable provisions of subdivision b of this section, is entitled to the
4 rights, benefits and privileges and is subject to the obligations of the
5 twenty-five year improved benefit retirement program, as applicable to
6 him or her.

7 6. "Administrative code" shall mean the administrative code of the
8 city of New York.

9 7. "Accumulated deductions" shall mean accumulated deductions as
10 defined in subdivision eleven of section 13-101 of the administrative
11 code.

12 8. "Optional retirement provisions" shall mean the right to retire and
13 receive a retirement allowance under this section upon the completion of
14 twenty-five years of credited service.

15 b. Election of twenty-five year improved benefit retirement program.
16 1. Subject to the provisions of paragraphs five and six of this subdivi-
17 sion, any person who is a water supply police member on the starting
18 date of the twenty-five year improved benefit retirement program may
19 elect to become a participant in the twenty-five year improved benefit
20 retirement program by filing, within one hundred eighty days after such
21 starting date, a duly executed application for such participation with
22 the retirement system, provided he or she is such a water supply police
23 member on the date such application is filed.

24 2. Subject to the provisions of paragraphs five and six of this subdivi-
25 sion, any person who becomes a water supply police member after the
26 starting date of the twenty-five year improved benefit retirement
27 program may elect to become a participant in the twenty-five year
28 improved benefit retirement program by filing, within one hundred eighty
29 days after becoming such a water supply police member, a duly executed
30 application for such participation with the retirement system, provided
31 he or she is such a water supply police member on the date such applica-
32 tion is filed.

33 3. Any election to be a participant in the twenty-five year improved
34 benefit retirement program shall be irrevocable.

35 4. Where any participant in the twenty-five year improved benefit
36 retirement program shall cease to hold a position as a water supply
37 police member, he or she shall cease to be such a participant and,
38 during any period in which such a person does not hold such a water
39 supply police position, he or she shall not be a participant in the
40 twenty-five year improved benefit retirement program and shall not be
41 eligible for the benefits of subdivision c of this section.

42 5. Where any participant in the twenty-five year improved benefit
43 retirement program terminates service as a water supply police member
44 and returns to such service as a water supply police member at a later
45 date, he or she shall again become such a participant on that date.

46 6. Notwithstanding any other provision of law to the contrary, any
47 person who is eligible to become a participant in the twenty-five year
48 improved benefit retirement program pursuant to paragraph one or two of
49 this subdivision for the full one hundred eighty day period provided for
50 in such applicable paragraph and who fails to timely file a duly
51 executed application for such participation with the retirement system,
52 shall not thereafter be eligible to become a participant in such
53 program.

54 c. Service retirement benefits. Notwithstanding any other provision of
55 law to the contrary, where a participant in the twenty-five year
56 improved benefit retirement program, who is otherwise qualified for a

1 retirement allowance pursuant to the optional retirement provisions set
2 forth in subdivision a of this section, has made and/or paid, while he
3 or she is a water supply police member, all additional member contrib-
4 utions and interest (if any) required by subdivision d of this section,
5 then:

6 1. that participant, while he or she remains a participant, shall not
7 be subject to the provisions of subdivision a of section four hundred
8 forty-five of this article; and

9 2. if that participant, while such a participant, retires from
10 service, he or she shall not be subject to the provisions of section
11 four hundred forty-four of this article; and

12 3. his or her retirement allowance shall be an amount, on account of
13 the required minimum period of service, equal to the sum of (i) an annu-
14 ity which shall be the actuarial equivalent of the accumulated
15 deductions from his or her pay during such period, (ii) a pension for
16 increased-take-home-pay which shall be the actuarial equivalent of the
17 reserve for increased-take-home-pay to which he or she may be entitled
18 for such period, and (iii) a pension which, when added to such annuity
19 and such pension for increased-take-home-pay, produces a retirement
20 allowance equal to fifty percent of his or her final average salary,
21 plus an amount for each additional year of allowable service, or frac-
22 tion thereof, beyond such required minimum period of service equal to
23 two percent of his or her final average salary; and

24 4. the maximum retirement benefit computed without optional modifica-
25 tion payable to that participant upon his or her retirement for service
26 as such a participant shall equal that payable upon completion of thirty
27 years of service.

28 d. Additional member contributions. 1. In addition to the member
29 contributions required pursuant to section 13-125 or section 13-162 of
30 the administrative code, each participant in the twenty-five year
31 improved benefit retirement program shall contribute, subject to the
32 applicable provisions of section 13-125.2 of the administrative code, an
33 additional six percent of his or her compensation earned from (i) all
34 credited service, as a participant in the twenty-five year improved
35 benefit retirement program, rendered on and after the starting date of
36 the improved benefit retirement program, and (ii) all credited service
37 after such person ceases to be a participant, but before he or she again
38 becomes a participant pursuant to paragraph five of subdivision b of
39 this section. A participant in the twenty-five year improved benefit
40 retirement program shall contribute additional member contributions
41 until the later of (i) the date as of which he or she is eligible to
42 retire with twenty-five years of credited service under such retirement
43 program, or (ii) the first anniversary of the starting date of the twen-
44 ty-five year improved benefit retirement program. The additional
45 contributions required by this paragraph shall be in lieu of additional
46 member contributions required by subdivision d of section four hundred
47 forty-five-d of this article, as added by chapter ninety-six of the laws
48 of nineteen hundred ninety-five, and no member paying additional
49 contributions pursuant to this section shall be required to pay addi-
50 tional contributions pursuant to such subdivision d of section four
51 hundred forty-five-d of this article.

52 2. Commencing with the first full payroll period after each person
53 becomes a participant in the twenty-five year improved benefit retire-
54 ment program, additional member contributions at the rate specified in
55 paragraph one of this subdivision shall be deducted, subject to the
56 applicable provisions of section 13-125.2 of the administrative code,

1 from the compensation of such participant on each and every payroll of
2 such participant for each and every payroll period for which he or she
3 is such a participant.

4 3. (i) Subject to the provisions of subparagraph (ii) of this para-
5 graph, where any additional member contributions required by paragraph
6 one of this subdivision are not paid by deductions from a participant's
7 compensation pursuant to paragraph two of this subdivision:

8 (A) that participant shall be charged with a contribution deficiency
9 consisting of such unpaid amounts, together with interest thereon,
10 compounded annually; and

11 (B) such interest on each amount of undeducted contributions shall
12 accrue from the end of the payroll period for which such amount would
13 have been deducted from compensation if he or she had been a participant
14 at the beginning of that payroll period and such deductions had been
15 required for such payroll period until such amount is paid to the
16 retirement system; and

17 (C) (1) interest on each such amount included in such participant's
18 contribution deficiency pursuant to this subparagraph shall be calcu-
19 lated as if such additional member contributions never had been paid by
20 such participant, and such interest shall accrue from the end of the
21 payroll period to which an amount of such additional member contrib-
22 utions is attributable, compounded annually, until such amount is paid
23 to the retirement system.

24 (2) the rate of interest to be applied to each such amount during the
25 period for which interest accrues on that amount shall be equal to the
26 rate or rates of interest required by law to be used during that same
27 period to credit interest on the accumulated deductions of retirement
28 system members.

29 (ii) Except as provided in subparagraph (iii) of this paragraph, no
30 interest shall be due on any unpaid additional contributions which are
31 not attributable to the period prior to the first full payroll period
32 referred to in paragraph two of this subdivision.

33 (iii) Should any person who, pursuant to paragraph seven of this
34 subdivision, has withdrawn any additional member contributions (and any
35 interest paid thereon) again become a participant in the twenty-five
36 year improved benefit retirement program pursuant to paragraph five of
37 subdivision b of this section, an appropriate amount shall be included
38 in such participant's contribution deficiency (including interest there-
39 on as calculated pursuant to subclause two of clause (C) of subparagraph
40 (i) of this paragraph) for any credited service with respect to which
41 such person received a refund of additional member contributions
42 (including any amount of an unpaid loan balance deemed to have been
43 returned to such person pursuant to paragraph seven of this subdivi-
44 sion), as if such additional member contributions never had been paid.

45 4. The board of trustees of the retirement system may, consistent with
46 the provisions of this subdivision, promulgate regulations for the
47 payment of the additional member contributions required by this subdivi-
48 sion, and any interest thereon, by a participant in the twenty-five year
49 improved benefit retirement program (including the deduction of such
50 contributions, and any interest thereon, from his or her compensation).

51 5. Where a participant who is otherwise eligible for service retire-
52 ment pursuant to subdivision c of this section did not, prior to the
53 effective date of retirement, pay the entire amount of a contribution
54 deficiency chargeable to him or her pursuant to paragraph three of this
55 subdivision, or repay the entire amount of a loan of his or her addi-
56 tional member contributions pursuant to paragraph eight of this subdivi-

1 sion (including accrued interest on such loan), that participant, never-
2 theless, shall be eligible to retire pursuant to subdivision c of this
3 section, provided, however, that where such participant is not entitled
4 to a refund of additional member contributions pursuant to paragraph
5 seven of this subdivision, such participant's service retirement benefit
6 calculated pursuant to the applicable provisions of subdivision c of
7 this section shall be reduced by a life annuity (calculated in accord-
8 ance with the method set forth in subdivision i of section six hundred
9 thirteen-b of this chapter) which is actuarially equivalent to:

10 (i) the amount of any unpaid contribution deficiency chargeable to
11 such member pursuant to paragraph three of this subdivision; plus

12 (ii) the amount of any unpaid balance of a loan of his or her addi-
13 tional member contributions pursuant to paragraph eight of this subdivi-
14 sion (including accrued interest on such loan).

15 6. Subject to the provisions of paragraph five of this subdivision,
16 where a participant has not paid in full any contribution deficiency
17 chargeable to him or her pursuant to paragraph three of this subdivi-
18 sion, and a benefit, other than a refund of a member's accumulated
19 deductions or a refund of additional member contributions pursuant to
20 paragraph seven of this subdivision, becomes payable by the retirement
21 system to the participant or to his or her designated beneficiary or
22 estate, the actuarial equivalent of any such unpaid amount shall be
23 deducted from the benefit otherwise payable.

24 7. (i) All additional member contributions required by this subdivi-
25 sion (and any interest thereon) which are received by the retirement
26 system shall be paid into its contingent reserve fund and shall be the
27 property of the retirement system. Such additional member contributions
28 (and any interest thereon) shall not for any purpose be deemed to be
29 member contributions or accumulated deductions of a member of the
30 retirement system under section 13-125 or section 13-162 of the adminis-
31 trative code while he or she is a participant in the twenty-five year
32 improved benefit retirement program or otherwise.

33 (ii) Should a participant in the twenty-five year improved benefit
34 retirement program, who has rendered less than five years of credited
35 service cease to hold a position as a water supply police member for any
36 reason whatsoever, his or her accumulated additional member contrib-
37 utions made pursuant to this subdivision (together with any interest
38 thereon paid to the retirement system) which remain credited to such
39 participant's account may be withdrawn by him or her pursuant to proce-
40 dures promulgated in regulations of the board of trustees of the retire-
41 ment system, together with interest thereon at the rate of interest
42 required by law to be used to credit interest on the accumulated
43 deductions of retirement system members compounded annually.

44 (iii) Notwithstanding any other provision of law to the contrary, (A)
45 no person shall be permitted to withdraw from the retirement system any
46 additional member contributions paid pursuant to this subdivision or any
47 interest paid thereon, except pursuant to and in accordance with the
48 preceding subparagraphs of this paragraph; and (B) no person, while he
49 or she is a participant in the twenty-five year improved benefit retire-
50 ment program, shall be permitted to withdraw any such additional member
51 contributions or any interest paid thereon pursuant to any of the
52 preceding subparagraphs of this paragraph or otherwise.

53 8. A participant in the twenty-five year improved benefit retirement
54 program shall be permitted to borrow from his or her additional member
55 contributions, including any interest paid thereon, which are credited
56 to the additional contributions account established for such participant

1 in the contingent reserve fund of the retirement system. The borrowing
2 from such additional member contributions pursuant to this paragraph
3 shall be governed by the same rights, privileges, obligations and proce-
4 dures set forth in section six hundred thirteen-b of this chapter which
5 govern the borrowing by members subject to article fifteen of this chap-
6 ter of member contributions made pursuant to section six hundred thir-
7 teen of this chapter. The board of trustees of the retirement system
8 may, consistent with the provisions of this subdivision and the
9 provisions of section six hundred thirteen-b of this chapter as made
10 applicable to this subdivision, promulgate regulations governing the
11 borrowing of such additional member contributions.

12 9. Wherever a person has an unpaid balance of a loan of his or her
13 additional member contributions pursuant to paragraph eight of this
14 subdivision at the time he or she becomes entitled to a refund of his or
15 her additional member contributions pursuant to subparagraph (ii) of
16 paragraph seven of this subdivision, the amount of such unpaid loan
17 balance (including accrued interest) shall be deemed to have been
18 returned to such member, and the refund of such additional contributions
19 shall be the net amount of such contributions, together with interest
20 thereon in accordance with the provisions of such subparagraph.

21 10. Notwithstanding any other provision of law to the contrary, the
22 provisions of section one hundred thirty-eight-b of this chapter shall
23 not be applicable to the additional member contributions which are
24 required by this subdivision.

25 11. Notwithstanding any other provision of law to the contrary, the
26 additional member contributions which are required by this subdivision
27 shall not be reduced under any program for increased-take-home-pay.

28 § 5. The retirement and social security law is amended by adding a new
29 section 604-j to read as follows:

30 § 604-j. Twenty-five year retirement program for water supply police
31 members. a. Definitions. The following words and phrases as used in
32 this section shall have the following meanings unless a different mean-
33 ing is plainly required by the context.

34 1. "Water supply police member" shall mean a member of the retirement
35 system who is employed by the city of New York in a position referred to
36 by paragraph (o) of subdivision thirty-four of section 1.20 of the crim-
37 inal procedure law.

38 2. "Twenty-five year retirement program" shall mean all the terms and
39 conditions of this section.

40 3. "Starting date of the twenty-five year retirement program" shall
41 mean the effective date of this section, as such date is certified
42 pursuant to section forty-one of the legislative law.

43 4. "Participant in the twenty-five year retirement program" shall mean
44 any water supply police member who, under the applicable provisions of
45 subdivision b of this section, is entitled to the rights, benefits and
46 privileges and is subject to the obligations of the twenty-five year
47 retirement program, as applicable to him or her.

48 5. "Discontinued member" shall mean a participant in the twenty-five
49 year retirement program who, while he or she was a water supply police
50 member, discontinued service as such a member and has a right to a
51 deferred vested benefit under subdivision d of this section.

52 6. "Administrative code" shall mean the administrative code of the
53 city of New York.

54 b. Participation in twenty-five year retirement program. 1. Subject
55 to the provisions of paragraphs six and seven of this subdivision, any
56 person who is a water supply police member on the starting date of the

1 twenty-five year retirement program and who, as such a water supply
2 police member or otherwise last became subject to the provisions of this
3 article prior to such starting date, may elect to become a participant
4 in the twenty-five year retirement program by filing, within one hundred
5 eighty days after the starting date of the twenty-five year retirement
6 program, a duly executed application for such participation with the
7 retirement system of which such person is a member, provided he or she
8 is such a water supply police member on the date such application is
9 filed.

10 2. Subject to the provisions of paragraphs six and seven of this
11 subdivision, any person who becomes a water supply police member after
12 the starting date of the twenty-five year retirement program and who, as
13 such a water supply police member or otherwise, last became subject to
14 the provisions of this article prior to such starting date, may elect to
15 become a participant in the twenty-five year retirement program by
16 filing, within one hundred eighty days after becoming such a water
17 supply police member, a duly executed application for such participation
18 with the retirement system for which such person is a member, provided
19 he or she is such a water supply police member on the date such applica-
20 tion is filed.

21 3. Any election to be a participant in the twenty-five year retirement
22 program shall be irrevocable.

23 4. Each water supply police member who becomes subject to the
24 provisions of this article on or after the starting date of the twenty-
25 five year retirement program shall become a participant in the twenty-
26 five year retirement program on the date he or she becomes such a water
27 supply police member. Provided, however, a person subject to this para-
28 graph who has exceeded age thirty upon employment as such a member shall
29 be exempt from participation in the twenty-five year retirement program
30 if such person elects not to participate by filing a duly executed form
31 with the retirement system within one hundred eighty days of becoming
32 such a member.

33 5. Where any participant in the twenty-five year retirement program
34 shall cease to be employed by the city of New York as a water supply
35 police member, he or she shall cease to be such a participant and,
36 during any period in which such person is not so employed, he or she
37 shall not be a participant in the twenty-five year retirement program
38 and shall not be eligible for the benefits of subdivision c of this
39 section.

40 6. Where any participant in the twenty-five year retirement program
41 terminates service as a water supply police member and returns to such
42 service as a water supply police member at a later date, he or she shall
43 again become such a participant on that date.

44 7. Notwithstanding any other provision of law to the contrary, any
45 person who is eligible to elect to become a participant in the twenty-
46 five year retirement program pursuant to paragraph one or two of this
47 subdivision for the full one hundred eighty day period provided for in
48 such applicable paragraph and who fails to timely file a duly executed
49 application for such participation with the retirement system, shall not
50 thereafter be eligible to become a participant in such program.

51 c. Service retirement benefits. 1. A participant in the twenty-five
52 year retirement program:

53 (i) who has completed twenty-five or more years of credited service;
54 and

1 (ii) who has paid, before the effective date of retirement, all addi-
2 tional member contributions and interest (if any) required by subdivi-
3 sion e of this section; and

4 (iii) who files with the retirement system of which he or she is a
5 member an application for service retirement setting forth at that time,
6 not less than thirty days subsequent to the execution and filing there-
7 of, he or she desires to be retired; and

8 (iv) who shall be a participant in the twenty-five year retirement
9 program at the time so specified for his or her retirement; shall be
10 retired pursuant to the provisions of this section affording early
11 service retirement.

12 2. (i) Notwithstanding any other provision of law to the contrary, and
13 subject to the provisions of paragraph six of subdivision e of this
14 section, the early service retirement benefit for participants in the
15 twenty-five year retirement program who retire pursuant to paragraph one
16 of this subdivision shall be a retirement allowance consisting of:

17 (A) an amount, on account of the required minimum period of service,
18 equal to fifty percent of his or her final average salary; plus

19 (B) an amount on account of credited service, or fraction thereof,
20 beyond such required minimum period of service equal to two percent of
21 his or her final salary;

22 (ii) The maximum retirement allowance computed without optional
23 modification payable pursuant to subparagraph (i) of this paragraph
24 shall equal that payable upon completion of thirty years of service.

25 d. Vesting. 1. A participant in the twenty-five year retirement
26 program:

27 (i) who discontinues service as such a participant, other than by
28 death or retirement; and

29 (ii) who prior to such discontinuance, completed five but less than
30 twenty-five years of credited service; and

31 (iii) who, subject to the provisions of paragraph seven of subdivision
32 e of this section, has paid, prior to such discontinuance, all addi-
33 tional member contributions and interest (if any) required by subdivi-
34 sion e of this section; and

35 (iv) who does not withdraw in whole or in part his or her accumulated
36 member contributions pursuant to section six hundred thirteen of this
37 article unless such participant thereafter returns to public service and
38 repays the amounts so withdrawn, together with interest, pursuant to
39 such section six hundred thirteen; shall be entitled to receive a
40 deferred vested benefit as provided in this subdivision.

41 2. (i) Upon such discontinuance under the conditions and in compliance
42 with the provisions of paragraph one of this subdivision, such deferred
43 vested benefit shall vest automatically.

44 (ii) Such vested benefit shall become payable on the earliest date on
45 which such discontinued member could have retired for service if such
46 discontinuance had not occurred.

47 3. Subject to the provisions of paragraph seven of subdivision e of
48 this section, such deferred vested benefit shall be a retirement allow-
49 ance consisting of an amount equal to two percent of such discontinued
50 member's final average salary, multiplied by the number of years of
51 credited service.

52 e. Additional member contributions. 1. In addition to the member
53 contributions required by section six hundred thirteen of this article,
54 each participant in the twenty-five year retirement program shall
55 contribute to the retirement system of which he or she is a member
56 (subject to the applicable provisions of subdivision d of section six

1 hundred thirteen of this article) an additional six percent of his or
2 her compensation earned from (i) all credited service, as a participant
3 in the twenty-five year retirement program, rendered on or after the
4 starting date of the twenty-five year retirement program, and (ii) all
5 credited service after such person ceases to be a participant, but
6 before he or she again becomes a participant pursuant to paragraph six
7 of subdivision b of this section. The additional contributions required
8 by this subdivision shall be in lieu of additional member contributions
9 required by subdivision d of section six hundred four-c of this article,
10 as added by chapter ninety-six of the laws of nineteen hundred ninety-
11 five, and no member making contributions pursuant to this section shall
12 be required to make contributions pursuant to such subdivision d of
13 section six hundred four-c of this article.

14 2. A participant in the twenty-five year retirement program shall
15 contribute additional member contributions until the later of (i) the
16 first anniversary of the starting date of the twenty-five year retire-
17 ment program, or (ii) the date on which he or she completes thirty years
18 of credited service as a water supply police member.

19 3. Commencing with the first full payroll period after each person
20 becomes a participant in the twenty-five year retirement program, addi-
21 tional member contributions at the rate specified in paragraph one of
22 this subdivision shall be deducted (subject to the applicable provisions
23 of subdivision d of section six hundred thirteen of this article) from
24 the compensation of such participant on each and every payroll of such
25 participant for each and every payroll period for which he or she is
26 such a participant.

27 4. (i) Each participant in the twenty-five year retirement program
28 shall be charged with a contribution deficiency consisting of the total
29 amounts of additional member contributions such person is required to
30 make pursuant to paragraphs one and two of this subdivision which are
31 not deducted from his or her compensation pursuant to paragraph three of
32 this subdivision, if any, together with interest thereon, compounded
33 annually, and computed in accordance with the provisions of subpara-
34 graphs (ii) and (iii) of this paragraph.

35 (ii) (A) The interest required to be paid on each such amount speci-
36 fied in subparagraph (i) of this paragraph shall accrue from the end of
37 the payroll period for which such amount would have been deducted from
38 compensation if he or she had been a participant at the beginning of
39 that payroll period and such deduction had been required for such
40 payroll period, until such amount is paid to the retirement system.

41 (B) The rate of interest to be applied to each such amount during the
42 period for which interest accrues on that amount shall be equal to the
43 rate or rates of interest required by law to be used during that same
44 period to credit interest on the accumulated deductions of retirement
45 system members.

46 (iii) Except as otherwise provided in paragraph five of this subdivi-
47 sion, no interest shall be due on any unpaid additional member contrib-
48 utions which are not attributable to a period prior to the first full
49 payroll period referred to in paragraph three of this subdivision.

50 5. (i) Should any person who, pursuant to subparagraph (ii) of para-
51 graph ten of this subdivision, has received a refund of his or her addi-
52 tional member contributions including any interest paid on such contrib-
53 utions, again become a participant in the twenty-five year retirement
54 program pursuant to paragraph six of subdivision b of this section, an
55 appropriate amount shall be included in such participant's contribution
56 deficiency (including interest thereon as calculated pursuant to subpar-

1 agraph (ii) of this paragraph) for any credited service for which such
2 person received a refund of such additional member contributions
3 (including any amount of an unpaid loan balance deemed to have been
4 returned to such person pursuant to paragraph twelve of this subdivi-
5 sion), as if such additional member contributions never had been paid.

6 (ii) (A) Interest on a participant's additional member contributions
7 included in such participant's contribution deficiency pursuant to
8 subparagraph (i) of this paragraph shall be calculated as if such addi-
9 tional member contributions had never been paid by such participant, and
10 such interest shall accrue from the end of the payroll period to which
11 an amount of such additional member contributions is attributable, until
12 such amount is paid to the retirement system.

13 (B) The rate of interest to be applied to each such amount during the
14 period for which interest accrues on that amount shall be five percent
15 per annum, compounded annually.

16 6. Where a participant who is otherwise eligible for service retire-
17 ment pursuant to subdivision c of this section did not, prior to the
18 effective date of retirement, pay the entire amount of a contribution
19 deficiency chargeable to him or her pursuant to paragraphs four and five
20 of this subdivision, or repay the entire amount of a loan of his or her
21 additional member contributions pursuant to paragraph eleven of this
22 subdivision (including accrued interest on such loan), that participant,
23 nevertheless, shall be eligible to retire pursuant to subdivision c of
24 this section, provided, however, that such participant's service retire-
25 ment benefit calculated pursuant to paragraph two of such subdivision c
26 shall be reduced by a life annuity (calculated in accordance with the
27 method set forth in subdivision i of section six hundred thirteen-b of
28 this article) which is actuarially equivalent to:

29 (i) the amount of any unpaid contribution deficiency chargeable to
30 such member pursuant to paragraphs four and five of this subdivision;
31 plus

32 (ii) the amount of any unpaid balance of a loan of his or her addi-
33 tional member contributions pursuant to paragraph eleven of this subdivi-
34 vision (including accrued interest on such loan).

35 7. Where a participant who is otherwise eligible for a vested right to
36 a deferred benefit pursuant to subdivision d of this section did not,
37 prior to the date of discontinuance of service, pay the entire amount of
38 a contribution deficiency chargeable to him or her pursuant to para-
39 graphs four and five of this subdivision, or repay the entire amount of
40 a loan of his or her additional member contributions pursuant to para-
41 graph eleven of this subdivision (including accrued interest on such
42 loan), that participant, nevertheless, shall be eligible for a vested
43 right to a deferred benefit pursuant to subdivision d of this section,
44 provided, however, that the deferred vested benefit calculated pursuant
45 to paragraph three of such subdivision d shall be reduced by a life
46 annuity (calculated in accordance with the method set forth in subdivi-
47 sion i of section six hundred thirteen-b of this article) which is actu-
48 arially equivalent to:

49 (i) the amount of any unpaid contribution deficiency chargeable to
50 such member pursuant to paragraphs four and five of this subdivision;
51 plus

52 (ii) the amount of any unpaid balance of a loan of his or her addi-
53 tional member contributions pursuant to paragraph eleven of this subdivi-
54 vision (including accrued interest on such loan).

55 8. The head of a retirement system which includes participants in the
56 twenty-five year retirement program in its membership may, consistent

1 with the provisions of this subdivision, promulgate regulations for the
2 payment of such additional member contributions, and any interest there-
3 on, by such participants (including the deduction of such contributions,
4 and any interest thereon, from the participant's compensation).

5 9. Subject to the provisions of paragraphs six and seven of this
6 subdivision, where a participant has not paid in full any contribution
7 deficiency chargeable to him or her pursuant to paragraphs four and five
8 of this subdivision, and a benefit, other than a refund of member
9 contributions pursuant to section six hundred thirteen of this article
10 or a refund of additional member contributions pursuant to subparagraph
11 (ii) of paragraph ten of this subdivision, becomes payable under this
12 article to the participant or to his or her designated beneficiary or
13 estate, the actuarial equivalent of any such unpaid amount shall be
14 deducted from the benefit otherwise payable.

15 10. (i) Such additional member contributions (and any interest there-
16 on) shall be paid into the contingent reserve fund of the retirement
17 system of which the participant is a member and shall not for any
18 purpose be deemed to be member contributions or accumulated contrib-
19 utions of a member under section six hundred thirteen of this article or
20 otherwise while he or she is a participant in the twenty-five year
21 retirement program or otherwise.

22 (ii) Should a participant in the twenty-five year retirement program
23 who has rendered less than five years of credited service cease to hold
24 a position as a water supply police member for any reason whatsoever,
25 his or her accumulated additional member contributions made pursuant to
26 this subdivision (together with any interest thereon paid to the retire-
27 ment system) may be withdrawn by him or her pursuant to procedures
28 promulgated in regulations of the board of trustees of the retirement
29 system, together with interest thereon at the rate of five percent per
30 annum, compounded annually.

31 (iii) Notwithstanding any other provision of law to the contrary, (A)
32 no person shall be permitted to withdraw from the retirement system any
33 additional member contributions paid pursuant to this subdivision or any
34 interest paid thereon, except pursuant to and in accordance with the
35 preceding subparagraphs of this paragraph; and (B) no person, while he
36 or she is a participant in the twenty-five year retirement program,
37 shall be permitted to withdraw any such additional member contributions
38 or any interest paid thereon pursuant to any of the preceding subpara-
39 graphs of this paragraph or otherwise.

40 11. A participant in the twenty-five year retirement program shall be
41 permitted to borrow from his or her additional member contributions
42 (including any interest paid thereon) which are credited to the addi-
43 tional contributions account established for such participant in the
44 contingent reserve fund of the retirement system. The borrowing from
45 such additional member contributions pursuant to this paragraph shall be
46 governed by the rights, privileges, obligations and procedures set forth
47 in section six hundred thirteen-b of this article which govern the
48 borrowing of member contributions made pursuant to section six hundred
49 thirteen of this article. The board of trustees of the retirement system
50 may, consistent with the provisions of this subdivision and the
51 provisions of section six hundred thirteen-b of this article as made
52 applicable to this subdivision, promulgate regulations governing the
53 borrowing of such additional member contributions.

54 12. Whenever a person has an unpaid balance of a loan of his or her
55 additional member contributions pursuant to paragraph eleven of this
56 subdivision at the time he or she becomes entitled to a refund of his or

1 her additional member contributions pursuant to subparagraph (ii) of
2 paragraph ten of this subdivision, the amount of such unpaid loan
3 balance (including accrued interest) shall be deemed to have been
4 returned to such member, and the refund of such additional contributions
5 shall be the net amount of such contributions, together with interest
6 thereon in accordance with the provisions of such subparagraph (ii).

7 § 6. Subdivision d of section 613 of the retirement and social securi-
8 ty law is amended by adding a new paragraph 12 to read as follows:

9 12. (i) The city of New York shall, in the case of a water supply
10 police member (as defined in paragraph one of subdivision a of section
11 six hundred four-j of this article) who is a participant in the twenty-
12 five year retirement program (as defined in paragraph four of subdivi-
13 sion a of such section six hundred four-j), pick up and pay to the
14 retirement system of which such participant is a member, all additional
15 member contributions which otherwise would be required to be deducted
16 from such member's compensation pursuant to paragraphs one and two of
17 subdivision e of such section six hundred four-j (not including any
18 additional member contributions due for any period prior to the first
19 full payroll period referred to in paragraph three of such subdivision
20 e), and shall effect such pick up on each and every payroll of such
21 participant for each and every payroll period with respect to which such
22 paragraph three would otherwise require such deductions.

23 (ii) An amount equal to the amount of additional contributions picked
24 up pursuant to this paragraph shall be deducted by such employer from
25 the compensation of such member (as such compensation would be in the
26 absence of a pick up program applicable to him or her hereunder) and
27 shall not be paid to such member.

28 (iii) The additional member contributions picked up pursuant to this
29 paragraph for any such member shall be paid by such employer in lieu of
30 an equal amount of additional member contributions otherwise required to
31 be paid by such member under the applicable provisions of subdivision e
32 of section six hundred four-j of this article, and shall be deemed to be
33 and treated as employer contributions pursuant to section 414(h) of the
34 Internal Revenue Code.

35 (iv) For the purpose of determining the retirement system rights,
36 benefits and privileges of any member whose additional member contrib-
37 utions are picked up pursuant to this paragraph, such picked up addi-
38 tional member contributions shall be deemed to be and treated as part of
39 such member's additional member contributions under the applicable
40 provisions of subdivision e of section six hundred four-j of this arti-
41 cle.

42 (v) With the exception of federal income tax treatment, the additional
43 member contributions picked up pursuant to paragraph (i) of this subdivi-
44 sion shall for all other purposes, including computation of retirement
45 benefits and contributions by employers and employees, be deemed employ-
46 ee salary. Nothing contained in this subdivision shall be construed as
47 superseding the provisions of section four hundred thirty-one of this
48 chapter, or any similar provision of law which limits the salary base of
49 computing retirement benefits payable by a public retirement system.

50 § 7. Section 13-125.2 of the administrative code of the city of New
51 York is amended by adding a new subdivision a-9 to read as follows:

52 a-9. Notwithstanding any other provision of law to the contrary, on or
53 after the starting date for pick up, the employer responsible for pick
54 up shall, in the case of a water supply police member (as defined in
55 paragraph two of subdivision a of section four hundred forty-five-j of
56 the retirement and social security law) who is a participant in the

twenty-five year improved benefit retirement program (as defined in paragraph three of such subdivision a of section four hundred forty-five-j), pick up and pay to the retirement system all additional member contributions which otherwise would be required to be deducted from such member's compensation pursuant to subdivision d of such section four hundred forty-five-j, and shall effect such pick up on each and every payroll of such participant for each and every payroll period with respect to which such subdivision d would otherwise require such deductions.

§ 8. Subparagraph (ii) of paragraph 1 of subdivision c of section 13-125.2 of the administrative code of the city of New York, as amended by chapter 682 of the laws of 2003, is amended to read as follows:

(ii) the determination of the amount of such member's Tier I or Tier II nonuniformed-force member contributions eligible for pick up by the employer or additional member contributions required to be picked up pursuant to subdivision a-one, subdivision a-two, subdivision a-three, subdivision a-four, subdivision a-five, subdivision a-six, subdivision a-seven ~~[or]~~, subdivision a-eight, or subdivision a-nine of this section; and

§ 9. Subdivision d of section 13-125.2 of the administrative code of the city of New York is amended by adding a new paragraph 2-h to read as follows:

(2-h) For the purpose of determining the retirement system rights, benefits and privileges of any member who is a participant in the twenty-five year improved benefit retirement program (as defined in paragraph three of subdivision a of section four hundred forty-five-j of the retirement and social security law), the additional member contributions of such participant picked up pursuant to subdivision a-nine of this section shall be deemed to be and treated as a part of such member's additional member contributions under subdivision d of such section four hundred forty-five-j.

§ 10. Paragraph 3 of subdivision d of section 13-125.2 of the administrative code of the city of New York, as amended by chapter 682 of the laws of 2003, is amended to read as follows:

(3) Interest on contributions picked up for any Tier I or Tier II non-uniformed-force member pursuant to this section (other than additional member contributions picked up pursuant to subdivision a-one, subdivision a-two, subdivision a-three, subdivision a-four, subdivision a-five, subdivision a-six, subdivision a-seven ~~[or]~~, subdivision a-eight, or subdivision a-nine of this section) shall accrue in favor of the member and be payable to the retirement system at the same rate, for the same time periods, in the same manner and under the same circumstances as interest would be required to accrue in favor of the member and be payable to the retirement system on such contributions if they were made by such member in the absence of a pick up program applicable to such member under the provisions of this section.

§ 11. Subdivision a of section 603 of the retirement and social security law, as amended by chapter 18 of the laws of 2012, is amended to read as follows:

a. The service retirement benefit specified in section six hundred four of this article shall be payable to members who have met the minimum service requirements upon retirement and attainment of age sixty-two, other than members who are eligible for early service retirement pursuant to subdivision c of section six hundred four-b of this article, subdivision c of section six hundred four-c of this article, subdivision d of section six hundred four-d of this article, subdivision c of

1 section six hundred four-e of this article, subdivision c of section six
2 hundred four-f of this article, subdivision c of section six hundred
3 four-g of this article, subdivision c of section six hundred four-h of
4 this article ~~[or]~~, subdivision c of section six hundred four-i of this
5 article, or subdivision c of section six hundred four-j of this article,
6 provided, however, a member of a teachers' retirement system or the New
7 York state and local employees' retirement system who first joins such
8 system before January first, two thousand ten or a member who is a
9 uniformed court officer or peace officer employed by the unified court
10 system who first becomes a member of the New York state and local
11 employees' retirement system before April first, two thousand twelve may
12 retire without reduction of his or her retirement benefit upon attain-
13 ment of at least fifty-five years of age and completion of thirty or
14 more years of service, provided, however, that a uniformed court officer
15 or peace officer employed by the unified court system who first becomes
16 a member of the New York state and local employees' retirement system on
17 or after January first, two thousand ten and retires without reduction
18 of his or her retirement benefit upon attainment of at least fifty-five
19 years of age and completion of thirty or more years of service pursuant
20 to this section shall be required to make the member contributions
21 required by subdivision f of section six hundred thirteen of this arti-
22 cle for all years of credited and creditable service, provided further
23 that the ~~[the]~~ preceding provisions of this subdivision shall not apply
24 to a New York city revised plan member.

25 § 12. Nothing contained in sections six and eleven of this act shall
26 be construed to create any contractual right with respect to members to
27 whom such sections apply. The provisions of such sections are intended
28 to afford members the advantages of certain benefits contained in the
29 Internal Revenue Code, and the effectiveness and existence of such
30 sections and benefits they confer are completely contingent thereon.

31 § 13. This act shall take effect immediately, provided, however that:

32 (a) The amendments to subdivision a of section 603 of the retirement
33 and social security law made by section eleven of this act shall not
34 affect the expiration of such subdivision as provided in subdivision (b)
35 of section 13 of chapter 682 of the laws of 2003, and shall expire ther-
36 ewith;

37 (b) The provisions of section six of this act shall remain in force
38 and effect only so long as, pursuant to federal law, contributions
39 picked up under section 613 of the retirement and social security law
40 are not includable as gross income of a member for federal income tax
41 purposes until distributed or made available to the member; and

42 (c) The amendments to provisions of section 13-125.2 of the adminis-
43 trative code of the city of New York made by sections seven, eight, nine
44 and ten of this act shall not affect the expiration of such provisions
45 as provided for in chapter 681 of the laws of 1992, as amended.

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

SUMMARY OF BILL: This proposed legislation would amend certain provisions of the Retirement and Social Security Law (RSSL) and the Administrative Code of the City of New York (ACCNYS), and add RSSL Sections 445-j and 604-j to establish a 25-Year Retirement Program for Tiers 2, 4, and 6 New York City Employees' Retirement System (NYCERS) members who are employed in the title of Water Supply Police (WSP 25-Year Plan).

Effective Date: Upon enactment.

MEMBERS ELIGIBLE TO JOIN: Those NYCERS members who are sworn officers of the water supply police employed by the City of New York (City),

appointed to protect the sources, works, and transmission of water supplied to the City, and to protect persons on or in the vicinity of such water sources, works, and transmission pursuant to subdivision o of section 1.20 of the Criminal Procedure Law.

For purposes of this Fiscal Note, these members are collectively referred to as "Water Supply Police Members."

Participation in the WSP 25-Year Plan is optional for anyone who is eligible to participate in the Plan on the date of enactment by filing an election form within 180 days of enactment. Anyone who is a member of NYCERS (i.e. subject to Article 15) on the date of enactment and subsequently becomes employed as a Water Supply Police Member also has 180 days upon becoming such a member to elect to join the WSP 25-Year Plan.

Any new Water Supply Police Member who becomes a Tier 6 NYCERS member after the date of enactment is mandated into the Plan. However, if the member exceeds age 30 upon being mandated into the WSP 25-Year Plan, the member has the option to file an application to opt out of the Plan within 180 days of becoming a Water Supply Police Member.

IMPACT ON BENEFITS: Currently, Water Supply Police Members generally participate in one of the NYCERS general plans (i.e. basic Tier 4 62/5 Plan, Tier 6 63/10 Plan, or Improved Tier 4 57/5, 55/25 Plans). There are currently no active Tier 2 Water Supply Police Members. Therefore, the following summary only applies to Tier 4 and Tier 6 Water Supply Police Members.

The proposed legislation, if enacted, would provide the following benefits to Water Supply Police Members under the WSP 25-Year Plan:

- * Service retirement benefit:
 - o 50% of Final Average Salary (FAS) for the first 25 years of Credited Service, plus
 - o 2% of FAS for each additional year of Credited Service up to a maximum of 30 years of such service.
- * Final Average Salary:
 - o Tier 4 - Three-Year Average (FAS3)
 - o Tier 6 - Five-Year Average (FAS5)
- * Vested benefit:
 - o Eligibility is:
 - At least five, but less than 25, years of Credited Service for Tier 4 and Tier 6 members.
 - o Payable at:
 - The date the member would have completed 25 years of Credited Service for Tier 4 and Tier 6 members.
 - o Amount:
 - 2% of FAS for each year of Credited Service.
- * Other benefits: Members of the proposed WSP 25-Year Plan are entitled to the same disability and death benefits as other Tier 4 and Tier 6 members under the respective basic plans.

ADDITIONAL MEMBER CONTRIBUTIONS: Members of the WSP 25-Year Plan are required to make, in addition to the Tier 4 Basic Member Contributions (BMC) of 3% and the Tier 6 BMC ranging from 3% to 6% depending on defined salary scales, Additional Member Contributions equal to 6% of compensation for all service as a Plan participant on and after the starting date of the Plan until the later of a maximum of 30 years of Credited Service or the one year anniversary of the enactment of the Plan.

FINANCIAL IMPACT - PRESENT VALUES: Based on the anticipated group of members joining the WSP 25-Year Plan 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 \$4.2 million, and increase the Present Value of member contributions of approximately \$2.2 million. The net result is an increase in the Present Value of future employer contributions of approximately \$2.0 million.

Under the Entry Age Normal cost method used to determine the employer contributions to NYCERS, there would be an increase in the Unfunded Accrued Liability (UAL) of approximately \$4.3 million offset by a decrease in the Present Value of future employer Normal Cost of \$2.3 million.

FINANCIAL IMPACT - ANNUAL EMPLOYER CONTRIBUTIONS: In accordance with Section 13-638.2(k-2) of the Administrative Code of the City of New York (ACCNY), new UAL attributable 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. As of June 30, 2019, the remaining working lifetime of the Water Supply Police Members assumed to join the WSP 25-Year Plan is approximately 12 years.

For the purposes of this Fiscal Note, the increase in UAL was amortized over a 12-year period (11 payments under the One-Year Lag Methodology) using level dollar payments. This payment, offset by the decrease in the Normal Cost, results in an increase in annual employer contributions of approximately \$553,000 each year.

CONTRIBUTION TIMING: For the purposes of this Fiscal Note, it is assumed that the changes in the Present Value of future employer contributions and annual employer contributions would be reflected for the first time in the June 30, 2020 actuarial valuation of NYCERS. In accordance with the One-Year Lag Methodology (OYLM) used to determine employer contributions, the increase in employer contributions would first be reflected in Fiscal Year 2022.

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.

The 88 Water Supply Police Members as of June 30, 2019 assumed to join the WSP 25-Year Plan had an average age of approximately 40.6 years, average service of approximately 15.4 years, and an average salary of approximately \$73,800.

ACTUARIAL ASSUMPTIONS AND METHODS: The changes in the Present Value of future employer contributions 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.

To determine the impact of the elective nature of the proposed legislation, a subgroup of Water Supply Police Members was developed based on who could potentially benefit actuarially from WSP 25-Year Plan participation. The net Present Value of future employer costs (i.e. the PVFB less the Present Value of future member contributions) of each member's benefit was determined under their current plan and under the WSP 25-Year Plan. If the net Present Value of future employer cost under the WSP 25-Year Plan was greater than or equal to the Present Value of future employer cost under the member's current plan, the member was deemed to benefit actuarially.

Based on this analysis, it was determined that those members who are mandated into the WSP 25-Year Plan in the future will generally not benefit from Plan participation (i.e. they will have a decrease in Pres-

ent Value of future employer costs as compared to the Tier 6 63/10 Plan they would otherwise participate in, absent this proposed legislation), and therefore the costs presented in this Fiscal Note are borne only from current NYCERS members who are assumed to benefit from, and thus opt to join, the WSP 25-Year Plan.

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 of NYCERS and other New York City agencies 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 2020-23 dated April 2, 2020 was prepared by the Chief Actuary for the New York City Employees' Retirement System. This estimate is intended for use only during the 2020 Legislative Session.