

STATE OF NEW YORK

7206

2023-2024 Regular Sessions

IN SENATE

May 18, 2023

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 to amend the retirement and social security law, in relation to a twenty-five year retirement plan for New York city probation officers

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

1 Section 1. The retirement and social security law is amended by adding
2 a new section 604-j to read as follows:

3 § 604-j. Twenty-five year retirement plan for New York city probation
4 officers. a. Definitions. The following words and phrases as used in
5 this section shall have the following meanings unless a different mean-
6 ing is plainly required by the context.

7 1. "Probation officer" shall mean a member (as defined in subdivision
8 e of section six hundred one of this article) who is a peace officer
9 employed by the New York city department of probation.

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

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

15 4. "Participant in the twenty-five year retirement program" shall mean
16 any probation officer member who, under the applicable provisions of
17 subdivision b of this section, is entitled to the rights, benefits and
18 privileges and is subject to the obligations of the twenty-five year
19 retirement program, as applicable to him or her.

20 5. "Discontinued member" shall mean a participant in the twenty-five
21 year retirement program who, while he or she was a probation officer
22 member, discontinued service as such a member and has a right to a
23 deferred vested benefit under subdivision d of this section.

24 6. "Administrative code" shall mean the administrative code of the
25 city of New York.

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

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1 b. Participation in twenty-five year retirement program. 1. Subject to
2 the provisions of paragraphs six and seven of this subdivision, any
3 person who is a probation officer member on the starting date of the
4 twenty-five year retirement program and who, as such a probation officer
5 member or otherwise, last became subject to the provisions of this arti-
6 cle prior to such starting date, may elect to become a participant in
7 the twenty-five year retirement program by filing, within one hundred
8 eighty days after the starting date of the twenty-five year retirement
9 program, a duly executed application for such participation with the
10 retirement system of which such person is a member, provided he or she
11 is such a probation officer member on the date such application is
12 filed.

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

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

26 4. Each probation officer member who becomes subject to any of the
27 provisions of this article on or after the starting date of the twenty-
28 five year retirement program shall become a participant in the twenty-
29 five year retirement program on the date he or she becomes such a
30 probation officer member.

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

37 6. Where any participant in the twenty-five year retirement program
38 terminates service as a probation officer member and returns to such
39 service as a probation officer member at a later date, he or she shall
40 again become such a participant on that date.

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

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

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

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

55 (iii) who files with the retirement system of which he or she is a
56 member an application for service retirement setting forth at what time,

1 not less than thirty days subsequent to the execution and filing there-
2 of, he or she desires to be retired; and

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

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

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

14 (B) an amount on account of credited service, or fraction thereof,
15 beyond such required minimum period of service equal to one and seven-
16 tenths percent of his or her final salary;

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

20 d. Vesting. 1. A participant in the twenty-five year retirement
21 program:

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

24 (ii) in the case of a participant who is not a New York city revised
25 plan member, who prior to such discontinuance, completed five but less
26 than twenty-five years of credited service or, in the case of a partic-
27 ipant who is a New York city revised plan member, who prior to such
28 discontinuance, completed ten but less than twenty-five years of credit-
29 ed service; and

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

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

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

43 (ii) In the case of a participant who is not a New York city revised
44 plan member, such vested benefit shall become payable on the earliest
45 date on which such discontinued member could have retired for service if
46 such discontinuance had not occurred or, in the case of a participant
47 who is a New York city revised plan member, such vested benefit shall
48 become payable at age sixty-three.

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

54 e. Additional member contributions. 1. In addition to the member
55 contributions required by section six hundred thirteen of this article,
56 each participant in the twenty-five year retirement program shall

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

19 2. A participant in the twenty-five year retirement program shall
20 contribute additional member contributions until the later of (i) the
21 first anniversary of the starting date of the twenty-five year retire-
22 ment program, or (ii) the date on which he or she completes thirty years
23 of credited service as a probation officer member.

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

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

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

46 (B) The rate of interest to be applied to each such amount during the
47 period for which interest accrues on that amount shall be equal to the
48 rate or rates of interest required by law to be used during that same
49 period to credit interest on the accumulated deductions of retirement
50 system members.

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

55 5. (i) Should any person who, pursuant to subparagraph (ii) of para-
56 graph ten of this subdivision, has received a refund of his or her addi-

1 tional member contributions including any interest paid on such contrib-
2 utions, again become a participant in the twenty-five year retirement
3 program pursuant to paragraph six of subdivision b of this section, an
4 appropriate amount shall be included in such participant's contribution
5 deficiency (including interest thereon as calculated pursuant to subpar-
6 agraph (ii) of this paragraph) for any credited service for which such
7 person received a refund of such additional member contributions
8 (including any amount of an unpaid loan balance deemed to have been
9 returned to such person pursuant to this subdivision), as if such addi-
10 tional member contributions never had been paid.

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

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

21 6. Where a participant who is otherwise eligible for service retire-
22 ment pursuant to subdivision c of this section did not, prior to the
23 effective date of retirement, pay the entire amount of a contribution
24 deficiency chargeable to him or her pursuant to paragraphs four and five
25 of this subdivision, that participant, nevertheless, shall be eligible
26 to retire pursuant to subdivision c of this section, provided, however,
27 that such participant's service retirement benefit calculated pursuant
28 to paragraph two of such subdivision c shall be reduced by a life annui-
29 ty (calculated in accordance with the method set forth in subdivision i
30 of section six hundred thirteen-b of this article) which is actuarially
31 equivalent to the amount of any unpaid contribution deficiency chargea-
32 ble to such member pursuant to paragraphs four and five of this subdivi-
33 sion.

34 7. Where a participant who is otherwise eligible for a vested right to
35 a deferred benefit pursuant to subdivision d of this section did not,
36 prior to the date of discontinuance of service, pay the entire amount of
37 a contribution deficiency chargeable to him or her pursuant to para-
38 graphs four and five of this subdivision, he or she nevertheless, shall
39 be eligible for a vested right to a deferred benefit pursuant to subdivi-
40 vision d of this section, provided, however, that the deferred vested
41 benefit calculated pursuant to paragraph three of such subdivision d
42 shall be reduced by a life annuity (calculated in accordance with the
43 method set forth in subdivision i of section six hundred thirteen-b of
44 this article) which is actuarially equivalent to the amount of any
45 unpaid contribution deficiency chargeable to such member pursuant to
46 paragraphs four and five of this subdivision.

47 8. The head of a retirement system which includes participants in the
48 twenty-five year retirement program in its membership may, consistent
49 with the provisions of this subdivision, promulgate regulations for the
50 payment of such additional member contributions, and any interest there-
51 on, by such participants (including the deduction of such contributions,
52 and any interest thereon, from the participant's compensation).

53 9. Subject to the provisions of paragraphs six and seven of this
54 subdivision, where a participant has not paid in full any contribution
55 deficiency chargeable to him or her pursuant to paragraphs four and five
56 of this subdivision, and a benefit, other than a refund of member

contributions pursuant to section six hundred thirteen of this article or a refund of additional member contributions pursuant to subparagraph (ii) of paragraph ten of this subdivision, becomes payable under this article to the participant or to his or her designated beneficiary or estate, the actuarial equivalent of any such unpaid amount shall be deducted from the benefit otherwise payable.

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

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

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

11. No member of a public retirement system shall be permitted to borrow any portion of the additional member contributions (including any interest paid thereon by the participant) which are subject to this subdivision.

§ 2. 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 section six hundred four-e of this article, subdivision c of section six hundred four-f of this article, subdivision c of section six hundred four-g of this article, subdivision c of section six hundred four-h of this article ~~[or]~~, subdivision c of section six hundred four-i of this article or subdivision d of section six hundred four-j of this article, provided, however, a member of a teachers' retirement system or the New York state and local employees' retirement system who first joins such system before January first, two thousand ten or a member who is a uniformed court officer or peace officer employed by the unified court system who first becomes a member of the New York state and local employees' retirement system before April first, two thousand twelve may

1 retire without reduction of his or her retirement benefit upon attain-
2 ment of at least fifty-five years of age and completion of thirty or
3 more years of service, provided, however, that a uniformed court officer
4 or peace officer employed by the unified court system who first becomes
5 a member of the New York state and local employees' retirement system on
6 or after January first, two thousand ten and retires without reduction
7 of his or her retirement benefit upon attainment of at least fifty-five
8 years of age and completion of thirty or more years of service pursuant
9 to this section shall be required to make the member contributions
10 required by subdivision f of section six hundred thirteen of this arti-
11 cle for all years of credited and creditable service, provided further
12 that the [~~the~~] preceding provisions of this subdivision shall not apply
13 to a New York city revised plan member.

14 § 3. Subdivision a of section 603 of the retirement and social securi-
15 ty law, as amended by chapter 19 of the laws of 2008, is amended to read
16 as follows:

17 a. The service retirement benefit specified in section six hundred
18 four of this article shall be payable to members who have met the mini-
19 mum service requirements upon retirement and attainment of age sixty-
20 two, other than members who are eligible for early service retirement
21 pursuant to subdivision c of section six hundred four-b of this article,
22 subdivision c of section six hundred four-c of this article, subdivision
23 d of section six hundred four-d of this article, subdivision c of
24 section six hundred four-e of this article, subdivision c of section six
25 hundred four-f of this article, subdivision c of section six hundred
26 four-g of this article, subdivision c of section six hundred four-h of
27 this article [~~or~~], subdivision c of section six hundred four-i of this
28 article or subdivision d of section six hundred four-j of this article
29 provided, however, a member who is a peace officer employed by the
30 unified court system or a member of a teachers' retirement system or the
31 New York state and local employees' retirement system may retire without
32 reduction of his or her retirement benefit upon attainment of at least
33 fifty-five years of age and completion of thirty or more years of
34 service.

35 § 4. This act shall take effect immediately, provided that the amend-
36 ments to subdivision a of section 603 of the retirement and social secu-
37 rity law made by section two of this act shall not affect the expiration
38 and reversion of such subdivision pursuant to subdivision (b) of section
39 13 of chapter 682 of the laws of 2003, as amended, when upon such date
40 the provisions of section three of this act shall take effect.