

7561

2011-2012 Regular Sessions

I N A S S E M B L Y

May 10, 2011

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

AN ACT to amend the retirement and social security law, in relation to
certain employees' ability to borrow against contributions

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
2 adding a new section 1207 to read as follows:
3 S 1207. LOANS TO MEMBERS. A. A MEMBER IN ACTIVE SERVICE WHO HAS CREDIT
4 FOR AT LEAST ONE YEAR OF MEMBER SERVICE MAY BORROW, NO MORE THAN ONCE
5 WITHIN EACH TWELVE MONTH PERIOD, AN AMOUNT NOT EXCEEDING SEVENTY-FIVE
6 PERCENT OF THE TOTAL CONTRIBUTIONS MADE PURSUANT TO SECTION TWELVE
7 HUNDRED FOUR OF THIS ARTICLE AND NOT LESS THAN ONE THOUSAND DOLLARS.
8 B. AN AMOUNT SO BORROWED, TOGETHER WITH INTEREST ON ANY UNPAID BALANCE
9 THEREOF, SHALL BE REPAID IN EQUAL INSTALLMENTS WHICH SHALL BE MADE BY
10 THE BORROWER DIRECTLY TO THE RETIREMENT SYSTEM OR THROUGH REGULAR
11 PAYROLL DEDUCTION. SUCH INSTALLMENTS SHALL BE IN SUCH AMOUNT AS THE
12 RETIREMENT SYSTEM SHALL APPROVE; HOWEVER, THEY SHALL BE AT LEAST (A) TWO
13 PERCENT OF THE MEMBER'S CONTRACT SALARY, AND (B) SUFFICIENT TO REPAY THE
14 AMOUNT BORROWED, TOGETHER WITH INTEREST ON UNPAID BALANCES THEREOF,
15 WITHIN A PERIOD NOT IN EXCESS OF FIVE YEARS. IN THE EVENT OF DEFAULT,
16 THE RETIREMENT SYSTEM SHALL BE AUTHORIZED TO COLLECT SUCH PAYMENTS DUE
17 FROM THE EMPLOYER OF SUCH MEMBER THROUGH PAYROLL DEDUCTION AND SUCH
18 MEMBER SHALL FORFEIT ALL FUTURE ENTITLEMENT TO BORROW FROM THE RETIRE-
19 MENT SYSTEM UNTIL THE UNPAID BALANCE OF THE LOAN OUTSTANDING AT THE TIME
20 OF DEFAULT IS FULLY PAID. THE RETIREMENT SYSTEM, AT ANY TIME, MAY ACCEPT
21 PAYMENTS ON ACCOUNT OF ANY LOAN IN ADDITION TO THE INSTALLMENTS FIXED
22 FOR REPAYMENT THEREOF. ALL PAYMENTS OF PRINCIPAL AND INTEREST AT THE
23 RATES SET FORTH IN SUBDIVISION C OF THIS SECTION MADE BY THE MEMBER
24 SHALL BE CREDITED TO HIS OR HER ACCOUNT AS PRINCIPAL OR INTEREST. ANY

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

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1 ADDITIONAL INTEREST PAID BY THE MEMBER SHALL BE CREDITED TO THE APPRO-
2 PRIATE FUND OF THE RETIREMENT SYSTEM.

3 C. THE RATE OF INTEREST PAYABLE UPON LOANS MADE PURSUANT TO THIS
4 SECTION SHALL BE ONE PERCENT LESS THAN THE VALUATION RATE OF INTEREST
5 ADOPTED FOR SUCH SYSTEM. WHENEVER THERE IS A CHANGE IN THE INTEREST
6 RATE, IT SHALL BE APPLICABLE TO LOANS MADE OR RENEGOTIATED AFTER THE
7 DATE OF SUCH CHANGE IN THE INTEREST RATE.

8 D. A SERVICE CHARGE PAYABLE UPON LOANS MADE PURSUANT TO THIS SECTION
9 SHALL BE SET BY THE RETIREMENT SYSTEM IN AN AMOUNT SUFFICIENT TO COVER
10 THE COST TO THE RETIREMENT SYSTEM OF ADMINISTERING THE LOANS. SUCH
11 CHARGE SHALL BE PAID TO THE RETIREMENT SYSTEM WHEN THE LOAN IS MADE OR
12 IN EQUAL INSTALLMENTS OVER THE PERIOD THE LOAN IS OUTSTANDING. THE
13 AMOUNT OF THE SERVICE CHARGE SHALL BE CREDITED TO THE FUND FROM WHICH
14 ADMINISTRATIVE EXPENSES ARE PAID.

15 E. 1. EACH LOAN MADE PURSUANT TO THIS SECTION SHALL BE INSURED AGAINST
16 THE DEATH OF THE MEMBER IN AN AMOUNT EQUAL TO THE AMOUNT OF THE LOAN
17 OUTSTANDING AT ANY GIVEN TIME; WITH THE EXCEPTION THAT UNTIL THIRTY DAYS
18 HAVE ELAPSED AFTER THE MAKING THEREOF, NO PART OF THE LOAN SHALL BE
19 INSURED. SUCH INSURANCE SHALL BE PROVIDED BY THE RETIREMENT SYSTEM. UPON
20 THE DEATH OF THE MEMBER, THE AMOUNT OF INSURANCE SO PAYABLE SHALL BE
21 CREDITED TO HIS OR HER ACCOUNT. THE PREMIUM PAYABLE BY THE MEMBER FOR
22 SUCH INSURANCE SHALL BE SET BY THE RETIREMENT SYSTEM AT A RATE NOT TO
23 EXCEED ONE PERCENT OF THE AMOUNT LOANED.

24 2. SUCH PREMIUM SHALL BE PRORATED TO JULY FIRST NEXT, OR SUCH OTHER
25 DATE FIXED BY THE RETIREMENT SYSTEM AS IS APPROPRIATE, AND SHALL BE PAID
26 TO THE RETIREMENT SYSTEM IN EQUAL INSTALLMENTS OVER THE PERIOD OF THE
27 LOAN. THEREAFTER, A PREMIUM NOT TO EXCEED ONE PERCENT PER ANNUM OF THE
28 PRESENT VALUE OF THE OUTSTANDING LOAN AS OF JULY FIRST, OR SUCH OTHER
29 APPROPRIATE DATE, SHALL BE PAID IN THE SAME MANNER EACH SUCCEEDING YEAR
30 UNTIL SUCH LOAN IS REPAID OR THE MEMBER IS RETIRED.

31 3. THE RETIREMENT SYSTEM SHALL, AT LEAST ANNUALLY, REVIEW SUCH PREMIUM
32 RATE, AND MAY, IN ITS DISCRETION, INCREASE OR REDUCE THE PREMIUM, MODIFY
33 THE TERMS OR CONDITIONS OF COVERAGE, OR DISCONTINUE THE INSURANCE OF
34 LOANS. IN NO EVENT SHALL THIS SUBDIVISION IMPOSE ANY OBLIGATION UPON THE
35 RETIREMENT SYSTEM TO CONTINUE TO INSURE LOANS OF MEMBERS UPON THE TERMS
36 AND CONDITIONS HEREIN PROVIDED OR UPON ANY OTHER TERMS OR CONDITIONS.

37 F. THE RETIREMENT SYSTEM IS AUTHORIZED TO ESTABLISH SUCH SPECIAL FUNDS
38 AS MAY BE NECESSARY TO CARRY OUT THE PROVISIONS OF SUBDIVISIONS D AND E
39 OF THIS SECTION.

40 G. WHENEVER A MEMBER OF SUCH A RETIREMENT SYSTEM, FOR WHOM A LOAN IS
41 OUTSTANDING, BECOMES ENTITLED TO THE RETURN OF HIS OR HER CONTRIBUTIONS
42 BECAUSE OF WITHDRAWAL FROM SUCH SYSTEM OR BECAUSE OF DEATH, THE AMOUNT
43 OF ANY LOAN OUTSTANDING ON SUCH DATE, INCLUDING ACCRUED INTEREST AS
44 PROVIDED IN SUBDIVISION D OF THIS SECTION, SHALL BE CONSTRUED TO ALREADY
45 HAVE BEEN RETURNED TO SUCH MEMBER AND THE REFUND OF CONTRIBUTIONS TO
46 WHICH HE SHALL THEN BE ENTITLED SHALL BE THE NET AMOUNT OF SUCH CONTRIB-
47 UTIONS TOGETHER WITH INTEREST THEREON.

48 H. NOTWITHSTANDING ANY GENERAL OR SPECIAL LAW TO THE CONTRARY, WHENEV-
49 ER A MEMBER OF THE RETIREMENT SYSTEM, FOR WHOM A LOAN IS OUTSTANDING,
50 RETIRES, THE RETIREMENT ALLOWANCE PAYABLE WITHOUT OPTIONAL MODIFICATION
51 SHALL BE REDUCED BY A LIFE ANNUITY WHICH IS ACTUARIALLY EQUIVALENT TO
52 THE AMOUNT OF THE OUTSTANDING LOAN (ALL OUTSTANDING LOANS SHALL CONTINUE
53 TO ACCRUE INTEREST CHARGES UNTIL RETIREMENT), SUCH LIFE ANNUITY BEING
54 CALCULATED UTILIZING THE INTEREST RATE ON THIRTY YEAR UNITED STATES
55 TREASURY BONDS AS OF JANUARY FIRST OF THE CALENDAR YEAR OF THE EFFECTIVE

1 DATE OF RETIREMENT AND THE MORTALITY TABLES FOR OPTIONS AVAILABLE UNDER
2 SECTION FIVE HUNDRED FOURTEEN OF THIS CHAPTER.

3 I. THE RETIREMENT SYSTEM SHALL ADOPT SUCH RULES AND REGULATIONS AS IT
4 FINDS TO BE NECESSARY IN ADMINISTERING THE PROVISIONS OF THIS SECTION.

5 J. THE RETIREMENT SYSTEM SHALL DISCHARGE ANY EVIDENCE OF A LOAN TO A
6 MEMBER PURSUANT TO THIS SECTION UPON THE SATISFACTION OF THE OBLIGATION
7 OF THE MEMBER THEREUNDER.

8 K. THE RETIREMENT SYSTEM SHALL HAVE NO RIGHT TO BRING SUIT IN ANY
9 COURT AGAINST ANY MEMBER TO ENFORCE THE AMOUNT DUE UNDER THIS SECTION,
10 AND THE RETIREMENT SYSTEM'S SOLE REMEDY UPON DEATH, RETIREMENT OR WITH-
11 DRAWAL SHALL BE TO OFFSET THE AMOUNT OUTSTANDING INCLUDING INTEREST FROM
12 THE MEMBER'S ACCOUNT OR OTHER BENEFITS PAYABLE TO OR ON BEHALF OF THE
13 MEMBER AS PROVIDED IN THIS SECTION.

14 S 2. This act shall take effect immediately.

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

This bill would permit Tier S members of the New York State and Local Police and Fire Retirement System to borrow up to 76% of their member contributions at an interest rate of 1% less than the valuation interest rate. This loan program is currently available to Tiers 3, 4 and 6 members of the New York State and Local Employees' Retirement System.

If this bill is enacted, there would be an annual investment opportunity cost of 1% of the aggregate outstanding member loan balance. Therefore, for every \$1 million of outstanding member loans, there would be an annual cost of \$10,000, which would be borne by the State of New York and the participating employers in the New York State and Local Police and Fire Retirement System. Any administrative costs would be covered by the required loan fee (currently \$20 per loan).

This estimate, dated April 6, 2011, and intended for use only during the 2011 Legislative Session, is Fiscal Note Number 2011-153 prepared by the Actuary for the New York State and Local Police and Fire Retirement System.