

S T A T E   O F   N E W   Y O R K

---

7561--B

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Ways and Means -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

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. NOTWITHSTANDING ANY GENERAL, SPECIAL OR  
4     LOCAL LAW TO THE CONTRARY, A MEMBER IN ACTIVE SERVICE WHO HAS CREDIT FOR  
5     AT LEAST ONE YEAR OF MEMBER SERVICE MAY BORROW, NO MORE THAN ONCE WITHIN  
6     EACH TWELVE MONTH PERIOD, AN AMOUNT NOT EXCEEDING SEVENTY-FIVE PERCENT  
7     OF THE TOTAL CONTRIBUTIONS MADE PURSUANT TO SECTION TWELVE HUNDRED FOUR  
8     OF THIS ARTICLE OR ANY OTHER ARTICLE OF THIS CHAPTER AND NOT LESS THAN  
9     ONE THOUSAND DOLLARS.  
10    B. AN AMOUNT SO BORROWED, TOGETHER WITH INTEREST ON ANY UNPAID BALANCE  
11    THEREOF, SHALL BE REPAYED IN EQUAL INSTALLMENTS WHICH SHALL BE MADE BY  
12    THE BORROWER DIRECTLY TO THE RETIREMENT SYSTEM OR THROUGH REGULAR  
13    PAYROLL DEDUCTION. SUCH INSTALLMENTS SHALL BE IN SUCH AMOUNT AS THE  
14    RETIREMENT SYSTEM SHALL APPROVE; HOWEVER, THEY SHALL BE AT LEAST (A) TWO  
15    PERCENT OF THE MEMBER'S CONTRACT SALARY, AND (B) SUFFICIENT TO REPAY THE  
16    AMOUNT BORROWED, TOGETHER WITH INTEREST ON UNPAID BALANCES THEREOF,  
17    WITHIN A PERIOD NOT IN EXCESS OF FIVE YEARS. IN THE EVENT OF DEFAULT,  
18    THE RETIREMENT SYSTEM SHALL BE AUTHORIZED TO COLLECT SUCH PAYMENTS DUE  
19    FROM THE EMPLOYER OF SUCH MEMBER THROUGH PAYROLL DEDUCTION AND SUCH  
20    MEMBER SHALL FORFEIT ALL FUTURE ENTITLEMENT TO BORROW FROM THE RETIRE-  
21    MENT SYSTEM UNTIL THE UNPAID BALANCE OF THE LOAN OUTSTANDING AT THE TIME

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

LBD11397-03-1

1 OF DEFAULT IS FULLY PAID. THE RETIREMENT SYSTEM, AT ANY TIME, MAY ACCEPT  
2 PAYMENTS ON ACCOUNT OF ANY LOAN IN ADDITION TO THE INSTALLMENTS FIXED  
3 FOR REPAYMENT THEREOF. ALL PAYMENTS OF PRINCIPAL AND INTEREST AT THE  
4 RATES SET FORTH IN SUBDIVISION C OF THIS SECTION MADE BY THE MEMBER  
5 SHALL BE CREDITED TO HIS OR HER ACCOUNT AS PRINCIPAL OR INTEREST. ANY  
6 ADDITIONAL INTEREST PAID BY THE MEMBER SHALL BE CREDITED TO THE APPRO-  
7 PRIATE FUND OF THE RETIREMENT SYSTEM.

8 C. THE RATE OF INTEREST PAYABLE UPON LOANS MADE PURSUANT TO THIS  
9 SECTION SHALL BE ONE PERCENT LESS THAN THE VALUATION RATE OF INTEREST  
10 ADOPTED FOR SUCH SYSTEM. WHENEVER THERE IS A CHANGE IN THE INTEREST  
11 RATE, IT SHALL BE APPLICABLE TO LOANS MADE OR RENEGOTIATED AFTER THE  
12 DATE OF SUCH CHANGE IN THE INTEREST RATE.

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

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

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

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

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

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

53 H. NOTWITHSTANDING ANY GENERAL OR SPECIAL LAW TO THE CONTRARY, WHENEV-  
54 ER A MEMBER OF THE RETIREMENT SYSTEM, FOR WHOM A LOAN IS OUTSTANDING,  
55 RETIRES, THE RETIREMENT ALLOWANCE PAYABLE WITHOUT OPTIONAL MODIFICATION  
56 SHALL BE REDUCED BY A LIFE ANNUITY WHICH IS ACTUARIALLY EQUIVALENT TO

1 THE AMOUNT OF THE OUTSTANDING LOAN (ALL OUTSTANDING LOANS SHALL CONTINUE  
2 TO ACCRUE INTEREST CHARGES UNTIL RETIREMENT), SUCH LIFE ANNUITY BEING  
3 CALCULATED UTILIZING THE INTEREST RATE ON THIRTY YEAR UNITED STATES  
4 TREASURY BONDS AS OF JANUARY FIRST OF THE CALENDAR YEAR OF THE EFFECTIVE  
5 DATE OF RETIREMENT AND THE MORTALITY TABLES FOR OPTIONS AVAILABLE UNDER  
6 SECTION FIVE HUNDRED FOURTEEN OF THIS CHAPTER.

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

9 J. THE RETIREMENT SYSTEM SHALL DISCHARGE ANY EVIDENCE OF A LOAN TO A  
10 MEMBER PURSUANT TO THIS SECTION UPON THE SATISFACTION OF THE OBLIGATION  
11 OF THE MEMBER THEREUNDER.

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

18 S 2. Subdivision b of section 517-c of the retirement and social secu-  
19 rity law, as added by chapter 920 of the laws of 1990, is amended to  
20 read as follows:

21 b. A member of the New York state and local employees' retirement  
22 system, THE NEW YORK STATE AND LOCAL POLICE AND FIRE RETIREMENT SYSTEM,  
23 the New York city employees' retirement system or the New York city  
24 board of education retirement system in active service who has credit  
25 for at least one year of member service may borrow, no more than once  
26 during each twelve month period, an amount not exceeding seventy-five  
27 percent of the total contributions made pursuant to section five hundred  
28 seventeen (including interest credited at the rate set forth in subdivi-  
29 sion c of such section five hundred seventeen compounded annually) and  
30 not less than one thousand dollars.

31 S 3. This act shall take effect immediately.

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

This bill would permit Tier 5 members of the New York State and Local Police and Fire Retirement System to borrow up to 75% 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 5 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.