STATE OF NEW YORK

6460

2017-2018 Regular Sessions

IN SENATE

May 23, 2017

Introduced by Sen. SAVINO -- 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 the definition of additional member contributions and basic member contributions for certain New York city employees' retirement system members who are subject to certain retirement plans under articles 14 and 15 of the retirement and social security law, to allow such additional member contributions to be used, to offset a deficit of basic member contributions, or to allow an excess of basic member contributions to offset a deficit of additional member contributions upon retirement

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

Section 1. Subparagraph (i) of paragraph 8 of subdivision e of section 504-a of the retirement and social security law, as amended by chapter 631 of the laws of 1993, is amended to read as follows:

(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 five hundred seventeen of this article or otherwise while he or she is a participant in the twenty-year retirement program or otherwise**, except that, upon the participant's separation from city service as a result of retirement, a surplus of such additional member contributions that are paid into the retirement system's contingent reserve fund may be used for the sole purpose of offsetting a deficit of basic member contributions**.

§ 2. Subparagraph (i) of paragraph 12 of subdivision e of section 504-b of the retirement and social security law, as added by chapter 631 of the laws of 1993, is amended to read as follows:

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

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(i) All additional member contributions required by this subdivision (and any interest thereon) which are received by the retirement system of which the participant is a member shall be paid into its contingent reserve fund and shall not for any purpose be deemed to be member contributions or accumulated contributions of a member under section five hundred seventeen of this article or otherwise while he or she is a participant in the twenty-year retirement program for captains and above or otherwise**, except that, upon the participant's separation from city service as a result of retirement, a surplus of such additional member contributions that are paid into the retirement system's contingent reserve fund may be used for the sole purpose of offsetting a deficit of basic member contributions**.

§ 3. Subparagraph (i) of paragraph 9 of subdivision e of section 504-d of the retirement and social security law, as added by chapter 622 of the laws of 2004, is amended to read as follows:

(i) All additional member contributions required by this subdivision (and any interest thereon) which are received by the retirement system of which the participant is a member shall be paid into its contingent reserve fund and shall not for any purpose be deemed to be member contributions or accumulated contributions of a member under section five hundred seventeen of this article or otherwise while he or she is a participant in the twenty-year retirement program or otherwise**, except that, upon the participant's separation from city service as a result of retirement, a surplus of such additional member contributions that are paid into the retirement system's contingent reserve fund may be used for the sole purpose of offsetting a deficit of basic member contributions**.

§ 4. Subdivision d of section 517 of the retirement and social security law, as added by chapter 890 of the laws of 1976, is amended to read as follows:

d. Notwithstanding any other provision of this article, a member shall be entitled to withdraw any excess contributions within six months of becoming subject to this article. Thereafter, such contributions, and interest thereon, may only be withdrawn upon separation from service. Upon retirement, such excess contributions, and any interest thereon, may be withdrawn in a single lump sum, or at the election of the member may be paid as an annuity under an option authorized pursuant to section five hundred fourteen of this article**, or at the election of the participant may be used to offset a deficit of additional member contributions as required pursuant to sections five hundred four-a, five hundred four-b, and five hundred four-d of this article. The use of basic member contributions to offset a deficit of additional member contributions does not affect the contributions' tax designation pursuant to section 414(h) of the Internal Revenue Code**.

§ 5. Subparagraph (i) of paragraph 8 of subdivision e of section 604-a of the retirement and social security law, as added by chapter 547 of the laws of 1992, is amended to read as follows:

(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-year retirement program or otherwise**, except that, upon the participant's separation from city service as a result of retirement, a surplus of such additional member contributions that are paid into the retirement system's contingent**

reserve fund may be used for the sole purpose of offsetting a deficit of basic member contributions.

§ 6. Subparagraph (i) of paragraph 8 of subdivision e of section 604-b of the retirement and social security law, as added by chapter 529 of the laws of 1994, is amended to read as follows:

(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 and age fifty-five retirement program or otherwise, except that, upon the participant's separation from city service as a result of retirement, a surplus of such additional member contributions that are paid into the retirement system's contingent reserve fund may be used for the sole purpose of offsetting a deficit of basic member contributions.

§ 7. Subparagraph (i) of paragraph 7 of subdivision d of section 604-c of the retirement and social security law, as added by chapter 96 of the laws of 1995, is amended to read as follows:

(i) All additional member contributions required by this subdivision (and any interest paid thereon) which are received by the retirement system of which the participant is a member shall be paid into its contingent reserve fund 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 early retirement program or otherwise, except that, upon the participant's separation from city service as a result of retirement, a surplus of such additional member contributions that are paid into the retirement system's contingent reserve fund may be used for the sole purpose of offsetting a deficit of basic member contributions.

§ 8. Subparagraph (i) of paragraph 8 of subdivision e of section 604-c of the retirement and social security law, as added by chapter 472 of the laws of 1995, is amended to read as follows:

(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-year/age fifty retirement program or otherwise, except that, upon the participant's separation from city service as a result of retirement, a surplus of such additional member contributions that are paid into the retirement system's contingent reserve fund may be used for the sole purpose of offsetting a deficit of basic member contributions.

§ 9. Subparagraph (i) of paragraph 6 of subdivision f of section 604-d of the retirement and social security law, as added by chapter 96 of the laws of 1995, is amended to read as follows:

(i) All additional member contributions required by this subdivision (and any interest paid thereon) which are received by the retirement system of which the participant is a member shall be paid into its contingent reserve fund 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 age fifty-seven retirement program or otherwise, except that, upon the participant's separation from city service

as a result of retirement, a surplus of such additional member contributions that are paid into the retirement system's contingent reserve fund may be used for the sole purpose of offsetting a deficit of basic member contributions.

§ 10. Subparagraph (i) of paragraph 10 of subdivision e of section 604-e of the retirement and social security law, as added by chapter 576 of the laws of 2000, is amended to read as follows:

(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, except that, upon the participant's separation from city service as a result of retirement, a surplus of such additional member contributions that are paid into the retirement system's contingent reserve fund may be used for the sole purpose of offsetting a deficit of basic member contributions.

§ 11. Subparagraph (i) of paragraph 10 of subdivision e of section 604-e of the retirement and social security law, as added by chapter 577 of the laws of 2000, is amended to read as follows:

(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, except that, upon the participant's separation from city service as a result of retirement, a surplus of such additional member contributions that are paid into the retirement system's contingent reserve fund may be used for the sole purpose of offsetting a deficit of basic member contributions.

§ 12. Subparagraph (i) of paragraph 10 of subdivision e of section 604-f of the retirement and social security law, as added by chapter 559 of the laws of 2001, is amended to read as follows:

(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, except that, upon the participant's separation from city service as a result of retirement, a surplus of such additional member contributions that are paid into the retirement system's contingent reserve fund may be used for the sole purpose of offsetting a deficit of basic member contributions.

§ 13. Subparagraph (i) of paragraph 10 of subdivision e of section 604-f of the retirement and social security law, as added by chapter 582 of the laws of 2001, is amended to read as follows:

(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, except that, upon the participant's separation

from city service as a result of retirement, a surplus of such additional member contributions that are paid into the retirement system's contingent reserve fund may be used for the sole purpose of offsetting a deficit of basic member contributions.

§ 14. Subparagraph (i) of paragraph 10 of subdivision e of section 604-g of the retirement and social security law, as added by chapter 414 of the laws of 2002, is amended to read as follows:

(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/age fifty retirement program or otherwise, except that, upon the participant's separation from city service as a result of retirement, a surplus of such additional member contributions that are paid into the retirement system's contingent reserve fund may be used for the sole purpose of offsetting a deficit of basic member contributions.

§ 15. Subparagraph (i) of paragraph 10 of subdivision e of section 604-h of the retirement and social security law, as added by chapter 682 of the laws of 2003, is amended to read as follows:

(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, except that, upon the participant's separation from city service as a result of retirement, a surplus of such additional member contributions that are paid into the retirement system's contingent reserve fund may be used for the sole purpose of offsetting a deficit of basic member contributions.

§ 16. Section 613 of the retirement and social security law is amended by adding a new subdivision h to read as follows:

h. Notwithstanding any other provision of law to the contrary, upon the participant's separation from city service as a result of retirement, a participant may use any excess basic member contributions to offset a deficit of additional member contributions as required pursuant to sections six hundred four-a, six hundred four-b, six hundred four-c, as added by chapter 96 of the laws of 1995, six hundred four-c, as added by chapter 472 of the laws of 1995, six hundred four-d, six hundred four-e, as added by chapter 576 of the laws of 2000, six hundred four-e, as added by chapter 577 of the laws of 2000, six hundred four-f, as added by chapter 559 of the laws of 2001, six hundred four-f, as added by chapter 582 of the laws of 2001, six hundred four-g, and six hundred four-h of this article. The use of basic member contributions to offset a deficit of additional member contributions does not affect the contributions' tax designation pursuant to section 414(h) of the Internal Revenue Code.

§ 17. This act shall take effect immediately.

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

PROVISIONS OF PROPOSED LEGISLATION: This proposed legislation would amend the contribution provisions applicable to certain New York City Employees' Retirement System (NYCERS) Special Plans subject to Retirement and Social Security Law (RSSL) Article 14 and Article 15 to allow,

upon retirement, using any excess basic or additional member contributions to offset any deficits in such other contribution account.

The Effective Date of the proposed legislation would be the date of enactment.

PLANS IMPACTED BY THE PROPOSED LEGISLATION: The proposed legislation would cover those members of NYCERS who are participants in the following special plans requiring the payment of additional member contributions (Special Plans):

Article 14 Special Plans:

Twenty-Year Retirement Program for New York City Correction Members below the Rank of Captain

Twenty-Year Retirement Program for New York City Correction Members of the Rank of Captain or above

Twenty-Year Retirement Program for New York City Correction Members

Article 15 Special Plans:

Twenty-Year Retirement Program for New York City Sanitation Members

Twenty-Five-Year and Age Fifty-Five Retirement Program for New York City Transit Authority Members

Optional Twenty-Five-Year Early Retirement Program for Certain New York City Members

Twenty-Year/Age Fifty Retirement Program for Triborough Bridge and Tunnel Members

Age Fifty-Seven Retirement Program for Certain New York City Members

Twenty-Five Year Retirement Program for Dispatcher Members

Twenty-Five Year Retirement Program for EMT Members

Twenty-Five Year Retirement Program for Deputy Sheriff Members

Twenty-Five Year Retirement Program for Special Officer, Parking Control Specialist, School Safety Agent, Campus Peace Officer or New York City Taxi and Limousine Inspector Members

Twenty-Five Year/Age Fifty Retirement Program for Automotive Members

Twenty-Five Year Retirement Program for Police Communications Members

IMPACT ON BENEFITS PAYABLE: The proposed legislation would not materially affect the benefits payable to participants in the Special Plans. Rather, the proposed legislation would help reduce the administrative burdens associated with requiring the return of excess basic or additional member contributions, and requiring the return of excess basic or additional member contributions, and requiring a separate payment for any contribution deficits in such accounts (or the calculation of an actuarial reduction based such deficits) upon retirement.

FINANCIAL IMPACT - EMPLOYER CONTRIBUTIONS: The enactment of this proposed legislation would not result in any change in employer contributions.

STATEMENT OF ACTUARIAL OPINION: I, Sherry S. Chan, am the Chief Actuary for, and independent of, the New York City Pension Funds and Retirement Systems. I am a Fellow of the Society of Actuaries, a Fellow of the Conference of Consulting Actuaries and a Member of the American Academy of Actuaries. I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

FISCAL NOTE IDENTIFICATION: This Fiscal Note 2017-10 dated April 25, 2017, was prepared by the Chief Actuary for the New York City Employees' Retirement System. This estimate is intended for use only during the 2017 Legislative Session.