STATE OF NEW YORK

6134--A

2017-2018 Regular Sessions

IN SENATE

May 11, 2017

Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Cities -- recommitted to the Committee on Cities in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the administrative code of the city of New York and the retirement and social security law, in relation to permitting certain New York city correction members to borrow from their accumulated member contributions; and to repeal certain provisions of the retirement and social security law relating thereto

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

Section 1. Paragraph 8 of subdivision d of section 445-a of the retirement and social security law is REPEALED and paragraphs 9 and 10 are renumbered paragraphs 8 and 9.

§ 2. Paragraph 12 of subdivision d of section 445-c of the retirement and social security law is REPEALED and paragraphs 13, 14 and 15 are renumbered paragraphs 12, 13 and 14.

§ 3. Paragraph 9 of subdivision e of section 504-a of the retirement and social security law is REPEALED.

§ 4. Paragraph 13 of subdivision e of section 504-b of the retirement and social security law is REPEALED.

§ 5. Subdivision a of section 13-140 of the administrative code of the city of New York, as amended by chapter 642 of the laws of 1985, is amended to read as follows:

a. Any member in city service who shall have been a member continuously at least three years, may borrow from the contingent reserve fund, subject to such rules and regulations as may be approved by such board, an amount not exceeding _the sum of (i)_ seventy-five per centum of the amount in his or her account in the annuity savings fund_, (ii) all additional contributions, together with interest thereon, made by such_

member pursuant to section four hundred forty-five-a of the retirement and social security law, and (iii) all additional contributions, together with interest thereon, made by such member pursuant to section four hundred forty-five-c of the retirement and social security law. The rate of interest payable on any loan made under this section shall be two per centum higher than the rate of regular interest creditable to the account of the member. The amount so borrowed, together with interest on any unpaid balance thereof shall be repaid to the retirement system in equal installments by deduction from the compensation of the member at the time the compensation is paid, but such installments shall be at least five per centum of the member's earnable compensation. All payments of principal and interest made by such member shall be credited to the contingent reserve fund.

§ 6. Paragraph 1 of subdivision b of section 517-c of the retirement and social security law, as amended by chapter 303 of the laws of 2017, is amended to read as follows:

1. A member of the New York state and local employees' retirement system, the New York state and local police and fire retirement system, the New York city employees' retirement system or the New York city board of education retirement system in active service who has credit for at least one year of member service may borrow, no more than once during each twelve month period, an amount not exceeding seventy-five percent of the total contributions made pursuant to section **five hundred four-a (including interest credited at the rate set forth in subparagraph (ii) of paragraph eight of subdivision e of such section five hundred four-a compounded annually), or section five hundred four-b (including interest credited at the rate set forth in subparagraph (ii) of paragraph twelve of subdivision e of such section five hundred four-b compounded annually) or section** five hundred seventeen of this article (including interest credited at the rate set forth in subdivision c of such section five hundred seventeen compounded annually) and not less than one thousand dollars, provided, however, that the provisions of this section shall not apply to a New York city uniformed correction/sanitation revised plan member or an investigator revised plan member.

§ 7. This act shall take effect immediately.

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

SUMMARY OF BILL: This proposed legislation would amend Retirement and Social Security Law (RSSL) and Administrative Code of the City of New York (ACCNY) to permit certain correction officer members of the New York City Employees' Retirement System (NYCERS), who are participants in the Tier 2 and Tier 3 Twenty-Year Improved Benefit Program for correction officers (CO-20 Plans) and such Plans for ranks of correction captains and above (CC-20 Plans), to take loans against their accumulated additional member contributions with interest (AMC).

Effective Date: Upon enactment.

BACKGROUND: NYCERS members who participate in the Tier 2 and Tier 3 CO-20 and CC-20 Plans are generally permitted, subject to certain restrictions, to borrow up to 75% of the value of their accumulated basic member contributions (BMC) with interest. However, these correction members are currently not permitted to take loans on their AMC.

The proposed legislation would permit NYCERS members who are participants in the Tier 2 CO-20 and CC-20 Plans to borrow 100% of their AMC, and permit Tier 3 CO-20 and CC-20 Plan participants to borrow up to 75%

of their AMC. The loans on the AMC would be in addition to currently permissible loans in an amount not to exceed 75% of BMC for such Plans.

In the event an outstanding loan exists at retirement, the balance of the unpaid loan is converted into an annuity and is deducted, on an actuarial basis, from the annual retirement allowance otherwise payable. For purposes of this fiscal note, it has been assumed that the yield on 30-year U.S. Treasury securities, used to convert applicable unpaid loans at retirement into annuities, on a long-term basis, would equal 4.0% per year.

Because there are no active Tier 2 CO-20 and CC-20 Plan participants, the analysis in this Fiscal Note is limited to Tier 3 CO-20 and CC-20 Plan participants. Therefore, it is assumed that each applicable participant will borrow 75% of his or her respective AMC balance at retirement.

This Fiscal Note also does not account for any tax implications or penalties that may result to NYCERS members in the event loans exceed thresholds set by the Internal Revenue Service.

FINANCIAL IMPACT - RELATED TO OUTSTANDING LOANS AT RETIREMENT: As explained above, any outstanding loan balance at retirement is converted to an annuity and deducted from the annual retirement allowance otherwise payable. This conversion is made on an actuarial basis that is different than the basis used to determine the employer contribution to NYCERS. As a result of this difference in actuarial bases and based on the census data and actuarial assumptions and methods described herein, the enactment of this proposed legislation would increase the Present Value of Future (PVF) of Benefits (PVFB) and PVF employer contributions by approximately $47.3 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 $32.2 million and an increase in the PVF employer Normal Cost of $15.1 million.

FINANCIAL IMPACT - RELATED TO LOST INVESTMENT EARNINGS: Currently, member contributions are invested with other NYCERS assets in accordance with the NYCERS' overall investment policy. Thus, member contributions are expected to earn, in accordance with NYCERS' long-term assumption for earnings on assets, 7.0% per annum.

When an active member borrows member contributions from NYCERS, the loan is repaid with interest (excluding loan insurance or other adjustments) at 6.0% per annum prior to retirement. Thus, NYCERS asset earnings would be lessened due to the decrease in assets attributable to the amount of loans outstanding.

Therefore, the borrowed AMC while in active service is expected to reduce overall NYCERS investment earnings by approximately $475 for every $100,000 borrowed, resulting in a decrease in the Actuarial Value of Assets (AVA). As of June 30, 2017, members eligible to borrow member contributions under this proposed legislation had AMC balances totaling approximately $303.9 million, $227.9 million of which would be eligible for a loan. If all members borrowed the maximum amount, the result would be a decrease in the AVA, or asset loss, of approximately $1.1 million per year.

FINANCIAL IMPACT - ANNUAL EMPLOYER CONTRIBUTIONS: In accordance with the Administrative Code of the City of New York (ACCNY) Section 13-638.2(k-2), new UAL attributable to benefit changes are to be amortized as determined by the Actuary but generally over the remaining working lifetime of those impacted by the benefit changes. As of June

30, 2017, the remaining working lifetime of the members in CO-20 and CC-20 Plans is approximately eight years.

For the purposes of this Fiscal Note, the increase in UAL was amortized over an eight-year period (seven payments under the One-Year Lag Methodology) using level dollar payments. This payment plus the increase in the Normal Cost results in an increase in annual employer contributions of approximately $8.3 million.

Since the changes in NYCERS AVA under this proposed legislation are not known in advance, the asset loss due to this legislation has been treated as an actuarial loss. These actuarial losses were amortized over a 15-year period (14 payments under the One-Year Lag Methodology) using level dollar payments. The actuarial losses related to the lost investment earnings, will eventually compound to an increase in employer contributions of $1.1 million per year.

Therefore, the total cost for this legislation, if enacted, is $9.4 million per year.

OTHER COSTS: Not measured in this Fiscal Note are the additional administrative costs of NYCERS and other New York City agencies to implement the proposed legislation.

CONTRIBUTIONS TIMING: For the purposes of this Fiscal Note, it is assumed that the changes in the PVF employer contributions, and annual employer contributions would be reflected for the first time in the June 30, 2017 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 2019.

CENSUS DATA: The estimates presented herein are based on census data used in the Preliminary June 30, 2017 (Lag) actuarial valuation of NYCERS to determine Preliminary Fiscal Year 2019 employer contributions.

ACTUARIAL ASSUMPTIONS AND METHODS: The changes in the APV of future employer contributions and annual employer contributions presented herein have been calculated based on the same actuarial assumptions and methods in effect for the June 30, 2017 (Lag) actuarial valuations used to determine the Preliminary Fiscal Year 2019 employer contributions of NYCERS. Please note these assumptions and methods are subject to change as this valuation is not considered final until the end of Fiscal Year 2019.

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 (ERISA), 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 2018-51 dated August 20, 2018, was prepared by the Chief Actuary for the New York City Employees' Retirement System. This estimate is intended for use only during the 2018 Legislative Session.