STATE OF NEW YORK

6139--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 Civil Service and Pensions -- recommitted to the Committee on Civil Service and Pensions 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 retirement and social security law, in relation to the return of member contributions

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

Section 1. Subparagraph (ii) of paragraph 7 of subdivision d of section 445-a of the retirement and social security law, as amended by chapter 631 of the laws of 1993, is amended to read as follows:

(ii) Except as otherwise provided in subparagraph (iii) of this paragraph, should a participant in the twenty-year improved benefit retirement program[~~, who has rendered less than fifteen years of credited service~~] cease to hold the position of New York city correction officer below the rank of captain for any reason whatsoever **other than service retirement or resignation with a vested right to a benefit**, 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made pursuant to this subdivision (together with any interest thereon paid to the retirement system) may be withdrawn by him or her pursuant to procedures promulgated in regulations of the board of trustees of the retirement system, together with interest thereon equal to eight and one-quarter percent per annum, compounded annually.

§ 2. Paragraph 6 of subdivision d of section 445-c of the retirement and social security law, as added by chapter 631 of the laws of 1993, is amended to read as follows:

6. Where a person [~~who~~] became or becomes a participant in the twenty-year improved benefit retirement program for captains and above [~~has rendered less than fifteen years of credited service as of the date he~~

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

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~~or she became or becomes a New York city correction member of the rank of captain or above~~], the amount of the contribution deficiency charged to such a participant pursuant to paragraph five of this subdivision, consisting of retroactive additional member contributions plus interest on such amounts, shall be reduced by an amount equal to the additional member contributions which such participant made pursuant to paragraph one of subdivision d of section four hundred forty-five-a of this article as a participant in the twenty-year improved benefit retirement program for correction officers below the rank of captain (together with any interest thereon) which are on deposit in the contingent reserve fund of the retirement system on the date such person became or becomes a participant in the twenty-year improved benefit retirement program for captains and above.

§ 3. Clause (A) of subparagraph (ii) of paragraph 11 of subdivision d of section 445-c of the retirement and social security law, as added by chapter 631 of the laws of 1993, is amended to read as follows:

(A) Should a participant in the twenty-year improved benefit retirement program for captains and above [~~who has rendered less than fifteen years of credited service~~] cease to hold the position of New York city correction officer of the rank of captain or above for any reason whatsoever, **other than service retirement or resignation with a vested right to a benefit,** 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 eight and one-quarter percent per annum, compounded annually.

§ 4. Clause (A) of subparagraph (ii) of paragraph 8 of subdivision e of section 504-a of the retirement and social security law, as amended by chapter 622 of the laws of 2004, is amended to read as follows:

(A) Except as otherwise provided in subparagraph (iii) of this paragraph, should a participant in the twenty-year retirement program [~~who has rendered less than fifteen years of credited service~~] cease to hold the position of New York city correction officer below the rank of captain for any reason whatsoever **other than service retirement or resignation with a vested right to a benefit under this section**, 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.

§ 5. Paragraph 6 of subdivision e of section 504-b of the retirement and social security law, as amended by chapter 622 of the laws of 2004, is amended to read as follows:

6. Where a person [~~who~~] became or becomes a participant in the twenty-year retirement program for captains and above [~~has rendered less than fifteen years of credited service as of the date he or she became or becomes a New York city correction member of the rank of captain or above~~], the amount of the contribution deficiency charged to such a participant pursuant to paragraph five of this subdivision, consisting of retroactive additional member contributions plus interest on such amounts, shall be reduced by an amount equal to the additional member contributions which such participant made pursuant to paragraph one of subdivision e of section five hundred four-a of this article as a participant in the twenty-year retirement program for correction offi-

cers below the rank of captain (together with any interest thereon) which are on deposit in the contingent reserve fund of the retirement system on the date such person became or becomes a participant in the twenty-year retirement program for captains and above, provided, however, that for persons who elect to become a participant in the twenty-year retirement program for captains and above pursuant to subparagraph (ii) of paragraph one of subdivision b of this section or subparagraph (ii) of paragraph two of subdivision b of this section, such reduction pursuant to this paragraph in the amount of such contribution deficiency shall be by the amount of such additional member contributions made pursuant to subdivision e of section five hundred four-a **of this article** (together with any interest thereon) which are on deposit in such contingent reserve fund at the time such member files such election to become such a participant, and such participant shall not thereafter be permitted to withdraw any portion of such additional member contributions made pursuant to subdivision e of section five hundred four-a **of this article** at any time while he or she is a participant in the twenty-year retirement program for captains and above, and provided further that the provisions of this paragraph shall apply to any person who is a participant in the twenty-year retirement program for captains and above on or after the revised contribution date, even where such person has rendered fifteen or more years of credited service as of the date he or she became a New York city correction member of the rank of captain or above.

§ 6. Clause (A) of subparagraph (ii) 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:

(A) Should a participant in the twenty-year retirement program for captains and above [~~who has rendered less than fifteen years of credited service~~] cease to hold the position of New York city correction officer of the rank of captain or above for any reason whatsoever **other than service retirement or resignation with a vested right to a benefit under this section**, 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 head of the retirement system, together with interest thereon at the rate of five percent per annum, compounded annually.

§ 7. This act shall take effect immediately.

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

SUMMARY OF BILL: This proposed legislation would amend provisions of Article 11 and 14 of the Retirement and Social Security Law to permit certain correction officer members of the New York City Employees' Retirement System (NYCERS), who are participants in the Tiers 2 and 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), and who cease to hold the title of correction officer, other than by retirement or separation with a vested benefit, on and after 15 years of credited service, to withdraw their accumulated additional member contributions (AMCs) with interest (Applicable Members). However, since there are currently no Tier 2 CO-20 or CC-20 Plan members who would be affected by this proposed legislation, the analysis contained herein is limited to Tier 3 CO-20 and CC-20 Plan members.

Effective Date: Upon enactment.

BACKGROUND: Currently, Applicable Members with less than 15 years of credited service who cease to hold the title of correction officer and

withdraw from their respective CO-20 or CC-20 Plan are eligible for a refund of AMCs. Applicable Members who have rendered 15 or more years of credited service and cease to hold the title of correction officer and withdraw from their respective CO-20 or CC-20 Plan forfeit AMCs.

AMCs are generally required for the first 20 years of credit service in the CO-20 or CC-20 Plans. For Tier 3 CO-20 Plan members first employed as a correction officer after June 30, 1988, AMCs are 3.61% of salary. AMCs for Tier 3 CC-20 Plan members first employed as a correction officer after October 31, 1992 are 7.46% of salary.

The proposed legislation would permit Applicable Members with 15 or more years of credited service to withdraw from their respective Plan and receive a refund of AMCs, with interest, upon the cessation of holding a correction officer title. Applicable Members who withdraw from their respective Plan and receive a refund of AMCs would no longer be eligible to receive a CO-20 or CC-20 Plan benefit, but may still be entitled to a benefit in an applicable underlying basic plan.

FINANCIAL IMPACT - ACTUARIAL PRESENT VALUES: Based on the census data and actuarial assumptions and methods described herein, the enactment of this proposed legislation would increase the Actuarial Present Value (APV) of Benefits (APVB) and APV of future employer contributions by approximately $15.5 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 $7.6 million and an increase in the APV of future employer Normal Cost of $7.9 million.

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 $2.5 million.

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.

CONTRIBUTION TIMING: For the purposes of this Fiscal Note, it is assumed that the changes in the APV of future 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 2018-45 dated July 10, 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.