STATE OF NEW YORK

8497

IN SENATE

May 9, 2018

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 amending the contribution provisions applicable to certain New York City Employees' Retirement System (NYCERS) Special Plans subject to Retirement and Social Security Law (RSSL) Articles 14 and 15 to allow using any excess basic or additional member contributions to offset any deficits in such other contribution account prior to date of 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 467 of the laws of 2017, 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 amended by chapter 467 of the laws of 2017, 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

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

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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 amended by chapter 467 of the laws of 2017, 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 amended by chapter 467 of the laws of 2017, 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~~]**. The retirement system** may [~~be used~~] **at any time use any such excess contributions** 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 amended by chapter 467 of the laws of 2017, 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 amended by chapter 467 of the laws of 2017, 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 amended by section 7 of chapter 467 of the laws of 2017, 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 amended by section 8 of chapter 467 of the laws of 2017, 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 amended by chapter 467 of the laws of 2017, 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 amended by section 10 of chapter 467 of the laws of 2017, 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 amended by section 11 of chapter 467 of the laws of 2017, 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 amended by section 12 of chapter 467 of the laws of 2017, 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 amended by section 13 of chapter 467 of the laws of 2017, 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 amended by chapter 467 of the laws of 2017, 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 amended by chapter 467 of the laws of 2017, 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. Subdivision h of section 613 of the retirement and social security law, as added by chapter 467 of the laws of 2017, is amended 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:

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) Articles 14 and 15 to allow using any excess basic or additional member contributions to offset any deficits in such other contribution account prior to date of retirement.

The Effective Date: Upon 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 affect the benefits payable to participants in the Special Plans. Rather, the proposed legislation would enable immediate reallocation of excess basic or additional member contributions to cover any deficits in such contribution accounts instead of performing such transfer of excess contributions at the date of retirement as permitted by Chapter 467 of the Laws of 2017.

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 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 2018-26 dated May 4, 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.