

STATE OF NEW YORK

6038

2019-2020 Regular Sessions

IN SENATE

May 16, 2019

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 allowing members of the New York city employees' retirement system and the New York city board of education employees' retirement system to elect the benefits provided by chapter 96 of the laws of 1995

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

1 Section 1. Subdivision b of section 445-d of the retirement and social
2 security law, as added by chapter 96 of the laws of 1995, is amended by
3 adding a new paragraph 7 to read as follows:

4 7. Notwithstanding any other provision of law to the contrary, any
5 member of the New York city employees' retirement system or the New York
6 city board of education employees' retirement system who was eligible to
7 be covered by the provisions of: (i) paragraph one or two of this subdi-
8 vision, or (ii) section six hundred four-c of this chapter, pursuant to
9 paragraph one or two of subdivision b of such section, as added by chap-
10 ter ninety-six of the laws of nineteen hundred ninety-five, may be
11 deemed to have elected to be covered by the benefit provision of either
12 of the above programs as of the starting date of such program if, within
13 one hundred twenty days of the effective date of this paragraph, such
14 person shall file with their retirement system, a written request to
15 that effect.

16 § 2. Paragraph 1 of subdivision d of section 445-d of the retirement
17 and social security law, as amended by chapter 509 of the laws of 2001,
18 is amended to read as follows:

19 1. In addition to the member contributions required by section 13-125
20 or 13-162 of the administrative code or section eight or thirty of the
21 BERS rules and regulations, each participant in the age fifty-five
22 improved benefit retirement program shall contribute, subject to the
23 applicable provisions of section 13-125.2 of the administrative code or

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

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1 subdivision nineteen of section twenty-five hundred seventy-five of the
2 education law, an additional percentage or additional percentages of his
3 or her compensation to the retirement system of which he or she is a
4 member in accordance with the following schedule:

5 (i) (A) each such participant shall contribute an additional four and
6 thirty-five one-hundredths percent of his or her compensation earned
7 from all credited CPP qualifying service (whether or not in a physically
8 taxing position) rendered on and after the starting date of the age
9 fifty-five improved benefit retirement program and prior to the
10 commencement date of the first payroll period which begins after January
11 first, nineteen hundred ninety-eight (1) while such person is a partic-
12 ipant in such program; and (2) before such person becomes such a partic-
13 ipant pursuant to paragraph one ~~[or]~~, two or seven of subdivision b of
14 this section (whether or not rendered in a New York city eligible posi-
15 tion); and (3) after such person ceases to be a participant, but before
16 he or she again becomes such a participant pursuant to paragraph five of
17 such subdivision b (whether or not rendered in a New York city eligible
18 position); and

19 (B) each such participant shall contribute an additional two and
20 eighty-five one-hundredths percent of his or her compensation earned
21 from all credited CPP qualifying service (whether or not in a physically
22 taxing position) rendered on and after the commencement date of the
23 first payroll period which begins after January first, nineteen hundred
24 ninety-eight and prior to the commencement date of the first payroll
25 period which begins subsequent to the effective date of ~~[the]~~ chapter
26 five hundred nine of the laws of two thousand one ~~[which amended this~~
27 ~~item]~~ (1) while such person is a participant in such program; and (2)
28 before such person becomes such a participant pursuant to paragraph one
29 ~~[or]~~, two or seven of subdivision b of this section (whether or not
30 rendered in a New York city eligible position); and (3) after such
31 person ceases to be a participant, but before he or she again becomes
32 such a participant pursuant to paragraph five of such subdivision b
33 (whether or not rendered in a New York city eligible position); and

34 (C) each such participant shall contribute an additional one and
35 eighty-five one-hundredths percent of his or her compensation earned
36 from all credited CPP qualifying service (whether or not in a physically
37 taxing position) rendered on and after the commencement date of the
38 first payroll period which begins subsequent to the effective date of
39 ~~[the]~~ chapter five hundred nine of the laws of two thousand one ~~[which~~
40 ~~added this item]~~ (1) while such person is a participant in such program;
41 and (2) before such person becomes such a participant pursuant to para-
42 graph one ~~[or]~~, two or seven of subdivision b of this section (whether
43 or not rendered in a New York city eligible position); and (3) after
44 such person ceases to be a participant, but before he or she again
45 becomes such a participant pursuant to paragraph five of such subdivi-
46 sion b (whether or not rendered in a New York city eligible position);
47 and

48 (ii) each such participant who is employed in a physically taxing
49 position (as defined in paragraph eleven of subdivision a of this
50 section) shall contribute, in addition to the additional member contrib-
51 utions required to be made at the percentage of compensation specified
52 in subparagraph (i) of this paragraph for the credited CPP qualifying
53 service specified in such subparagraph (i), an additional one and nine-
54 ty-eight one-hundredths percent of his or her compensation earned from
55 that portion of such credited CPP qualifying service which is rendered
56 in a physically taxing position on and after the starting date of the

1 age fifty-five improved benefit retirement program (A) while such person
2 is a participant in such program; and (B) before such person becomes
3 such a participant pursuant to paragraph one ~~[or]~~, two or seven of
4 subdivision b of this section; and (C) after such person ceases to be a
5 participant, but before he or she again becomes such a participant
6 pursuant to paragraph five of such subdivision b.

7 § 3. Subdivision b of section 604-c of the retirement and social secu-
8 rity law, as added by chapter 96 of the laws of 1995, is amended by
9 adding a new paragraph 8 to read as follows:

10 8. Notwithstanding paragraphs one, two, and seven of this subdivision
11 and any other provisions of law to the contrary, any person who met the
12 participation requirements of paragraph one or two of this subdivision,
13 but who failed to file a duly executed application for such partic-
14 ipation pursuant to paragraph one or two of this subdivision, respec-
15 tively, may elect to become a participant in the twenty-five year early
16 retirement program by filing, within one hundred twenty days of the
17 effective date of this paragraph, a duly executed application for such
18 participation with the NYCERS or the BERS, provided he or she is an
19 eligible member in active service on the date such application is filed.

20 § 4. Paragraph 1 of subdivision d of section 604-c of the retirement
21 and social security law, as amended by chapter 509 of the laws of 2001,
22 is amended to read as follows:

23 1. In addition to the member contributions required by section six
24 hundred thirteen of this article, each participant in the twenty-five-
25 year early retirement program shall contribute (subject to the applica-
26 ble provisions of subdivision d of section six hundred thirteen of this
27 article) an additional percentage or additional percentages of his or
28 her compensation to the retirement system of which he or she is a member
29 in accordance with the following schedule:

30 (i) (A) each such participant shall contribute an additional four and
31 thirty-five one-hundredths percent of his or her compensation earned
32 from all credited service (whether or not in a physically taxing posi-
33 tion) rendered on and after the starting date of the twenty-five-year
34 early retirement program and prior to the commencement date of the first
35 payroll period which begins after January first, nineteen hundred nine-
36 ty-eight (1) while such person is a participant in such program; and (2)
37 before such person becomes such a participant pursuant to paragraph one
38 ~~[or]~~, two or eight of subdivision b of this section (whether or not
39 rendered in a New York city eligible position); and (3) after such
40 person ceases to be a participant, but before he or she again becomes
41 such a participant pursuant to paragraph five of such subdivision b
42 (whether or not rendered in a New York city eligible position); and

43 (B) each such participant shall contribute an additional two and
44 eighty-five one-hundredths percent of his or her compensation earned
45 from all credited service (whether or not in a physically taxing posi-
46 tion) rendered on and after the commencement date of the first payroll
47 period which begins after January first, nineteen hundred ninety-eight
48 and prior to the commencement date of the first payroll period which
49 begins subsequent to the effective date of ~~[the]~~ chapter five hundred
50 nine of the laws of two thousand one ~~[which amended this item]~~ (1) while
51 such person is a participant in such program; and (2) before such person
52 becomes such a participant pursuant to paragraph one ~~[or]~~, two or eight
53 of subdivision b of this section (whether or not rendered in a New York
54 city eligible position); and (3) after such person ceases to be a
55 participant, but before he or she again becomes such a participant

1 pursuant to paragraph five of such subdivision b (whether or not
2 rendered in a New York city eligible position); and

3 (C) each such participant shall contribute an additional one and
4 eighty-five one-hundredths percent of his or her compensation earned
5 from all credited service (whether or not in a physically taxing posi-
6 tion) rendered on and after the commencement date of the first payroll
7 period which begins subsequent to the effective date of [~~the~~] chapter

8 five hundred nine of the laws of two thousand one [~~which added this~~
9 ~~item~~] (1) while such person is a participant in such program; and (2)

10 before such person becomes such a participant pursuant to paragraph one
11 [~~or~~], two or eight of subdivision b of this section (whether or not
12 rendered in a New York city eligible position); and (3) after such
13 person ceases to be a participant, but before he or she again becomes
14 such a participant pursuant to paragraph five of such subdivision b
15 (whether or not rendered in a New York city eligible position); and

16 (ii) each such participant who is employed in a physically taxing
17 position (as defined in paragraph eleven of subdivision a of this
18 section) shall contribute, in addition to the additional member contrib-
19 utions required to be made at the percentage of compensation specified
20 in subparagraph (i) of this paragraph for the credited service specified
21 in such subparagraph (i), an additional one and ninety-eight one-hun-
22 dredths percent of his or her compensation earned from that portion of
23 such credited service which is rendered in a physically taxing position
24 on and after the starting date of the twenty-five-year early retirement
25 program (A) while such person is a participant in such program; and (B)
26 before such person becomes such a participant pursuant to paragraph one
27 [~~or~~], two or eight of subdivision b of this section; and (C) after such
28 person ceases to be a participant, but before he or she again becomes
29 such a participant pursuant to paragraph five of such subdivision b.

30 (iii) notwithstanding the provisions of subparagraphs (i) and (ii) of
31 this paragraph, a person who becomes a participant in the twenty-five-
32 year early retirement program provided by this section, who prior to
33 such membership was subject to the provisions of section six hundred
34 four-b of this article, shall not be required to pay the additional
35 member contributions required by subparagraphs (i) and (ii) of this
36 paragraph for any period of credited service before which such person
37 became a participant pursuant to paragraph one [~~or~~], two or eight of
38 subdivision b of this section and during which such participant was
39 subject to the provisions of such section six hundred four-b and no
40 additional employee contributions were required of such member.

41 § 5. Subdivision c of section 604-d of the retirement and social secu-
42 rity law is amended by adding a new paragraph 7 to read as follows:

43 7. Notwithstanding paragraphs one and six of this subdivision and any
44 other provisions of law to the contrary, any person who met the partic-
45 ipation requirements of paragraph one of this subdivision, but who
46 failed to file a duly executed application for such participation pursu-
47 ant to paragraph one of this subdivision, may elect to become a partic-
48 ipant in the age fifty-seven retirement program by filing, within one
49 hundred twenty days of the effective date of this paragraph a duly
50 executed application for such participation with the NYCERS or the BERS,
51 provided he or she is an eligible member in active service on the date
52 such application is filed.

53 § 6. Paragraph 1 of subdivision f of section 604-d of the retirement
54 and social security law, as amended by chapter 509 of the laws of 2001,
55 is amended to read as follows:

1 1. In addition to the member contributions required by section six
2 hundred thirteen of this article, each participant in the age fifty-sev-
3 en retirement program shall contribute (subject to the applicable
4 provisions of subdivision d of section six hundred thirteen of this
5 article) an additional percentage or additional percentages of his or
6 her compensation to the retirement system of which he or she is a member
7 in accordance with the following schedule:

8 (i) (A) each such participant shall contribute an additional four and
9 thirty-five one-hundredths percent of his or her compensation earned
10 from all credited service (whether or not in a physically taxing posi-
11 tion) rendered prior to the commencement date of the first payroll peri-
12 od which begins after January first, nineteen hundred ninety-eight (1)
13 while such person is a participant in such program; and (2) before such
14 person becomes such a participant pursuant to paragraph one ~~[or]~~, three
15 or seven of subdivision c of this section (whether or not rendered in a
16 New York city eligible position, and whether rendered before or after
17 the enactment date of the age fifty-seven retirement program); and (3)
18 after such person ceases to be a participant, but before he or she again
19 becomes such a participant pursuant to paragraph five of such subdivi-
20 sion c (whether or not rendered in a New York city eligible position);
21 and

22 (B) each such participant shall contribute an additional two and
23 eighty-five one-hundredths percent of his or her compensation earned
24 from all credited service (whether or not in a physically taxing posi-
25 tion) rendered on and after the commencement date of the first payroll
26 period which begins after January first, nineteen hundred ninety-eight
27 and prior to the commencement date of the first payroll period which
28 begins subsequent to the effective date of ~~[the]~~ chapter five hundred
29 nine of the laws of two thousand one ~~[which amended this item]~~ (1) while
30 such person is a participant in such program; and (2) before such person
31 becomes such a participant pursuant to paragraph one ~~[or]~~, three or
32 seven of subdivision c of this section (whether or not rendered in a New
33 York city eligible position); and (3) after such person ceases to be a
34 participant, but before he or she again becomes such a participant
35 pursuant to paragraph five of such subdivision c (whether or not
36 rendered in a New York city eligible position); and

37 (C) each such participant shall contribute an additional one and
38 eighty-five one-hundredths percent of his or her compensation earned
39 from all credited service (whether or not in a physically taxing posi-
40 tion) rendered on and after the commencement date of the first payroll
41 period which begins subsequent to the effective date of ~~[the]~~ chapter
42 five hundred nine of the laws of two thousand one ~~[which added this~~
43 ~~item]~~ (1) while such person is a participant in such program; and (2)
44 before such person becomes such a participant pursuant to paragraph one
45 ~~[or]~~, three or seven of subdivision c of this section (whether or not
46 rendered in a New York city eligible position); and (3) after such
47 person ceases to be a participant, but before he or she again becomes
48 such a participant pursuant to paragraph five of such subdivision c
49 (whether or not rendered in a New York city eligible position); and

50 (ii) each such participant who is employed in a physically taxing
51 position (as defined in paragraph eleven of subdivision a of section six
52 hundred four-c of this article) shall contribute, in addition to the
53 additional member contributions required to be made at the percentage of
54 compensation specified in subparagraph (i) of this paragraph for the
55 credited service specified in such subparagraph (i), an additional one
56 and ninety-eight one-hundredths percent of his or her compensation

1 earned from that portion of such credited service which is rendered in a
2 physically taxing position (A) while such person is a participant in
3 such program; and (B) before such person becomes such a participant
4 pursuant to paragraph one ~~[or]~~, three or seven of subdivision c of this
5 section (whether rendered before or after the enactment date of the age
6 fifty-seven retirement program); and (C) after such person ceases to be
7 a participant, but before he or she again becomes such a participant
8 pursuant to paragraph five of such subdivision c.

9 (iii) notwithstanding the provisions of subparagraphs (i) and (ii) of
10 this paragraph, a person who becomes a participant in the age fifty-sev-
11 en early retirement program provided by this section, who prior to such
12 membership was subject to the provisions of section six hundred four-b
13 of this article, shall not be required to pay the additional member
14 contributions required by subparagraphs (i) and (ii) of this paragraph
15 for any period of credited service before which such person became a
16 participant pursuant to paragraph one ~~[or]~~, three or seven of subdivi-
17 sion c of this section and during which such participant was subject to
18 the provisions of such section six hundred four-b and no additional
19 employee contributions were required of such member.

20 § 7. This act shall take effect immediately.