STATE OF NEW YORK

5906--B

2019-2020 Regular Sessions

IN SENATE

May 16, 2019

Introduced by Sens. GOUNARDES, COMRIE, FUNKE, GAUGHRAN, KAMINSKY, KAPLAN, SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- 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 allowing certain members of the New York city police pension fund to borrow from contributions

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

Section 1. Paragraphs 1 and 2 of subdivision b of section 517-c of the retirement and social security law, paragraph 1 as amended and paragraph 2 as added by chapter 303 of the laws of 2017, are 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 **or the New York city police pension fund** 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 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.

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

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2. A member of the New York state and local employees' retirement system who first joins such system on or after January first, two thousand eighteen**, or a member of the New York city police pension fund who first joins such system on or after January first, two thousand eighteen** 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 less than one thousand dollars and which would not cause the balance owed pursuant to this section, including any amounts borrowed then outstanding, to exceed (i) fifty percent of the member's total contributions made pursuant to 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); or (ii) fifty thousand dollars, whichever is less.

§ 2. Subdivisions d and i of section 517-c of the retirement and social security law, subdivision d as added by chapter 920 of the laws of 1990 and subdivision i as amended by chapter 426 of the laws of 2018, are amended to read as follows:

d. The rate of interest payable upon loans made pursuant to this section shall: (1) for members of the New York state and local employees' retirement system, be one percent less than the valuation rate of interest adopted for such system, however, in no event shall the rate be less than the rate set forth in subdivision c of section five hundred seventeen of this article; (2) for members of the New York city employees' retirement system, be one percent less than the regular interest rate established pursuant to [~~subdivision (c) of section 13-101.12~~] **paragraph (c) of subdivision twelve of section 13-101** of the administrative code of the city of New York for such system, however, in no event shall the rate be less than the rate set forth in subdivision c of section five hundred seventeen of this article; [~~and~~] (3) for members of the New York city board of education retirement system, be one percent less than the regular interest rate established pursuant to subparagraph four of paragraph (b) of subdivision sixteen of section twenty-five hundred seventy-five of the education law for such system, however, in no event shall the rate be less than the rate set forth in subdivision c of section five hundred seventeen of this article**; and (4) for members of the New York city police pension fund, be one percent less than the regular interest rate established pursuant to subdivision b of section 13-638.2 of the administrative code of the city of New York for such system, however, in no event shall the rate be less than the rate set forth in subdivision c of section five hundred seventeen of this article**. Whenever there is a change in the interest rate, it shall be applicable to loans made or renegotiated after the date of such change in the interest rate.

i. Notwithstanding the provisions of section five hundred sixteen of this article, whenever a member of such a retirement system, for whom a loan is outstanding, retires, the retirement allowance payable without optional modification shall be reduced by a life annuity which is actuarially equivalent to the amount of the outstanding loan (all outstanding loans shall continue to accrue interest charges until retirement), such life annuity being calculated utilizing the interest rate on thirty year United States treasury bonds as of January first of the calendar year of the effective date of retirement and the mortality tables for options available under section five hundred fourteen of this article. A retiree of the New York city employees' retirement system, board of education retirement system of the city of New York, [~~or~~] the New York state and local employees' retirement system**, or the New York city**

police pension fund whose benefit has been so reduced may repay the outstanding balance of the loan at any time. Benefits payable after the repayment of the loan shall not be subject to the actuarial reduction required by this subdivision.

§ 3. 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 Tier 3, Tier 3 Revised, and Tier 3 Enhanced members (who are subject to Article 14) of the New York City Police Pension Fund (POLICE), to take loans against their accumulated total member contributions with interest.

Effective Date: Upon enactment.

BACKGROUND: Tier 1 and Tier 2 members of POLICE are generally permitted, subject to certain restrictions, to borrow from their accumulated Basic Member Contributions (BMC) with interest. However, Tier 3, Tier 3 Revised, and Tier 3 Enhanced members are currently not permitted to take loans on their contributions.

The proposed legislation would permit Tier 3, Tier 3 Revised, and Tier 3 Enhanced members of POLICE to borrow from their accumulated total member contributions, which include Enhanced Plan Additional Member Contributions (AMC). For members with a date of membership before January 1, 2018, the members may take out a loan up to 75% of their total contributions plus accumulated interest. For members with a date of membership on and after January 1, 2018, the loan is limited to 50% of their total member contributions plus accumulated interest or $50,000, whichever is less.

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

FINANCIAL IMPACT - RELATED TO OUTSTANDING LOANS AT RETIREMENT: In the event an outstanding loan exists at retirement, the balance of the unpaid loan is converted to an annuity based on the yield on 30-year U.S. Treasury securities 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 POLICE. As a result of this difference in actuarial bases and based on the census data, actuarial assumptions and methods described herein, the enactment of this proposed legislation would increase the Present Value of Future Benefits (PVFB) by approximately $340.6 million.

Under the Entry Age Normal cost method used to determine the employer contributions to POLICE, there would be an increase in the Unfunded Accrued Liability (UAL) of approximately $59.5 million and an increase in the Present Value of future employer Normal Cost of $281.1 million.

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

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

Assuming loan repayment within one year, the member contributions borrowed while in active service are expected to reduce overall POLICE investment earnings by approximately $472 for every $100,000 borrowed, resulting in a decrease in the Market Value of Assets (MVA). As of June 30, 2019, members eligible to borrow member contributions under this proposed legislation had balances totaling approximately $196.8 million, $146.8 million of which would be eligible for a loan. Based on the assumptions described below, the result of this difference between the loan repayment rate of 6.0% and the expected investment earnings rate of 7.0% is a decrease in the MVA, or asset loss, of approximately $0.2 million per year.

FINANCIAL IMPACT - ANNUAL EMPLOYER CONTRIBUTIONS: In accordance with Section 13-638.2(k-2) of the ACCNY, new UAL attributable to benefit changes are to be amortized as determined by the Actuary, but are generally amortized over the remaining working lifetime of those impacted by the benefit changes. As of June 30, 2019, the remaining working lifetime of the members in Tier 3, Tier 3 Revised, and Tier 3 Enhanced Plan is approximately 19 years.

For the purposes of this Fiscal Note, the increase in UAL was amortized over a 19-year period (18 payments under the One-Year Lag Methodology (OYLM)) using level dollar payments. This payment plus the increase in the Normal Cost results in an increase in annual employer contributions of approximately $22.5 million each year.

Since the changes in the POLICE Actuarial Value of Assets 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 will be amortized over a 15-year period (14 payments under the OYLM) using level dollar payments. The actuarial losses related to the lost investment earnings, will eventually compound to an increase in employer contributions of $0.2 million per year.

Therefore, the total cost for this legislation, if enacted, is estimated to grow to $22.7 million per year. Assuming a homogeneous population, this cost will decrease by approximately 50% over time as a larger portion of the membership is limited to a maximum loan of $50,000.

CONTRIBUTION TIMING: For the purposes of this Fiscal Note, it is assumed that the changes in the PVFB and annual employer contributions would be reflected for the first time in the June 30, 2019 actuarial valuation of POLICE. In accordance with the OYLM used to determine employer contributions, the increase in employer contributions would first be reflected in Fiscal Year 2021.

CENSUS DATA: The estimates presented herein are based on the census data used in the Preliminary June 30, 2019 (Lag) actuarial valuation of POLICE to determine the Preliminary Fiscal Year 2021 employer contributions.

The 15,698 Tier 3, Tier 3 Revised, and Tier 3 Enhanced members in POLICE as of June 30, 2019 had an average age of approximately 30.7 years, average service of approximately 4.4 years, and an average salary of approximately $89,000.

ACTUARIAL ASSUMPTIONS AND METHODS: The changes in the PVFB and annual employer contributions presented herein have been calculated based on the actuarial assumptions and methods in effect for the June 30, 2019 (Lag) actuarial valuations used to determine the Preliminary Fiscal Year 2021 employer contributions of POLICE.

In addition, for the purposes of this Fiscal Note, it has been assumed that the yield on 30-year U.S. Treasury securities, on a long-term basis would equal 4.0% per year. Finally, it has been assumed that approximately 25% of member balances available for borrowing would be taken as loans.

RISK AND UNCERTAINTY: The costs presented in this Fiscal Note depend highly on the realization of the actuarial assumptions used, as well as certain demographic characteristics of POLICE and other exogenous factors such as investment, contribution, and other risks. If actual experience deviates from actuarial assumptions, the actual costs could differ from those presented herein. Costs are also dependent on the actuarial methods used, and therefore different actuarial methods could produce different results. Quantifying these risks is beyond the scope of this Fiscal Note.

Not measured in this Fiscal Note are the following:

* The initial, additional administrative costs of POLICE and other New York City agencies to implement the proposed legislation.
* The impact of this proposed legislation on Other Postemployment Benefit (OPEB) costs.

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, 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 2020-21 dated April 1, 2020 was prepared by the Chief Actuary for the New York City Police Pension Fund. This estimate is intended for use only during the 2020 Legislative Session.