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:

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

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

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

1. In addition to the member contributions required by section 13-125 or 13-162 of the administrative code or section eight or thirty of the BERS rules and regulations, each participant in the age fifty-five improved benefit retirement program shall contribute, subject to the 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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subdivision nineteen of section twenty-five hundred seventy-five of the education law, an additional percentage or additional percentages of his or her compensation to the retirement system of which he or she is a member in accordance with the following schedule:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7. Notwithstanding paragraphs one and six of this subdivision and any other provisions of law to the contrary, any person who met the participation requirements of paragraph one of this subdivision, but who failed to file a duly executed application for such participation pursuant to paragraph one of this subdivision, may elect to become a participant in the age fifty-seven retirement program by filing, within one hundred twenty days of the effective date of this paragraph a duly executed application for such participation with the NYCERS or the BERS, provided he or she is an eligible member in active service on the date such application is filed.

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

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

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

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

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

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

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

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

§ 7. This act shall take effect immediately.