

# STATE OF NEW YORK

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7902--A

2021-2022 Regular Sessions

## IN ASSEMBLY

May 28, 2021

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Introduced by M. of A. CUSICK, PHEFFER AMATO, COLTON, LAVINE, DURSO, GRIFFIN, BYRNE, TAYLOR, ROZIC, REILLY, SAYEGH, J. M. GIGLIO, CRUZ, DAVILA, DeSTEFANO, MORINELLO, RA, SCHMITT -- Multi-Sponsored by -- M. of A. COOK, McDONOUGH, SIMON -- read once and referred to the Committee on Governmental Operations -- reference changed to the Committee on Governmental Employees -- recommitted to the Committee on Governmental Employees in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the retirement and social security law and the administrative code of the city of New York, in relation to the establishment of twenty-five year retirement programs for members of the New York city employees' retirement system employed as water supply police; and in relation to providing for employer pick up, pursuant to provisions of the internal revenue code, of certain additional member contributions required to be made by certain participants in the twenty-five year retirement programs; and providing for the repeal of certain provisions upon expiration thereof

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

1 Section 1. Subdivision b of section 440 of the retirement and social  
2 security law, as amended by chapter 682 of the laws of 2003, is amended  
3 to read as follows:  
4 b. The provisions of this article shall not be construed to extend  
5 coverage to an employee not otherwise eligible for membership in a  
6 retirement system or to provide an increase in benefits to a member of a  
7 retirement system other than as provided by section four hundred forty-  
8 five-d, or section four hundred forty-five-f, ~~[ex]~~ section four hundred  
9 forty-five-h, section four hundred forty-five-j, or section four hundred  
10 forty-eight of this article.

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

LBD03630-03-2

§ 2. Subdivision a of section 444 of the retirement and social security law, as amended by section 141 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

a. Except as provided in subdivision c of section four hundred forty-five-a of this article, subdivision c of section four hundred forty-five-b of this article, subdivision c of section four hundred forty-five-c of this article, subdivision c of section four hundred forty-five-d of this article as added by chapter four hundred seventy-two of the laws of nineteen hundred ninety-five, subdivision c of section four hundred forty-five-e of this article, subdivision c of section four hundred forty-five-f of this article and subdivision c of section four hundred forty-five-h of this article, and subdivision c of section four hundred forty-five-j of this article, the maximum retirement benefit computed without optional modification provided to a member of a retirement system who is subject to the provisions of this article, other than a police officer, a firefighter, an investigator member of the New York city employees' retirement system, a member of the uniformed personnel in institutions under the jurisdiction of the New York city department of correction who receives a performance of duty disability retirement allowance, a member of the uniformed personnel in institutions under the jurisdiction of the department of corrections and community supervision or a security hospital treatment assistant, as those terms are defined in subdivision i of section eighty-nine of this chapter, who receives a performance of duty disability retirement allowance, a member of a teachers' retirement system, New York city employees' retirement system, New York city board of education retirement system or a member of the New York state and local employees' retirement system or a member of the New York city employees' retirement system or New York city board of education retirement system employed as a special officer, parking control specialist, school safety agent, campus peace officer, taxi and limousine inspector ~~[ex]~~, a police communications member, or a member of the water supply police and who receives a performance of duty disability pension, from funds other than those based on a member's own or increased-take-home-pay contributions, shall, before any reduction for early retirement, be sixty per centum of the first fifteen thousand three hundred dollars of final average salary, and fifty per centum of final average salary in excess of fifteen thousand three hundred dollars, and forty per centum of final average salary in excess of twenty-seven thousand three hundred dollars, provided, however, that the benefits provided by subdivision c of section four hundred forty-five-d of this article as added by chapter four hundred seventy-two of the laws of nineteen hundred ninety-five based upon the additional member contributions required by subdivision d of such section four hundred forty-five-d shall be subject to the maximum retirement benefit computations set forth in this section. The maximum retirement benefit computed without optional modification payable to a police officer, an investigator member of the New York city employees' retirement system or a firefighter shall equal that payable upon completion of thirty years of service, except that the maximum service retirement benefit computed without optional modification shall equal that payable upon completion of thirty-two years of service.

§ 3. Subdivision a of section 445 of the retirement and social security law, as amended by chapter 245 of the laws of 2021, is amended to read as follows:

a. No member of a retirement system who is subject to the provisions of this article shall retire without regard to age, exclusive of retire-

ment for disability, unless he or she is a police officer, an investigator member of the New York city employees' retirement system, firefighter, correction officer, a qualifying member as defined in section eighty-nine-t of this chapter, as added by chapter six hundred fifty-seven of the laws of nineteen hundred ninety-eight, [~~of this chapter~~], sanitation worker, a special officer (including persons employed by the city of New York in the title urban park ranger or associate urban park ranger), school safety agent, campus peace officer or a taxi and limousine commission inspector member of the New York city employees' retirement system or the New York city board of education retirement system, a dispatcher member of the New York city employees' retirement system, a police communications member of the New York city employees' retirement system, a member of the water supply police in a position referred to in paragraph (o) of subdivision thirty-four of section 1.20 of the criminal procedure law, an EMT member of the New York city employees' retirement system, a deputy sheriff member of the New York city employees' retirement system, a correction officer of the Westchester county correction department as defined in section eighty-nine-e of this chapter or employed in Suffolk county as a peace officer, as defined in section eighty-nine-s of this chapter, as added by chapter five hundred eighty-eight of the laws of nineteen hundred ninety-seven, [~~of this chapter~~], employed in Suffolk county as a correction officer, as defined in section eighty-nine-f of this chapter, or employed in Nassau county as a correction officer, uniformed correction division personnel, sheriff, undersheriff or deputy sheriff, as defined in section eighty-nine-g of this chapter, or employed in Nassau county as an ambulance medical technician, an ambulance medical technician/supervisor or a member who performs ambulance medical technician related services, or a police medic, police medic supervisor or a member who performs police medic related services, as defined in section eighty-nine-s of this chapter, as amended by chapter five hundred seventy-eight of the laws of nineteen hundred ninety-eight, [~~of this chapter~~] or employed in Nassau county as a peace officer, as defined in section eighty-nine-s of this chapter, as added by chapter five hundred ninety-five of the laws of nineteen hundred ninety-seven, [~~of this chapter~~] or employed in Albany county as a sheriff, undersheriff, deputy sheriff, correction officer or identification officer, as defined in section eighty-nine-h of this chapter or is employed in St. Lawrence county as a sheriff, undersheriff, deputy sheriff or correction officer, as defined in section eighty-nine-i of this chapter or is employed in Orleans county as a sheriff, undersheriff, deputy sheriff or correction officer, as defined in section eighty-nine-l of this chapter or is employed in Jefferson county as a sheriff, undersheriff, deputy sheriff or correction officer, as defined in section eighty-nine-j of this chapter or is employed in Onondaga county as a deputy sheriff-jail division competitively appointed or as a correction officer, as defined in section eighty-nine-k of this chapter or is employed in a county which makes an election under subdivision j of section eighty-nine-p of this chapter as a sheriff, undersheriff, deputy sheriff or correction officer as defined in such section eighty-nine-p or is employed in Broome County as a sheriff, undersheriff, deputy sheriff or correction officer, as defined in section eighty-nine-m of this chapter or is a Monroe county deputy sheriff-court security, or deputy sheriff-jailor as defined in section eighty-nine-n of this chapter, as added by chapter five hundred ninety-seven of the laws of nineteen hundred ninety-one, [~~of this chapter~~] or is employed in Greene county as a sheriff, undersheriff, deputy sheriff or correction officer,

1 as defined in section eighty-nine-o of this chapter or is a traffic  
2 officer with the town of Elmira as defined in section eighty-nine-q of  
3 this chapter or is employed by Suffolk county as a park police officer,  
4 as defined in section eighty-nine-r of this chapter or is a peace offi-  
5 cer employed by a county probation department as defined in section  
6 eighty-nine-t of this chapter, as added by chapter six hundred three of  
7 the laws of nineteen hundred ninety-eight[, ~~of this chapter~~] or is  
8 employed in Rockland county as a deputy sheriff-civil as defined in  
9 section eighty-nine-v of this chapter as added by chapter four hundred  
10 forty-one of the laws of two thousand one, or is employed in Rockland  
11 county as a superior correction officer as defined in section eighty-  
12 nine-v of this chapter as added by chapter five hundred fifty-six of the  
13 laws of two thousand one or is a paramedic employed by the police  
14 department in the town of Tonawanda and retires under the provisions of  
15 section eighty-nine-v of this chapter, as added by chapter four hundred  
16 seventy-two of the laws of two thousand one, or is a county fire  
17 marshal, supervising fire marshal, fire marshal, assistant fire marshal,  
18 assistant chief fire marshal or chief fire marshal employed by the coun-  
19 ty of Nassau as defined in section eighty-nine-w of this chapter and is  
20 in a plan which permits immediate retirement upon completion of a speci-  
21 fied period of service without regard to age. Except as provided in  
22 subdivision c of section four hundred forty-five-a of this article,  
23 subdivision c of section four hundred forty-five-b of this article,  
24 subdivision c of section four hundred forty-five-c of this article,  
25 subdivision c of section four hundred forty-five-d of this article,  
26 subdivision c of section four hundred forty-five-e of this article,  
27 subdivision c of section four hundred forty-five-f of this article  
28 [~~and~~], subdivision c of section four hundred forty-five-h of this arti-  
29 cle, and subdivision c of section four hundred forty-five-j of this  
30 article, a member in such a plan and such an occupation, other than a  
31 police officer or investigator member of the New York city employees'  
32 retirement system or a firefighter, shall not be permitted to retire  
33 prior to the completion of twenty-five years of credited service;  
34 provided, however, if such a member in such an occupation is in a plan  
35 which permits retirement upon completion of twenty years of service  
36 regardless of age, he or she may retire upon completion of twenty years  
37 of credited service and prior to the completion of twenty-five years of  
38 service, but in such event the benefit provided from funds other than  
39 those based on such a member's own contributions shall not exceed two  
40 per centum of final average salary per each year of credited service.

41 § 4. The retirement and social security law is amended by adding a new  
42 section 445-j to read as follows:

43 § 445-j. Optional twenty-five year improved benefit retirement program  
44 for water supply police members. a. Definitions. The following words and  
45 phrases as used in this section shall have the following meanings unless  
46 a different meaning is plainly required by the context.

47 1. "Retirement system" shall mean the New York city employees' retire-  
48 ment system.

49 2. "Water supply police member" shall mean a member of the retirement  
50 system who is subject to the provisions of this article, who is employed  
51 by the city of New York in a position referred to by paragraph (o) of  
52 subdivision thirty-four of section 1.20 of the criminal procedure law.

53 3. "Twenty-five year improved benefit retirement program" shall mean  
54 all the terms and conditions of this section.

1 4. "Starting date of the twenty-five year improved benefit retirement  
2 program" shall mean the effective date of this section, as such date is  
3 certified pursuant to section forty-one of the legislative law.

4 5. "Participant in the twenty-five year improved benefit retirement  
5 program" shall mean any water supply police member who, under the appli-  
6 cable provisions of subdivision b of this section, is entitled to the  
7 rights, benefits and privileges and is subject to the obligations of the  
8 twenty-five year improved benefit retirement program, as applicable to  
9 him or her.

10 6. "Administrative code" shall mean the administrative code of the  
11 city of New York.

12 7. "Accumulated deductions" shall mean accumulated deductions as  
13 defined in subdivision eleven of section 13-101 of the administrative  
14 code of the city of New York.

15 8. "Optional retirement provisions" shall mean the right to retire and  
16 receive a retirement allowance under this section upon the completion of  
17 twenty-five years of credited service.

18 b. Election of twenty-five year improved benefit retirement program.  
19 1. Subject to the provisions of paragraphs five and six of this subdivi-  
20 sion, any person who is a water supply police member on the starting  
21 date of the twenty-five year improved benefit retirement program may  
22 elect to become a participant in the twenty-five year improved benefit  
23 retirement program by filing, within one hundred eighty days after such  
24 starting date, a duly executed application for such participation with  
25 the retirement system, provided he or she is such a water supply police  
26 member on the date such application is filed.

27 2. Subject to the provisions of paragraphs five and six of this subdivi-  
28 vision, any person who becomes a water supply police member after the  
29 starting date of the twenty-five year improved benefit retirement  
30 program may elect to become a participant in the twenty-five year  
31 improved benefit retirement program by filing, within one hundred eighty  
32 days after becoming such a water supply police member, a duly executed  
33 application for such participation with the retirement system, provided  
34 he or she is such a water supply police member on the date such applica-  
35 tion is filed.

36 3. Any election to be a participant in the twenty-five year improved  
37 benefit retirement program shall be irrevocable.

38 4. Where any participant in the twenty-five year improved benefit  
39 retirement program shall cease to hold a position as a water supply  
40 police member, he or she shall cease to be such a participant and,  
41 during any period in which such a person does not hold such a water  
42 supply police position, he or she shall not be a participant in the  
43 twenty-five year improved benefit retirement program and shall not be  
44 eligible for the benefits of subdivision c of this section.

45 5. Where any participant in the twenty-five year improved benefit  
46 retirement program terminates service as a water supply police member  
47 and returns to such service as a water supply police member at a later  
48 date, he or she shall again become such a participant on that date.

49 6. Notwithstanding any other provision of law to the contrary, any  
50 person who is eligible to become a participant in the twenty-five year  
51 improved benefit retirement program pursuant to paragraph one or two of  
52 this subdivision for the full one hundred eighty day period provided for  
53 in such applicable paragraph and who fails to timely file a duly  
54 executed application for such participation with the retirement system,  
55 shall not thereafter be eligible to become a participant in such  
56 program.



1 c. Service retirement benefits. Notwithstanding any other provision of  
2 law to the contrary, where a participant in the twenty-five year  
3 improved benefit retirement program, who is otherwise qualified for a  
4 retirement allowance pursuant to the optional retirement provisions set  
5 forth in subdivision a of this section, has made and/or paid, while he  
6 or she is a water supply police member, all additional member contrib-  
7 utions and interest (if any) required by subdivision d of this section,  
8 then:

9 1. that participant, while he or she remains a participant, shall not  
10 be subject to the provisions of subdivision a of section four hundred  
11 forty-five of this article; and

12 2. if that participant, while such a participant, retires from  
13 service, he or she shall not be subject to the provisions of section  
14 four hundred forty-four of this article; and

15 3. his or her retirement allowance shall be an amount, on account of  
16 the required minimum period of service, equal to the sum of (i) an annu-  
17 ity which shall be the actuarial equivalent of the accumulated  
18 deductions from his or her pay during such period, (ii) a pension for  
19 increased-take-home-pay which shall be the actuarial equivalent of the  
20 reserve for increased-take-home-pay to which he or she may be entitled  
21 for such period, and (iii) a pension which, when added to such annuity  
22 and such pension for increased-take-home-pay, produces a retirement  
23 allowance equal to fifty percent of his or her final average salary,  
24 plus an amount for each additional year of allowable service, or frac-  
25 tion thereof, beyond such required minimum period of service equal to  
26 two percent of his or her final average salary; and

27 4. the maximum retirement benefit computed without optional modifica-  
28 tion payable to that participant upon his or her retirement for service  
29 as such a participant shall equal that payable upon completion of thirty  
30 years of service.

31 d. Additional member contributions. 1. In addition to the member  
32 contributions required pursuant to section 13-125 or section 13-162 of  
33 the administrative code of the city of New York, each participant in the  
34 twenty-five year improved benefit retirement program shall contribute,  
35 subject to the applicable provisions of section 13-125.2 of the adminis-  
36 trative code of the city of New York, an additional six percent of his  
37 or her compensation earned from (i) all credited service, as a partic-  
38 ipant in the twenty-five year improved benefit retirement program,  
39 rendered on and after the starting date of the improved benefit retire-  
40 ment program, and (ii) all credited service after such person ceases to  
41 be a participant, but before he or she again becomes a participant  
42 pursuant to paragraph five of subdivision b of this section. A partic-  
43 ipant in the twenty-five year improved benefit retirement program shall  
44 contribute additional member contributions until the later of (i) the  
45 date as of which he or she is eligible to retire with twenty-five years  
46 of credited service under such retirement program, or (ii) the first  
47 anniversary of the starting date of the twenty-five year improved bene-  
48 fit retirement program. The additional contributions required by this  
49 paragraph shall be in lieu of additional member contributions required  
50 by subdivision d of section four hundred forty-five-d of this article,  
51 as added by chapter ninety-six of the laws of nineteen hundred ninety-  
52 five, and no member paying additional contributions pursuant to this  
53 section shall be required to pay additional contributions pursuant to  
54 such subdivision d of section four hundred forty-five-d of this article.

55 2. Commencing with the first full payroll period after each person  
56 becomes a participant in the twenty-five year improved benefit retire-

1 ment program, additional member contributions at the rate specified in  
2 paragraph one of this subdivision shall be deducted, subject to the  
3 applicable provisions of section 13-125.2 of the administrative code of  
4 the city of New York, from the compensation of such participant on each  
5 and every payroll of such participant for each and every payroll period  
6 for which he or she is such a participant.

7 3. (i) Subject to the provisions of subparagraph (ii) of this para-  
8 graph, where any additional member contributions required by paragraph  
9 one of this subdivision are not paid by deductions from a participant's  
10 compensation pursuant to paragraph two of this subdivision:

11 (A) that participant shall be charged with a contribution deficiency  
12 consisting of such unpaid amounts, together with interest thereon,  
13 compounded annually; and

14 (B) such interest on each amount of undeducted contributions shall  
15 accrue from the end of the payroll period for which such amount would  
16 have been deducted from compensation if he or she had been a participant  
17 at the beginning of that payroll period and such deductions had been  
18 required for such payroll period until such amount is paid to the  
19 retirement system; and

20 (C) (1) interest on each such amount included in such participant's  
21 contribution deficiency pursuant to this subparagraph shall be calcu-  
22 lated as if such additional member contributions never had been paid by  
23 such participant, and such interest shall accrue from the end of the  
24 payroll period to which an amount of such additional member contrib-  
25 utions is attributable, compounded annually, until such amount is paid  
26 to the retirement system.

27 (2) the rate of interest to be applied to each such amount during the  
28 period for which interest accrues on that amount shall be equal to the  
29 rate or rates of interest required by law to be used during that same  
30 period to credit interest on the accumulated deductions of retirement  
31 system members.

32 (ii) Except as provided in subparagraph (iii) of this paragraph, no  
33 interest shall be due on any unpaid additional contributions which are  
34 not attributable to the period prior to the first full payroll period  
35 referred to in paragraph two of this subdivision.

36 (iii) Should any person who, pursuant to paragraph seven of this  
37 subdivision, has withdrawn any additional member contributions (and any  
38 interest paid thereon) again become a participant in the twenty-five  
39 year improved benefit retirement program pursuant to paragraph five of  
40 subdivision b of this section, an appropriate amount shall be included  
41 in such participant's contribution deficiency (including interest there-  
42 on as calculated pursuant to subclause two of clause (C) of subparagraph  
43 (i) of this paragraph) for any credited service with respect to which  
44 such person received a refund of additional member contributions  
45 (including any amount of an unpaid loan balance deemed to have been  
46 returned to such person pursuant to paragraph seven of this subdivi-  
47 sion), as if such additional member contributions never had been paid.

48 4. The board of trustees of the retirement system may, consistent with  
49 the provisions of this subdivision, promulgate regulations for the  
50 payment of the additional member contributions required by this subdivi-  
51 sion, and any interest thereon, by a participant in the twenty-five year  
52 improved benefit retirement program (including the deduction of such  
53 contributions, and any interest thereon, from his or her compensation).

54 5. Where a participant who is otherwise eligible for service retire-  
55 ment pursuant to subdivision c of this section did not, prior to the  
56 effective date of retirement, pay the entire amount of a contribution

1 deficiency chargeable to him or her pursuant to paragraph three of this  
2 subdivision, or repay the entire amount of a loan of his or her addi-  
3 tional member contributions pursuant to paragraph eight of this subdivi-  
4 sion (including accrued interest on such loan), that participant, never-  
5 theless, shall be eligible to retire pursuant to subdivision c of this  
6 section, provided, however, that where such participant is not entitled  
7 to a refund of additional member contributions pursuant to paragraph  
8 seven of this subdivision, such participant's service retirement benefit  
9 calculated pursuant to the applicable provisions of subdivision c of  
10 this section shall be reduced by a life annuity (calculated in accord-  
11 ance with the method set forth in subdivision i of section six hundred  
12 thirteen-b of this chapter) which is actuarially equivalent to:

13 (i) the amount of any unpaid contribution deficiency chargeable to  
14 such member pursuant to paragraph three of this subdivision; plus

15 (ii) the amount of any unpaid balance of a loan of his or her addi-  
16 tional member contributions pursuant to paragraph eight of this subdivi-  
17 sion (including accrued interest on such loan).

18 6. Subject to the provisions of paragraph five of this subdivision,  
19 where a participant has not paid in full any contribution deficiency  
20 chargeable to him or her pursuant to paragraph three of this subdivi-  
21 sion, and a benefit, other than a refund of a member's accumulated  
22 deductions or a refund of additional member contributions pursuant to  
23 paragraph seven of this subdivision, becomes payable by the retirement  
24 system to the participant or to his or her designated beneficiary or  
25 estate, the actuarial equivalent of any such unpaid amount shall be  
26 deducted from the benefit otherwise payable.

27 7. (i) All additional member contributions required by this subdivi-  
28 sion (and any interest thereon) which are received by the retirement  
29 system shall be paid into its contingent reserve fund and shall be the  
30 property of the retirement system. Such additional member contributions  
31 (and any interest thereon) shall not for any purpose be deemed to be  
32 member contributions or accumulated deductions of a member of the  
33 retirement system under section 13-125 or section 13-162 of the adminis-  
34 trative code of the city of New York while he or she is a participant in  
35 the twenty-five year improved benefit retirement program or otherwise.

36 (ii) Should a participant in the twenty-five year improved benefit  
37 retirement program, who has rendered less than five years of credited  
38 service cease to hold a position as a water supply police member for any  
39 reason whatsoever, his or her accumulated additional member contrib-  
40 utions made pursuant to this subdivision (together with any interest  
41 thereon paid to the retirement system) which remain credited to such  
42 participant's account may be withdrawn by him or her pursuant to proce-  
43 dures promulgated in regulations of the board of trustees of the retire-  
44 ment system, together with interest thereon at the rate of interest  
45 required by law to be used to credit interest on the accumulated  
46 deductions of retirement system members compounded annually.

47 (iii) Notwithstanding any other provision of law to the contrary, (A)  
48 no person shall be permitted to withdraw from the retirement system any  
49 additional member contributions paid pursuant to this subdivision or any  
50 interest paid thereon, except pursuant to and in accordance with the  
51 preceding subparagraphs of this paragraph; and (B) no person, while he  
52 or she is a participant in the twenty-five year improved benefit retire-  
53 ment program, shall be permitted to withdraw any such additional member  
54 contributions or any interest paid thereon pursuant to any of the  
55 preceding subparagraphs of this paragraph or otherwise.



1     8. A participant in the twenty-five year improved benefit retirement  
2 program shall be permitted to borrow from his or her additional member  
3 contributions, including any interest paid thereon, which are credited  
4 to the additional contributions account established for such participant  
5 in the contingent reserve fund of the retirement system. The borrowing  
6 from such additional member contributions pursuant to this paragraph  
7 shall be governed by the same rights, privileges, obligations and proce-  
8 dures set forth in section six hundred thirteen-b of this chapter which  
9 govern the borrowing by members subject to article fifteen of this chap-  
10 ter of member contributions made pursuant to section six hundred thir-  
11 teen of this chapter. The board of trustees of the retirement system  
12 may, consistent with the provisions of this subdivision and the  
13 provisions of section six hundred thirteen-b of this chapter as made  
14 applicable to this subdivision, promulgate regulations governing the  
15 borrowing of such additional member contributions.

16     9. Wherever a person has an unpaid balance of a loan of his or her  
17 additional member contributions pursuant to paragraph eight of this  
18 subdivision at the time he or she becomes entitled to a refund of his or  
19 her additional member contributions pursuant to subparagraph (ii) of  
20 paragraph seven of this subdivision, the amount of such unpaid loan  
21 balance (including accrued interest) shall be deemed to have been  
22 returned to such member, and the refund of such additional contributions  
23 shall be the net amount of such contributions, together with interest  
24 thereon in accordance with the provisions of such subparagraph.

25     10. Notwithstanding any other provision of law to the contrary, the  
26 provisions of section one hundred thirty-eight-b of this chapter shall  
27 not be applicable to the additional member contributions which are  
28 required by this subdivision.

29     11. Notwithstanding any other provision of law to the contrary, the  
30 additional member contributions which are required by this subdivision  
31 shall not be reduced under any program for increased-take-home-pay.

32     § 5. The retirement and social security law is amended by adding a new  
33 section 604-j to read as follows:

34     § 604-j. Twenty-five year retirement program for water supply police  
35 members. a. Definitions. The following words and phrases as used in  
36 this section shall have the following meanings unless a different mean-  
37 ing is plainly required by the context.

38     1. "Water supply police member" shall mean a member of the retirement  
39 system who is employed by the city of New York in a position referred to  
40 by paragraph (o) of subdivision thirty-four of section 1.20 of the crim-  
41 inal procedure law.

42     2. "Twenty-five year retirement program" shall mean all the terms and  
43 conditions of this section.

44     3. "Starting date of the twenty-five year retirement program" shall  
45 mean the effective date of this section, as such date is certified  
46 pursuant to section forty-one of the legislative law.

47     4. "Participant in the twenty-five year retirement program" shall mean  
48 any water supply police member who, under the applicable provisions of  
49 subdivision b of this section, is entitled to the rights, benefits and  
50 privileges and is subject to the obligations of the twenty-five year  
51 retirement program, as applicable to him or her.

52     5. "Discontinued member" shall mean a participant in the twenty-five  
53 year retirement program who, while he or she was a water supply police  
54 member, discontinued service as such a member and has a right to a  
55 deferred vested benefit under subdivision d of this section.

1 6. "Administrative code" shall mean the administrative code of the  
2 city of New York.

3 b. Participation in twenty-five year retirement program. 1. Subject  
4 to the provisions of paragraphs six and seven of this subdivision, any  
5 person who is a water supply police member on the starting date of the  
6 twenty-five year retirement program and who, as such a water supply  
7 police member or otherwise last became subject to the provisions of this  
8 article prior to such starting date, may elect to become a participant  
9 in the twenty-five year retirement program by filing, within one hundred  
10 eighty days after the starting date of the twenty-five year retirement  
11 program, a duly executed application for such participation with the  
12 retirement system of which such person is a member, provided he or she  
13 is such a water supply police member on the date such application is  
14 filed.

15 2. Subject to the provisions of paragraphs six and seven of this  
16 subdivision, any person who becomes a water supply police member after  
17 the starting date of the twenty-five year retirement program and who, as  
18 such a water supply police member or otherwise, last became subject to  
19 the provisions of this article prior to such starting date, may elect to  
20 become a participant in the twenty-five year retirement program by  
21 filing, within one hundred eighty days after becoming such a water  
22 supply police member, a duly executed application for such participation  
23 with the retirement system for which such person is a member, provided  
24 he or she is such a water supply police member on the date such applica-  
25 tion is filed.

26 3. Any election to be a participant in the twenty-five year retirement  
27 program shall be irrevocable.

28 4. Each water supply police member who becomes subject to the  
29 provisions of this article on or after the starting date of the twenty-  
30 five year retirement program shall become a participant in the twenty-  
31 five year retirement program on the date he or she becomes such a water  
32 supply police member. Provided, however, a person subject to this para-  
33 graph who has exceeded age thirty upon employment as such a member shall  
34 be exempt from participation in the twenty-five year retirement program  
35 if such person elects not to participate by filing a duly executed form  
36 with the retirement system within one hundred eighty days of becoming  
37 such a member.

38 5. Where any participant in the twenty-five year retirement program  
39 shall cease to be employed by the city of New York as a water supply  
40 police member, he or she shall cease to be such a participant and,  
41 during any period in which such person is not so employed, he or she  
42 shall not be a participant in the twenty-five year retirement program  
43 and shall not be eligible for the benefits of subdivision c of this  
44 section.

45 6. Where any participant in the twenty-five year retirement program  
46 terminates service as a water supply police member and returns to such  
47 service as a water supply police member at a later date, he or she shall  
48 again become such a participant on that date.

49 7. Notwithstanding any other provision of law to the contrary, any  
50 person who is eligible to elect to become a participant in the twenty-  
51 five year retirement program pursuant to paragraph one or two of this  
52 subdivision for the full one hundred eighty day period provided for in  
53 such applicable paragraph and who fails to timely file a duly executed  
54 application for such participation with the retirement system, shall not  
55 thereafter be eligible to become a participant in such program.

1 c. Service retirement benefits. 1. A participant in the twenty-five  
2 year retirement program:

3 (i) who has completed twenty-five or more years of credited service;  
4 and

5 (ii) who has paid, before the effective date of retirement, all addi-  
6 tional member contributions and interest (if any) required by subdivi-  
7 sion e of this section; and

8 (iii) who files with the retirement system of which he or she is a  
9 member an application for service retirement setting forth at that time,  
10 not less than thirty days subsequent to the execution and filing there-  
11 of, he or she desires to be retired; and

12 (iv) who shall be a participant in the twenty-five year retirement  
13 program at the time so specified for his or her retirement; shall be  
14 retired pursuant to the provisions of this section affording early  
15 service retirement.

16 2. (i) Notwithstanding any other provision of law to the contrary, and  
17 subject to the provisions of paragraph six of subdivision e of this  
18 section, the early service retirement benefit for participants in the  
19 twenty-five year retirement program who retire pursuant to paragraph one  
20 of this subdivision shall be a retirement allowance consisting of:

21 (A) an amount, on account of the required minimum period of service,  
22 equal to fifty percent of his or her final average salary; plus

23 (B) an amount on account of credited service, or fraction thereof,  
24 beyond such required minimum period of service equal to two percent of  
25 his or her final salary;

26 (ii) The maximum retirement allowance computed without optional  
27 modification payable pursuant to subparagraph (i) of this paragraph  
28 shall equal that payable upon completion of thirty years of service.

29 d. Vesting. 1. A participant in the twenty-five year retirement  
30 program:

31 (i) who discontinues service as such a participant, other than by  
32 death or retirement; and

33 (ii) who prior to such discontinuance, completed five but less than  
34 twenty-five years of credited service; and

35 (iii) who, subject to the provisions of paragraph seven of subdivision  
36 e of this section, has paid, prior to such discontinuance, all addi-  
37 tional member contributions and interest (if any) required by subdivi-  
38 sion e of this section; and

39 (iv) who does not withdraw in whole or in part his or her accumulated  
40 member contributions pursuant to section six hundred thirteen of this  
41 article unless such participant thereafter returns to public service and  
42 repays the amounts so withdrawn, together with interest, pursuant to  
43 such section six hundred thirteen; shall be entitled to receive a  
44 deferred vested benefit as provided in this subdivision.

45 2. (i) Upon such discontinuance under the conditions and in compliance  
46 with the provisions of paragraph one of this subdivision, such deferred  
47 vested benefit shall vest automatically.

48 (ii) Such vested benefit shall become payable on the earliest date on  
49 which such discontinued member could have retired for service if such  
50 discontinuance had not occurred.

51 3. Subject to the provisions of paragraph seven of subdivision e of  
52 this section, such deferred vested benefit shall be a retirement allow-  
53 ance consisting of an amount equal to two percent of such discontinued  
54 member's final average salary, multiplied by the number of years of  
55 credited service.

e. Additional member contributions. 1. In addition to the member contributions required by section six hundred thirteen of this article, each participant in the twenty-five year retirement program shall contribute to the retirement system of which he or she is a member (subject to the applicable provisions of subdivision d of section six hundred thirteen of this article) an additional six percent of his or her compensation earned from (i) all credited service, as a participant in the twenty-five year retirement program, rendered on or after the starting date of the twenty-five year retirement program, and (ii) all credited service after such person ceases to be a participant, but before he or she again becomes a participant pursuant to paragraph six of subdivision b of this section. The additional contributions required by this subdivision shall be in lieu of additional member contributions required by subdivision d of section six hundred four-c of this article, as added by chapter ninety-six of the laws of nineteen hundred ninety-five, and no member making contributions pursuant to this section shall be required to make contributions pursuant to such subdivision d of section six hundred four-c of this article.

2. A participant in the twenty-five year retirement program shall contribute additional member contributions until the later of (i) the first anniversary of the starting date of the twenty-five year retirement program, or (ii) the date on which he or she completes thirty years of credited service as a water supply police member.

3. Commencing with the first full payroll period after each person becomes a participant in the twenty-five year retirement program, additional member contributions at the rate specified in paragraph one of this subdivision shall be deducted (subject to the applicable provisions of subdivision d of section six hundred thirteen of this article) from the compensation of such participant on each and every payroll of such participant for each and every payroll period for which he or she is such a participant.

4. (i) Each participant in the twenty-five year retirement program shall be charged with a contribution deficiency consisting of the total amounts of additional member contributions such person is required to make pursuant to paragraphs one and two of this subdivision which are not deducted from his or her compensation pursuant to paragraph three of this subdivision, if any, together with interest thereon, compounded annually, and computed in accordance with the provisions of subparagraphs (ii) and (iii) of this paragraph.

(ii) (A) The interest required to be paid on each such amount specified in subparagraph (i) of this paragraph shall accrue from the end of the payroll period for which such amount would have been deducted from compensation if he or she had been a participant at the beginning of that payroll period and such deduction had been required for such payroll period, until such amount is paid to the retirement system.

(B) The rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be equal to the rate or rates of interest required by law to be used during that same period to credit interest on the accumulated deductions of retirement system members.

(iii) Except as otherwise provided in paragraph five of this subdivision, no interest shall be due on any unpaid additional member contributions which are not attributable to a period prior to the first full payroll period referred to in paragraph three of this subdivision.

5. (i) Should any person who, pursuant to subparagraph (ii) of paragraph ten of this subdivision, has received a refund of his or her addi-

tional member contributions including any interest paid on such contributions, again become a participant in the twenty-five year retirement program pursuant to paragraph six of subdivision b of this section, an appropriate amount shall be included in such participant's contribution deficiency (including interest thereon as calculated pursuant to subparagraph (ii) of this paragraph) for any credited service for which such person received a refund of such additional member contributions (including any amount of an unpaid loan balance deemed to have been returned to such person pursuant to paragraph twelve of this subdivision), as if such additional member contributions never had been paid.

(ii) (A) Interest on a participant's additional member contributions included in such participant's contribution deficiency pursuant to subparagraph (i) of this paragraph shall be calculated as if such additional member contributions had never been paid by such participant, and such interest shall accrue from the end of the payroll period to which an amount of such additional member contributions is attributable, until such amount is paid to the retirement system.

(B) The rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be five percent per annum, compounded annually.

6. Where a participant who is otherwise eligible for service retirement pursuant to subdivision c of this section did not, prior to the effective date of retirement, pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraphs four and five of this subdivision, or repay the entire amount of a loan of his or her additional member contributions pursuant to paragraph eleven of this subdivision (including accrued interest on such loan), that participant, nevertheless, shall be eligible to retire pursuant to subdivision c of this section, provided, however, that such participant's service retirement benefit calculated pursuant to paragraph two of such subdivision c shall be reduced by a life annuity (calculated in accordance with the method set forth in subdivision i of section six hundred thirteen-b of this article) which is actuarially equivalent to:

(i) the amount of any unpaid contribution deficiency chargeable to such member pursuant to paragraphs four and five of this subdivision; plus

(ii) the amount of any unpaid balance of a loan of his or her additional member contributions pursuant to paragraph eleven of this subdivision (including accrued interest on such loan).

7. Where a participant who is otherwise eligible for a vested right to a deferred benefit pursuant to subdivision d of this section did not, prior to the date of discontinuance of service, pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraphs four and five of this subdivision, or repay the entire amount of a loan of his or her additional member contributions pursuant to paragraph eleven of this subdivision (including accrued interest on such loan), that participant, nevertheless, shall be eligible for a vested right to a deferred benefit pursuant to subdivision d of this section, provided, however, that the deferred vested benefit calculated pursuant to paragraph three of such subdivision d shall be reduced by a life annuity (calculated in accordance with the method set forth in subdivision i of section six hundred thirteen-b of this article) which is actuarially equivalent to:

(i) the amount of any unpaid contribution deficiency chargeable to such member pursuant to paragraphs four and five of this subdivision; plus



1 (ii) the amount of any unpaid balance of a loan of his or her addi-  
2 tional member contributions pursuant to paragraph eleven of this subdivi-  
3 vision (including accrued interest on such loan).

4 8. The head of a retirement system which includes participants in the  
5 twenty-five year retirement program in its membership may, consistent  
6 with the provisions of this subdivision, promulgate regulations for the  
7 payment of such additional member contributions, and any interest there-  
8 on, by such participants (including the deduction of such contributions,  
9 and any interest thereon, from the participant's compensation).

10 9. Subject to the provisions of paragraphs six and seven of this  
11 subdivision, where a participant has not paid in full any contribution  
12 deficiency chargeable to him or her pursuant to paragraphs four and five  
13 of this subdivision, and a benefit, other than a refund of member  
14 contributions pursuant to section six hundred thirteen of this article  
15 or a refund of additional member contributions pursuant to subparagraph  
16 (ii) of paragraph ten of this subdivision, becomes payable under this  
17 article to the participant or to his or her designated beneficiary or  
18 estate, the actuarial equivalent of any such unpaid amount shall be  
19 deducted from the benefit otherwise payable.

20 10. (i) Such additional member contributions (and any interest there-  
21 on) shall be paid into the contingent reserve fund of the retirement  
22 system of which the participant is a member and shall not for any  
23 purpose be deemed to be member contributions or accumulated contrib-  
24 utions of a member under section six hundred thirteen of this article or  
25 otherwise while he or she is a participant in the twenty-five year  
26 retirement program or otherwise.

27 (ii) Should a participant in the twenty-five year retirement program  
28 who has rendered less than five years of credited service cease to hold  
29 a position as a water supply police member for any reason whatsoever,  
30 his or her accumulated additional member contributions made pursuant to  
31 this subdivision (together with any interest thereon paid to the retire-  
32 ment system) may be withdrawn by him or her pursuant to procedures  
33 promulgated in regulations of the board of trustees of the retirement  
34 system, together with interest thereon at the rate of five percent per  
35 annum, compounded annually.

36 (iii) Notwithstanding any other provision of law to the contrary, (A)  
37 no person shall be permitted to withdraw from the retirement system any  
38 additional member contributions paid pursuant to this subdivision or any  
39 interest paid thereon, except pursuant to and in accordance with the  
40 preceding subparagraphs of this paragraph; and (B) no person, while he  
41 or she is a participant in the twenty-five year retirement program,  
42 shall be permitted to withdraw any such additional member contributions  
43 or any interest paid thereon pursuant to any of the preceding subpara-  
44 graphs of this paragraph or otherwise.

45 11. A participant in the twenty-five year retirement program shall be  
46 permitted to borrow from his or her additional member contributions  
47 (including any interest paid thereon) which are credited to the addi-  
48 tional contributions account established for such participant in the  
49 contingent reserve fund of the retirement system. The borrowing from  
50 such additional member contributions pursuant to this paragraph shall be  
51 governed by the rights, privileges, obligations and procedures set forth  
52 in section six hundred thirteen-b of this article which govern the  
53 borrowing of member contributions made pursuant to section six hundred  
54 thirteen of this article. The board of trustees of the retirement system  
55 may, consistent with the provisions of this subdivision and the  
56 provisions of section six hundred thirteen-b of this article as made

1 applicable to this subdivision, promulgate regulations governing the  
2 borrowing of such additional member contributions.

3 12. Whenever a person has an unpaid balance of a loan of his or her  
4 additional member contributions pursuant to paragraph eleven of this  
5 subdivision at the time he or she becomes entitled to a refund of his or  
6 her additional member contributions pursuant to subparagraph (ii) of  
7 paragraph ten of this subdivision, the amount of such unpaid loan  
8 balance (including accrued interest) shall be deemed to have been  
9 returned to such member, and the refund of such additional contributions  
10 shall be the net amount of such contributions, together with interest  
11 thereon in accordance with the provisions of such subparagraph (ii).

12 § 6. Subdivision d of section 613 of the retirement and social securi-  
13 ty law is amended by adding a new paragraph 12 to read as follows:

14 12. (i) The city of New York shall, in the case of a water supply  
15 police member (as defined in paragraph one of subdivision a of section  
16 six hundred four-j of this article) who is a participant in the twenty-  
17 five year retirement program (as defined in paragraph four of subdivi-  
18 sion a of such section six hundred four-j), pick up and pay to the  
19 retirement system of which such participant is a member, all additional  
20 member contributions which otherwise would be required to be deducted  
21 from such member's compensation pursuant to paragraphs one and two of  
22 subdivision e of such section six hundred four-j (not including any  
23 additional member contributions due for any period prior to the first  
24 full payroll period referred to in paragraph three of such subdivision  
25 e), and shall effect such pick up on each and every payroll of such  
26 participant for each and every payroll period with respect to which such  
27 paragraph three would otherwise require such deductions.

28 (ii) An amount equal to the amount of additional contributions picked  
29 up pursuant to this paragraph shall be deducted by such employer from  
30 the compensation of such member (as such compensation would be in the  
31 absence of a pick up program applicable to him or her hereunder) and  
32 shall not be paid to such member.

33 (iii) The additional member contributions picked up pursuant to this  
34 paragraph for any such member shall be paid by such employer in lieu of  
35 an equal amount of additional member contributions otherwise required to  
36 be paid by such member under the applicable provisions of subdivision e  
37 of section six hundred four-j of this article, and shall be deemed to be  
38 and treated as employer contributions pursuant to section 414(h) of the  
39 Internal Revenue Code.

40 (iv) For the purpose of determining the retirement system rights,  
41 benefits and privileges of any member whose additional member contrib-  
42 utions are picked up pursuant to this paragraph, such picked up addi-  
43 tional member contributions shall be deemed to be and treated as part of  
44 such member's additional member contributions under the applicable  
45 provisions of subdivision e of section six hundred four-j of this arti-  
46 cle.

47 (v) With the exception of federal income tax treatment, the additional  
48 member contributions picked up pursuant to paragraph (i) of this subdivi-  
49 sion shall for all other purposes, including computation of retirement  
50 benefits and contributions by employers and employees, be deemed employ-  
51 ee salary. Nothing contained in this subdivision shall be construed as  
52 superseding the provisions of section four hundred thirty-one of this  
53 chapter, or any similar provision of law which limits the salary base of  
54 computing retirement benefits payable by a public retirement system.

55 § 7. Section 13-125.2 of the administrative code of the city of New  
56 York is amended by adding a new subdivision a-9 to read as follows:

a-9. Notwithstanding any other provision of law to the contrary, on or after the starting date for pick up, the employer responsible for pick up shall, in the case of a water supply police member (as defined in paragraph two of subdivision a of section four hundred forty-five-j of the retirement and social security law) who is a participant in the twenty-five year improved benefit retirement program (as defined in paragraph three of such subdivision a of section four hundred forty-five-j), pick up and pay to the retirement system all additional member contributions which otherwise would be required to be deducted from such member's compensation pursuant to subdivision d of such section four hundred forty-five-j, and shall effect such pick up on each and every payroll of such participant for each and every payroll period with respect to which such subdivision d would otherwise require such deductions.

§ 8. Subparagraph (ii) of paragraph 1 of subdivision c of section 13-125.2 of the administrative code of the city of New York, as amended by chapter 682 of the laws of 2003, is amended to read as follows:

(ii) the determination of the amount of such member's Tier I or Tier II nonuniformed-force member contributions eligible for pick up by the employer or additional member contributions required to be picked up pursuant to subdivision a-one, subdivision a-two, subdivision a-three, subdivision a-four, subdivision a-five, subdivision a-six, subdivision a-seven ~~[or]~~, subdivision a-eight, or subdivision a-nine of this section; and

§ 9. Subdivision d of section 13-125.2 of the administrative code of the city of New York is amended by adding a new paragraph 2-h to read as follows:

(2-h) For the purpose of determining the retirement system rights, benefits and privileges of any member who is a participant in the twenty-five year improved benefit retirement program (as defined in paragraph three of subdivision a of section four hundred forty-five-j of the retirement and social security law), the additional member contributions of such participant picked up pursuant to subdivision a-nine of this section shall be deemed to be and treated as a part of such member's additional member contributions under subdivision d of such section four hundred forty-five-j.

§ 10. Paragraph 3 of subdivision d of section 13-125.2 of the administrative code of the city of New York, as amended by chapter 682 of the laws of 2003, is amended to read as follows:

(3) Interest on contributions picked up for any Tier I or Tier II non-uniformed-force member pursuant to this section (other than additional member contributions picked up pursuant to subdivision a-one, subdivision a-two, subdivision a-three, subdivision a-four, subdivision a-five, subdivision a-six, subdivision a-seven ~~[or]~~, subdivision a-eight, or subdivision a-nine of this section) shall accrue in favor of the member and be payable to the retirement system at the same rate, for the same time periods, in the same manner and under the same circumstances as interest would be required to accrue in favor of the member and be payable to the retirement system on such contributions if they were made by such member in the absence of a pick up program applicable to such member under the provisions of this section.

§ 11. Subdivision a of section 603 of the retirement and social security law, as amended by chapter 18 of the laws of 2012, is amended to read as follows:

a. The service retirement benefit specified in section six hundred four of this article shall be payable to members who have met the mini-

1 mum service requirements upon retirement and attainment of age sixty-  
2 two, other than members who are eligible for early service retirement  
3 pursuant to subdivision c of section six hundred four-b of this article,  
4 subdivision c of section six hundred four-c of this article, subdivision  
5 d of section six hundred four-d of this article, subdivision c of  
6 section six hundred four-e of this article, subdivision c of section six  
7 hundred four-f of this article, subdivision c of section six hundred  
8 four-g of this article, subdivision c of section six hundred four-h of  
9 this article ~~[ex]~~, subdivision c of section six hundred four-i of this  
10 article, or subdivision c of section six hundred four-j of this article,  
11 provided, however, a member of a teachers' retirement system or the New  
12 York state and local employees' retirement system who first joins such  
13 system before January first, two thousand ten or a member who is a  
14 uniformed court officer or peace officer employed by the unified court  
15 system who first becomes a member of the New York state and local  
16 employees' retirement system before April first, two thousand twelve may  
17 retire without reduction of his or her retirement benefit upon attain-  
18 ment of at least fifty-five years of age and completion of thirty or  
19 more years of service, provided, however, that a uniformed court officer  
20 or peace officer employed by the unified court system who first becomes  
21 a member of the New York state and local employees' retirement system on  
22 or after January first, two thousand ten and retires without reduction  
23 of his or her retirement benefit upon attainment of at least fifty-five  
24 years of age and completion of thirty or more years of service pursuant  
25 to this section shall be required to make the member contributions  
26 required by subdivision f of section six hundred thirteen of this arti-  
27 cle for all years of credited and creditable service, provided further  
28 that the ~~[the]~~ preceding provisions of this subdivision shall not apply  
29 to a New York city revised plan member.

30 § 12. Nothing contained in sections six and eleven of this act shall  
31 be construed to create any contractual right with respect to members to  
32 whom such sections apply. The provisions of such sections are intended  
33 to afford members the advantages of certain benefits contained in the  
34 Internal Revenue Code, and the effectiveness and existence of such  
35 sections and benefits they confer are completely contingent thereon.

36 § 13. This act shall take effect immediately, provided, however that:

37 (a) The amendments to subdivision a of section 603 of the retirement  
38 and social security law made by section eleven of this act shall not  
39 affect the expiration of such subdivision as provided in subdivision (b)  
40 of section 13 of chapter 682 of the laws of 2003, and shall expire ther-  
41 ewith;

42 (b) The provisions of section six of this act shall remain in force  
43 and effect only so long as, pursuant to federal law, contributions  
44 picked up under section 613 of the retirement and social security law  
45 are not includable as gross income of a member for federal income tax  
46 purposes until distributed or made available to the member; and

47 (c) The amendments to provisions of section 13-125.2 of the adminis-  
48 trative code of the city of New York made by sections seven, eight, nine  
49 and ten of this act shall not affect the expiration of such provisions  
50 as provided for in chapter 681 of the laws of 1992, as amended.

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

SUMMARY OF BILL: This proposed legislation would amend certain provisions of the Retirement and Social Security Law (RSSL) and the Administrative Code of the City of New York (ACCNY), and add RSSL Sections 445-j and 604-j to establish a 25-Year Retirement Program for Tiers 2, 4, and 6 New York City Employees' Retirement System (NYCERS)

members who are employed in the title of Water Supply Police (WSP 25-Year Plans).

Effective Date: Upon enactment.

MEMBERS ELIGIBLE TO JOIN: Those NYCERS members who are sworn officers of the water supply police employed by the City of New York (City), appointed to protect the sources, works, and transmission of water supplied to the City, and to protect persons on or in the vicinity of such water sources, works, and transmission pursuant to subdivision o of section 1.20 of the Criminal Procedure Law.

For purposes of this Fiscal Note, these members are collectively referred to as "Water Supply Police Members."

Participation in an applicable WSP 25-Year Plan is optional for anyone who is eligible to participate in the Plan on the date of enactment by filing an election form within 180 days of enactment. Anyone who is a member of NYCERS on the date of enactment and subsequently becomes employed as a Water Supply Police Member also has 180 days upon becoming such a member to elect to join the applicable WSP 25-Year Plan.

Any Water Supply Police Member who becomes a NYCERS member after the date of enactment is mandated into the Tier 6 WSP 25-Year Plan. However, if the member exceeds age 30 upon being mandated into the WSP 25-Year Plan, the member has the option to file an application to opt out of the Plan within 180 days of becoming a Water Supply Police Member.

IMPACT ON BENEFITS: Currently, Water Supply Police Members generally participate in one of the NYCERS general plans (i.e., basic Tier 4 62/5 Plan, Tier 6 63/10 Plan, or Improved Tier 4 57/5, 55/25 Plans). There is currently only one active Tier 2 Water Supply Police Member, who is not expected to benefit from the proposed legislation. Therefore, the following summary only applies to Tier 4 and Tier 6 Water Supply Police Members.

The proposed legislation, if enacted, would provide the following benefits to Water Supply Police Members under the WSP 25-Year Plans:

- \* Service retirement benefit:

- o 50% of Final Average Salary (FAS) for the first 25 years of Credited Service, plus

- o 2% of FAS for each additional year of Credited Service up to a maximum of 30 years of such service.

- \* Final Average Salary:

- o Tier 4 - Three-Year Average (FAS3)

- o Tier 6 - Five-Year Average (FAS5)

- \* Vested benefit:

- o Eligibility is:

- X At least five, but less than 25, years of Credited Service for Tier 4 and Tier 6 members.

- o Payable at:

- X The date the member would have completed 25 years of Credited Service for Tier 4 and Tier 6 members.

- o Amount:

- X 2% of FAS for each year of Credited Service.

- \* Other benefits: Members of the proposed WSP 25-Year Plan are entitled to the same disability and death benefits as other Tier 4 and Tier 6 members under the respective basic plans.

ADDITIONAL MEMBER CONTRIBUTIONS: Members of a WSP 25-Year Plan are required to make, in addition to the Tier 4 Basic Member Contributions (BMC) of 3% and the Tier 6 BMC ranging from 3% to 6% depending on defined salary scales, Additional Member Contributions equal to 6% of compensation for all service as a Plan participant on and after the



starting date of the Plan until the later of a maximum of 30 years of Credited Service or the one-year anniversary of the enactment of the Plan.

**FINANCIAL IMPACT - PRESENT VALUES:** Based on the anticipated group of members joining the WSP 25-Year Plans and the actuarial assumptions and methods described herein, the enactment of this proposed legislation would increase the Present Value of Future Benefits (PVFB) by approximately \$7.3 million and increase the Present Value of member contributions by approximately \$3.7 million. The net result is an increase in the Present Value of future employer contributions of approximately \$3.6 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 \$3.6 million plus the increase in the Present Value of future employer Normal Cost of less than \$0.1 million.

**FINANCIAL IMPACT - ANNUAL EMPLOYER CONTRIBUTIONS:** In accordance with ACCNY Section 13-638.2(k-2), 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, 2021, the remaining working lifetime of the Water Supply Police Members assumed to join the WSP 25-Year Plans is approximately 12 years.

For the purposes of this Fiscal Note, the increase in UAL was amortized over a 12-year period (11 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 \$856,000 each year.

**CONTRIBUTION TIMING:** For the purposes of this Fiscal Note, it is assumed that the changes in the Present Value of future employer contributions and annual employer contributions would be reflected for the first time in the Preliminary June 30, 2022 actuarial valuation of NYCERS. In accordance with the OYLM used to determine employer contributions, the increase in employer contributions would first be reflected in Fiscal Year 2024.

**CENSUS DATA:** The estimates presented herein are based on the census data used in the Preliminary June 30, 2021 (Lag) actuarial valuation of NYCERS to determine the Preliminary Fiscal Year 2023 employer contributions.

The 126 Water Supply Police Members as of June 30, 2021 assumed to join the WSP 25-Year Plans had an average age of approximately 39.8 years, average service of approximately 14.7 years, and an average salary of approximately \$80,900.

**ACTUARIAL ASSUMPTIONS AND METHODS:** The changes in the Present Value of future employer contributions and annual employer contributions presented herein have been calculated based on the actuarial assumptions and methods in effect for the Preliminary June 30, 2021 (Lag) actuarial valuations used to determine the Preliminary Fiscal Year 2023 employer contributions of NYCERS.

To determine the impact of the elective nature of the proposed legislation, a subgroup of Water Supply Police Members was developed based on who could potentially benefit actuarially from WSP 25-Year Plan participation. The net Present Value of future employer costs (i.e., the PVFB less the Present Value of future member contributions) of each member's benefit was determined under their current plan and under the applicable WSP 25-Year Plan. If the net Present Value of future employer cost under

the WSP 25-Year Plan was greater than or equal to the Present Value of future employer cost under the member's current plan, the member was deemed to benefit actuarially.

Based on this analysis, it was determined that those members who are mandated into the WSP 25-Year Plan in the future will generally not benefit from Plan participation (i.e., they will have a decrease in Present Value of future employer costs as compared to the Tier 6 63/10 Plan they would otherwise participate in, absent this proposed legislation), and therefore the costs presented in this Fiscal Note are borne only from current NYCERS members who are assumed to benefit from, and thus opt to join, the WSP 25-Year Plan.

**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 NYCERS 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 NYCERS 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, Michael J. Samet, am the Interim Chief Actuary for, and independent of, the New York City Retirement Systems and Pension Funds. I am a Fellow of the Society of Actuaries and a Member of the American Academy of 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 2022-42 dated May 4, 2022 was prepared by the Interim Chief Actuary for the New York City Employees' Retirement System. This estimate is intended for use only during the 2022 Legislative Session.