STATE OF NEW YORK

6988

2021-2022 Regular Sessions

IN SENATE

May 20, 2021

Introduced by Sen. GOUNARDES -- 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 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 fire protection inspectors and associate fire protection inspectors

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

Section 1. 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

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

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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 or a police communications member 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.

§ 2. Subdivision a of section 445 of the retirement and social security law, as amended by chapter 476 of the laws of 2018, 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 retirement 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, 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, an EMT member of the New York city employees' retirement system, a deputy sheriff member of the New York city employees' retirement system, **a fire protection inspector 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, 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, as defined in section eighty-nine-s, 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, 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, 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, as defined in section eighty-nine-o of this chapter or is a traffic officer with the town of Elmira as defined in section eighty-nine-q of this chapter or is employed by Suffolk county as a park police officer, as defined in section eighty-nine-r of this chapter or is a peace officer employed by a county probation department as defined in section eighty-nine-t, as added by chapter six hundred three of the laws of nineteen hundred ninety-eight, of this chapter or is employed in Rockland county as a deputy sheriff-civil as defined in section eighty-nine-v of this chapter as added by chapter four hundred forty-one of the laws of two thousand one, or is employed in Rockland county as a superior correction officer as defined in section eighty-nine-v of this chapter as added by chapter five hundred fifty-six of the laws of two thousand one or is a paramedic employed by the police department in the town of Tonawanda and retires under the provisions of section eighty-nine-v of this chapter, as added by chapter four hundred seventy-two of the laws of two thousand one, or is a county fire marshal, supervising fire marshal, fire marshal, assistant fire marshal, assistant chief fire marshal or chief fire marshal employed by the county of Nassau as defined in section eighty-nine-w of this chapter and is in a plan which permits immediate retirement upon completion of a specified period of service without regard to age. 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, 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,** a member in such a plan and such an occupation, other than a police officer or investigator member of the New York city employees' retirement system or a firefighter, shall not be permitted to retire prior to the completion of twenty-five years of credited service; provided, however, if such a member in such an occupation is in a plan which permits retirement upon completion of twenty years of service regardless of age, he or she may retire upon completion of twenty years of credited service and prior to the completion of twenty-five years of service, but in such event the benefit provided from funds other than those based on such a member's own contributions shall not exceed two per centum of final average salary per each year of credited service.

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

§ 445-j. Optional twenty-five year improved benefit retirement program for fire protection inspector members. a. Definitions. The following words and phrases as used in this section shall have the following meanings unless a different meaning is plainly required by the context.

1. "Retirement system" shall mean the New York city employees' retirement system.

2. "Fire protection inspector member" shall mean (i) a member of the retirement system who is subject to the provisions of this article, who is employed by the city of New York or by the New York city fire department in a title whose duties are those of a fire protection inspector or associate fire protection inspector; and (ii) a member of the retirement system who, on the effective date of this section or thereafter, was employed by the city of New York or by the New York city fire department in a title whose duties are those of a fire protection inspector or associate fire protection inspector and who, subsequent thereto, became employed by the city of New York or by the New York city fire department in a title whose duties require the supervision of employees whose duties are those of a fire protection inspector or associate fire protection inspector.

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

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

5. "Participant in the twenty-five year improved benefit retirement program" shall mean any fire protection inspector member who, under the applicable provisions of subdivision b of this section, is entitled to the rights, benefits and privileges and is subject to the obligations of the twenty-five year improved benefit retirement program, as applicable to him or her.

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

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

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

9. "Credited service" for purposes of this section shall mean all service as a fire protection inspector member.

b. Election of twenty-five year improved benefit retirement program. 1. Subject to the provisions of paragraphs five and six of this subdivision, any person who is a fire protection inspector member on the starting date of the twenty-five year improved benefit retirement program may elect to become a participant in the twenty-five year improved benefit retirement program by filing, within one hundred eighty days after such starting date, a duly executed application for such participation with the retirement system, provided he or she is such a fire protection inspector member on the date such application is filed.

2. Subject to the provision of paragraphs five and six of the this subdivision, any person who becomes a fire protection inspector member after the starting date of the twenty-five year improved benefit retirement program may elect to become a participant in the twenty-five year improved benefit retirement program by filing, within one hundred eighty days after becoming such a fire protection inspector member, a duly executed application for such participation with the retirement system, provided he or she is such a fire protection inspector member on the date such application is filed.

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

4. Where any participant in the twenty-five year improved benefit retirement program shall cease to hold a position as a fire protection inspector member, he or she shall cease to be such a participant and, during any period in which such a person does not hold such a fire protection inspector position, he or she shall not be a participant in the twenty-five year improved benefit retirement program and shall not be eligible for the benefits of subdivision c of this section.

5. Where any participant in the twenty-five year improved benefit retirement program terminates service as a fire protection inspector member and returns to such service as a fire protection inspector member at a later date, he or she shall again become such a participant on that date.

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

c. Service retirement benefits. Notwithstanding any other provision of law to the contrary, where a participant in the twenty-five year improved benefit retirement program, who is otherwise qualified for a retirement allowance pursuant to the optional retirement provision set forth in subdivision a of this section, has made and/or paid, while he or she is a fire protection inspector member, all additional member contributions and interest (if any) required by subdivision d of this section, then:

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

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

3. his or her retirement allowance shall be an amount, on account of the required minimum period of service, equal to the sum of (i) an annuity which shall be the actuarial equivalent of the accumulated deductions from his or her pay during such period, (ii) a pension for increased-take-home-pay which shall be the actuarial equivalent of the reserve for increased-take-home-pay to which he or she may be entitled, for such period, and (iii) a pension which, when added to such annuity and such pension for increased-take-home-pay, produces a retirement allowance equal to fifty percent of his or her final average salary, plus an amount for each additional year of allowable service as a fire protection inspector member, or fraction thereof, beyond such required minimum period of service equal to two percent of his or her final average salary for such allowable service as a fire protection inspector member during the period from completion of twenty-five years of allowable service as a fire protection inspector member to the date of retirement but not to exceed more than five years of additional service as a fire protection inspector member.

d. Additional member contributions. 1. In addition to the member contributions required pursuant to section 13-125 or 13-162 of the administrative code, each participant in the twenty-five year improved benefit retirement program shall contribute, subject to the applicable provisions of section 13-125.2 of the administrative code, an additional six and twenty-five one-hundredths percent of his or her compensation earned from all allowable service as a fire protection inspector member, as a participant in the twenty-five year improved benefit retirement program, rendered on and after the starting date of the improved benefit retirement program, and all allowable service as a fire protection inspector member after such person ceases to be a participant, but before he or she again becomes a participant pursuant to paragraph five of subdivision b of this section. A participant in the twenty-five year improved benefit retirement program shall contribute additional member contributions until the later of the date as of which he or she is eligible to retire with thirty years of allowable service as a fire protection inspector member under such retirement program, or the first anniversary of the starting date of the twenty-five year improved benefit retirement program. The additional contributions required by this section shall be in lieu of additional member contributions required by subdivision d of section four hundred forty-five-d of this chapter, as added by chapter ninety-six of the laws of nineteen hundred ninety-five, and no member paying additional contributions pursuant to this section shall be required to pay additional contributions pursuant to such subdivision d of section four hundred forty-five-d of this article.

2. Commencing with the first full payroll period after each person becomes a participant in the twenty-five year improved benefit retirement program, additional member contributions at the rate specified in paragraph one of this subdivision shall be deducted, subject to the applicable provisions of section 13-125.2 of the administrative code, 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.

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

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

(B) such interest on each amount of undeducted contributions 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 deductions had been required for such payroll period until such amount is paid to the retirement system; and

(C) (1) interest on each such amount included in such participant's contribution deficiency pursuant to this subparagraph shall be calculated as if such additional member contributions never had 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 contribution is attributable, compounded annually, until such amount is paid to the retirement system;

(2) 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;

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

(iii) Should any person who, pursuant to paragraph seven of this subdivision has withdrawn any additional member contributions (and any interest paid thereon) again become a participant in the twenty-five year improved benefit retirement program pursuant to paragraph five 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 this paragraph) for any credited service with respect to which such person received a refund of additional member contributions (including any amount of an unpaid loan balance deemed to have been returned to such person pursuant to paragraph seven of this subdivision), as if such additional member contributions never had been paid.

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

5. 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 paragraph three of this subdivision, or repay the entire amount of a loan of his or her additional member contributions pursuant to paragraph eight 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 where such participant is not entitled to a refund of additional member contributions pursuant to paragraph seven of this subdivision, such participant's service retirement benefit calculated pursuant to the applicable provisions of subdivision c of this section shall be reduced by a life annuity (calculated in accord-

ance with the method set forth in subdivision i of section six hundred thirteen-b of this chapter) which is actuarially equivalent to (i) the amount of any unpaid contribution deficiency chargeable to such member pursuant to paragraph three of this subdivision; plus (ii) the amount of any unpaid balance of a loan of his or her additional member contributions pursuant to paragraph eight of this subdivision (including accrued interest on such loan).

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

7. (i) All additional member contributions required by this subdivision (and any interest thereon) which are received by the retirement system shall be paid into its contingent reserve fund and shall be the property of the retirement system. Such additional member contributions (and any interest thereon) shall not for any purpose be deemed to be member contributions or accumulated deductions of a member of the retirement system under section 13-125 or 13-162 of the administrative code while he or she is a participant in the twenty-five year improved benefit retirement program or otherwise.

(ii) Should a participant in the twenty-five year improved benefit retirement program, who has rendered less than fifteen years of credited service cease to hold a position as a fire protection inspector member for any reason whatsoever, his or her accumulated additional member contributions made pursuant to this subdivision (together with any interest thereon paid to the retirement system) which remain credited to such participant's account may be withdrawn by him or her pursuant to procedures promulgated in regulations of the board of trustees of the retirement system, together with interest thereon at the rate of interest required by law to be used to credit interest on the accumulated deductions of retirement system members compounded annually.

(iii) Notwithstanding any other provision of law to the contrary, (A) no person shall be permitted to withdraw from the retirement system any additional member contributions paid pursuant to this subdivision or any interest paid thereon, except pursuant to and in accordance with the preceding subparagraphs of this paragraph; and

(B) no person, while he or she is a participant in the twenty-five year improved benefit retirement program, shall be permitted to withdraw any such additional member contributions or any interest paid thereon pursuant to any of the preceding subparagraphs of this paragraph or otherwise.

8. A participant in the twenty-five year improved benefit retirement program shall be permitted to borrow from his or her additional member contributions, including any interest paid thereon, which are credited to the additional contributions account established for such participant in the contingent reserve fund of the retirement system. The borrowing from such additional member contributions pursuant to this paragraph shall be governed by the same rights, privileges, obligations and procedures set forth in section six hundred thirteen-b of this chapter which govern the borrowing by members subject to article fifteen of this chapter of member contributions made pursuant to section six hundred thir-

teen of this chapter. The board of trustees of the retirement system may, consistent with the provisions of this subdivision and the provisions of section six hundred thirteen-b of this chapter as made applicable to this subdivision, promulgate regulations governing the borrowing of such additional member contributions.

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

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

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

e. The provisions of this section shall not be construed to provide benefits to any participant in the twenty-five year improved benefit retirement program which are greater than those which would be received by a similarly situated member who is entitled to benefits under the provisions of section 13-157.2 of the administrative code, but who is not governed by the provisions of this article.

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

§ 604-j. Twenty-five year retirement program for fire protection inspector members. a. Definitions. The following words and phrases as used in this section shall have the following meanings unless a different meaning is plainly required by the context.

1. "Fire protection inspector member" shall mean a member who is employed by the city of New York or by the New York city fire department in a title whose duties are those of a fire protection inspector or associate fire protection inspector; or in a title whose duties require the supervision of employees whose duties are those of a fire protection inspector or associate fire protection inspector.

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

3. "Starting date of the twenty-five year retirement program" shall mean the effective date of this section.

4. "Participant in the twenty-five year retirement program" shall mean any fire protection inspector member who, under the applicable provisions of subdivision b of this section, is entitled to the rights, benefits and privileges and is subject to the obligations of the twenty-five year retirement program, as applicable to him or her.

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

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

7. "Allowable service as a fire protection inspector member" shall mean all service as a fire protection inspector member.

b. Participation in the twenty-five year retirement program. 1. Subject to the provisions of paragraphs six and seven of this subdivision, any person who is a fire protection inspector member on the starting date of the twenty-five year retirement program and who, as such a fire protection inspector member or otherwise, last became subject to the provisions of this article prior to such starting date, may elect to become a participant in the twenty-five year retirement program by filing, within one hundred eighty days after the starting date of the twenty-five year retirement program, a duly executed application for such participation with the retirement system of which such person is a member, provided he or she is such a fire protection inspector member on the date such application is filed.

2. Subject to the provisions of paragraphs six and seven of this subdivision, any person who becomes a fire protection inspector member after the starting date of the twenty-five year retirement program and who, as such a fire protection inspector member or otherwise, last became subject to the provisions of this article prior to such starting date, may elect to become a participant in the twenty-five year retirement program by filing, within one hundred eighty days after becoming such a fire protection inspector member, a duly executed application for such participation with the retirement system for which such person is a member, provided he or she is such a fire protection inspector member on the date such application is filed.

3. Each fire protection inspector member, other than a fire protection inspector member subject to paragraph one or two of this subdivision, who becomes subject to the provisions of this article on or after the starting date of the twenty-five year retirement program shall become a participant in the twenty-five year retirement program on the date he or she becomes such a fire protection inspector member. Provided, however, a person subject to this paragraph, and who has exceeded age twenty-five upon employment as a fire protection inspector member, shall be exempt from participation in the improved twenty-five year retirement program if such person elects not to participate by filing a duly executed form with the retirement system within one hundred eighty days of becoming a fire protection inspector member.

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

5. Where any participant in the twenty-five year retirement program shall cease to be employed as a fire protection inspector member, he or she shall cease to be such a participant and, during any period in which such person is not so employed, he or she shall not be a participant in the twenty-five year retirement program and shall not be eligible for the benefits of subdivision c of this section.

6. Where any participant in the twenty-five year retirement program terminates service as a fire protection inspector member and returns to such service as a fire protection inspector member at a later date, he or she shall again become such a participant on that date.

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

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

(i) who has completed twenty-five or more years of allowable service as a fire protection inspector member; and

(ii) who has paid, before the effective date of retirement, all additional member contributions and interest (if any) required by subdivision e of this section; and

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

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

2. Notwithstanding the provisions of subdivision a-1 of section six hundred three of this article, or any other provision of law to the contrary, and subject to the provisions of paragraph six of subdivision e of this section, the early service retirement benefit for participants in the twenty-five year retirement program who retire pursuant to paragraph one of this subdivision shall be a retirement allowance consisting of:

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

(ii) an amount on account of allowable service as a fire protection inspector member, or fraction thereof, beyond such required minimum period of service equal to two percent of his or her final salary for such allowable service as a fire protection inspector member during the period from completion of twenty-five years of allowable service as a fire protection inspector member to the date of retirement but not to exceed more than five years of additional service as a fire protection inspector member.

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

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

(ii) in the case of a participant who is not a New York city revised plan member, who prior to such discontinuance, completed five but less than twenty-five years of allowable service as a fire protection inspector member or, in the case of a participant who is a New York city revised plan member, who prior to such discontinuance, completed ten but less than twenty-five years of allowable service as a fire protection inspector member; and

(iii) who, subject to the provisions of paragraph seven of subdivision e of this section, has paid, prior to such discontinuance, all additional member contributions and interest (if any) required by subdivision e of this section; and

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

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

(ii) In the case of a participant who is not a New York city revised plan member, such vested benefit shall become payable on the earliest

date on which such discontinued member could have retired for service if such discontinuance had not occurred or, in the case of a participant who is a New York city revised plan member, such vested benefit shall become payable at age sixty-three. Subject to the provisions of paragraph seven of subdivision e of this section, such deferred vested benefit shall be a retirement allowance consisting of an amount equal to two percent of such discontinued member's final average salary, multiplied by the number of years of 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 and subject to the limitation provided for in paragraph two of this subdivision) an additional six and twenty-five one-hundredths percent of his or her compensation earned from (i) all allowable 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 allowable 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 section 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 additional 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. Notwithstanding the foregoing provisions of this paragraph, the additional member contribution required to be paid by each participant pursuant to this paragraph shall not exceed the percentage of his or her compensation that, when added to the contribution made pursuant to subdivision d of section six hundred thirteen of this article, equals nine and twenty-five one-hundredths percent of that compensation.

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 allowable service as a fire protection inspector 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 additional member contribution 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 of this section 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 have 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 two of subdivision d of this section 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 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 a loan).

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

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

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

(ii) Should a participant in the twenty-five year retirement program who has rendered less than fifteen years of credited service cease to hold a position as a fire protection inspector member for any reason whatsoever, his or her accumulated additional member contributions made pursuant to this subdivision (together with any interest thereon paid to the retirement system) may be withdrawn by him or her pursuant to procedures promulgated in regulations of the board of trustees of the retirement system, together with interest thereon at the rate of five percent per annum, compounded annually.

(iii) Notwithstanding any other provision of law to the contrary, (A) no person shall be permitted to withdraw from the retirement system any additional member contributions paid pursuant to this subdivision or any interest paid thereon, except pursuant to and in accordance with the preceding subparagraphs of this paragraph; and (B) no person, while he

or she is a participant in the twenty-five year retirement program, shall be permitted to withdraw any such additional member contributions or any interest paid thereon pursuant to any of the preceding subparagraphs of this paragraph or otherwise.

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

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

§ 5. Subdivision d of section 613 of the retirement and social security law is amended by adding a new paragraph 12 to read as follows:

12. (i) The city of New York shall, in the case of a fire protection inspector member (as defined in paragraph one of subdivision a of section six hundred four-j of this article) who is a participant in the twenty-five year retirement program (as defined in paragraph four of subdivision a of such section six hundred four-j), pick up and pay to the retirement system of which such participant is a member all additional member contributions which otherwise would be required to be deducted from such member's compensation pursuant to paragraphs one and two of subdivision e of such section six hundred four-j of this article (not including any additional member contributions due for any period prior to the first full payroll period referred to in such paragraph three of such subdivision e), and shall effect such pick up in each and every payroll of such participant for each and every payroll period with respect to which such paragraph three would otherwise require such deductions.

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

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

(iv) For the purpose of determining the retirement system rights, benefits and privileges of any member whose additional member contributions are picked up pursuant to this paragraph, such picked up additional member contributions shall be deemed to be and treated as part of such member's additional member contributions under the applicable provisions of subdivision e of section six hundred four-j of this article.

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

§ 6. Section 13-125.2 of the administrative code of the city of New 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 fire protection inspector 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), 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.

§ 7. 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 of this section, or subdivision a-nine of this section; and

§ 8. 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 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 contributions under subdivision d of such section four hundred forty-five-j.

§ 9. 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.

§ 10. 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 minimum service requirements upon retirement and attainment of age sixty-two, other than members who are eligible for early service retirement pursuant to subdivision c of section six hundred four-b of this article, subdivision c of section six hundred four-c of this article, subdivision d of section six hundred four-d of this article, subdivision c of section six hundred four-e of this article, subdivision c of section six hundred four-f of this article, subdivision c of section six hundred four-g of this article, subdivision c of section six hundred four-h of this article [~~or~~] subdivision c of section six hundred four-i of this article**, or subdivision c of section six hundred four-j of this article**, provided, however, a member of a teachers' retirement system or the New York state and local employees' retirement system who first joins such system before January first, two thousand ten or a member who is a uniformed court officer or peace officer employed by the unified court system who first becomes a member of the New York state and local employees' retirement system before April first, two thousand twelve may retire without reduction of his or her retirement benefit upon attainment of at least fifty-five years of age and completion of thirty or more years of service, provided, however, that a uniformed court officer or peace officer employed by the unified court system who first becomes a member of the New York state and local employees' retirement system on or after January first, two thousand ten and retires without reduction of his or her retirement benefit upon attainment of at least fifty-five years of age and completion of thirty or more years of service pursuant to this section shall be required to make the member contributions required by subdivision f of section six hundred thirteen of this article for all years of credited and creditable service, provided further that the [~~the~~] preceding provisions of this subdivision shall not apply to a New York city revised plan member.

§ 11. Nothing contained in sections five and ten of this act shall be construed to create any contractual right with respect to members to whom such sections apply. The provisions of such sections are intended to afford members the advantages of certain benefits contained in the internal revenue code, and the effectiveness and existence of such sections and benefits they confer are completely contingent thereon.

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

(a) The provisions of sections five and ten of this act shall remain in full force and effect only so long as, pursuant to federal law, contributions picked up under such sections are not includable as gross

income of a member for federal income tax purposes until distributed or made available to the member; provided that the New York city employees' retirement system shall notify the legislative bill drafting commission upon the occurrence of such a change in federal law ruling affecting the provisions of this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law;

(b) The amendments to section 13-125.2 of the administrative code of the city of New York made by sections six, seven, eight, and nine of this act shall not affect the expiration of such section and shall be deemed to expire therewith; and

(c) The amendments to subdivision a of section 603 of the retirement and social security law made by section ten of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith.