

STATE OF NEW YORK

6988--A

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 -- 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 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:

1 Section 1. Subdivision a of section 444 of the retirement and social
2 security law, as amended by section 141 of subpart B of part C of chap-
3 ter 62 of the laws of 2011, is amended to read as follows:
4 a. Except as provided in subdivision c of section four hundred forty-
5 five-a of this article, subdivision c of section four hundred forty-
6 five-b of this article, subdivision c of section four hundred forty-
7 five-c of this article, subdivision c of section four hundred
8 forty-five-d of this article as added by chapter four hundred seventy-
9 two of the laws of nineteen hundred ninety-five, subdivision c of
10 section four hundred forty-five-e of this article, subdivision c of
11 section four hundred forty-five-f of this article [~~and~~], subdivision c
12 of section four hundred forty-five-h of this article and subdivision c
13 of section four hundred forty-five-j of this article, the maximum
14 retirement benefit computed without optional modification provided to a
15 member of a retirement system who is subject to the provisions of this
16 article, other than a police officer, a firefighter, an investigator
17 member of the New York city employees' retirement system, a member of
18 the uniformed personnel in institutions under the jurisdiction of the
19 New York city department of correction who receives a performance of
20 duty disability retirement allowance, a member of the uniformed person-

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

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nel 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 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

1 county as a correction officer, as defined in section eighty-nine-f of
2 this chapter, or employed in Nassau county as a correction officer,
3 uniformed correction division personnel, sheriff, undersheriff or deputy
4 sheriff, as defined in section eighty-nine-g of this chapter, or
5 employed in Nassau county as an ambulance medical technician, an ambu-
6 lance medical technician/supervisor or a member who performs ambulance
7 medical technician related services, as defined in section
8 eighty-nine-s, as amended by chapter five hundred seventy-eight of the
9 laws of nineteen hundred ninety-eight, of this chapter, or employed in
10 Nassau county as a peace officer, as defined in section eighty-nine-s,
11 as added by chapter five hundred ninety-five of the laws of nineteen
12 hundred ninety-seven, of this chapter, or employed in Albany county as a
13 sheriff, undersheriff, deputy sheriff, correction officer or identifica-
14 tion officer, as defined in section eighty-nine-h of this chapter or is
15 employed in St. Lawrence county as a sheriff, undersheriff, deputy sher-
16 iff or correction officer, as defined in section eighty-nine-i of this
17 chapter or is employed in Orleans county as a sheriff, undersheriff,
18 deputy sheriff or correction officer, as defined in section
19 eighty-nine-l of this chapter or is employed in Jefferson county as a
20 sheriff, undersheriff, deputy sheriff or correction officer, as defined
21 in section eighty-nine-j of this chapter or is employed in Onondaga
22 county as a deputy sheriff-jail division competitively appointed or as a
23 correction officer, as defined in section eighty-nine-k of this chapter
24 or is employed in a county which makes an election under subdivision j
25 of section eighty-nine-p of this chapter as a sheriff, undersheriff,
26 deputy sheriff or correction officer as defined in such section eighty-
27 nine-p or is employed in Broome County as a sheriff, undersheriff, depu-
28 ty sheriff or correction officer, as defined in section eighty-nine-m of
29 this chapter or is a Monroe county deputy sheriff-court security, or
30 deputy sheriff-jailor as defined in section eighty-nine-n, as added by
31 chapter five hundred ninety-seven of the laws of nineteen hundred nine-
32 ty-one, of this chapter or is employed in Greene county as a sheriff,
33 undersheriff, deputy sheriff or correction officer, as defined in
34 section eighty-nine-o of this chapter or is a traffic officer with the
35 town of Elmira as defined in section eighty-nine-q of this chapter or is
36 employed by Suffolk county as a park police officer, as defined in
37 section eighty-nine-r of this chapter or is a peace officer employed by
38 a county probation department as defined in section eighty-nine-t, as
39 added by chapter six hundred three of the laws of nineteen hundred nine-
40 ty-eight, of this chapter or is employed in Rockland county as a deputy
41 sheriff-civil as defined in section eighty-nine-v of this chapter as
42 added by chapter four hundred forty-one of the laws of two thousand one,
43 or is employed in Rockland county as a superior correction officer as
44 defined in section eighty-nine-v of this chapter as added by chapter
45 five hundred fifty-six of the laws of two thousand one or is a paramedic
46 employed by the police department in the town of Tonawanda and retires
47 under the provisions of section eighty-nine-v of this chapter, as added
48 by chapter four hundred seventy-two of the laws of two thousand one, or
49 is a county fire marshal, supervising fire marshal, fire marshal,
50 assistant fire marshal, assistant chief fire marshal or chief fire
51 marshal employed by the county of Nassau as defined in section eighty-
52 nine-w of this chapter and is in a plan which permits immediate retire-
53 ment upon completion of a specified period of service without regard to
54 age. Except as provided in subdivision c of section four hundred forty-
55 five-a of this article, subdivision c of section four hundred forty-
56 five-b of this article, subdivision c of section four hundred forty-

1 five-c of this article, subdivision c of section four hundred
2 forty-five-d of this article, subdivision c of section four hundred
3 forty-five-e of this article, subdivision c of section four hundred
4 forty-five-f of this article ~~[and]~~, subdivision c of section four
5 hundred forty-five-h of this article, and subdivision c of section four
6 hundred forty-five-j of this article, a member in such a plan and such
7 an occupation, other than a police officer or investigator member of the
8 New York city employees' retirement system or a firefighter, shall not
9 be permitted to retire prior to the completion of twenty-five years of
10 credited service; provided, however, if such a member in such an occupa-
11 tion is in a plan which permits retirement upon completion of twenty
12 years of service regardless of age, he or she may retire upon completion
13 of twenty years of credited service and prior to the completion of twen-
14 ty-five years of service, but in such event the benefit provided from
15 funds other than those based on such a member's own contributions shall
16 not exceed two per centum of final average salary per each year of cred-
17 ited service.

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

20 § 445-j. Optional twenty-five year improved benefit retirement program
21 for fire protection inspector members. a. Definitions. The following
22 words and phrases as used in this section shall have the following mean-
23 ings unless a different meaning is plainly required by the context.

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

26 2. "Fire protection inspector member" shall mean (i) a member of the
27 retirement system who is subject to the provisions of this article, who
28 is employed by the city of New York or by the New York city fire depart-
29 ment in a title whose duties are those of a fire protection inspector or
30 associate fire protection inspector; and (ii) a member of the retirement
31 system who, on the effective date of this section or thereafter, was
32 employed by the city of New York or by the New York city fire department
33 in a title whose duties are those of a fire protection inspector or
34 associate fire protection inspector and who, subsequent thereto, became
35 employed by the city of New York or by the New York city fire department
36 in a title whose duties require the supervision of employees whose
37 duties are those of a fire protection inspector or associate fire
38 protection inspector.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 3. his or her retirement allowance shall be an amount, on account of
5 the required minimum period of service, equal to the sum of (i) an annu-
6 ity which shall be the actuarial equivalent of the accumulated
7 deductions from his or her pay during such period, (ii) a pension for
8 increased-take-home-pay which shall be the actuarial equivalent of the
9 reserve for increased-take-home-pay to which he or she may be entitled,
10 for such period, and (iii) a pension which, when added to such annuity
11 and such pension for increased-take-home-pay, produces a retirement
12 allowance equal to fifty percent of his or her final average salary,
13 plus an amount for each additional year of allowable service as a fire
14 protection inspector member, or fraction thereof, beyond such required
15 minimum period of service equal to two percent of his or her final aver-
16 age salary for such allowable service as a fire protection inspector
17 member during the period from completion of twenty-five years of allow-
18 able service as a fire protection inspector member to the date of
19 retirement but not to exceed more than five years of additional service
20 as a fire protection inspector member.

21 d. Additional member contributions. 1. In addition to the member
22 contributions required pursuant to section 13-125 or 13-162 of the
23 administrative code, each participant in the twenty-five year improved
24 benefit retirement program shall contribute, subject to the applicable
25 provisions of section 13-125.2 of the administrative code, an additional
26 six and twenty-five one-hundredths percent of his or her compensation
27 earned from all allowable service as a fire protection inspector member,
28 as a participant in the twenty-five year improved benefit retirement
29 program, rendered on and after the starting date of the improved benefit
30 retirement program, and all allowable service as a fire protection
31 inspector member after such person ceases to be a participant, but
32 before he or she again becomes a participant pursuant to paragraph five
33 of subdivision b of this section. A participant in the twenty-five year
34 improved benefit retirement program shall contribute additional member
35 contributions until the later of the date as of which he or she is
36 eligible to retire with thirty years of allowable service as a fire
37 protection inspector member under such retirement program, or the first
38 anniversary of the starting date of the twenty-five year improved bene-
39 fit retirement program. The additional contributions required by this
40 section shall be in lieu of additional member contributions required by
41 subdivision d of section four hundred forty-five-d of this chapter, as
42 added by chapter ninety-six of the laws of nineteen hundred ninety-five,
43 and no member paying additional contributions pursuant to this section
44 shall be required to pay additional contributions pursuant to such
45 subdivision d of section four hundred forty-five-d of this article.

46 2. Commencing with the first full payroll period after each person
47 becomes a participant in the twenty-five year improved benefit retire-
48 ment program, additional member contributions at the rate specified in
49 paragraph one of this subdivision shall be deducted, subject to the
50 applicable provisions of section 13-125.2 of the administrative code,
51 from the compensation of such participant on each and every payroll of
52 such participant for each and every payroll period for which he or she
53 is such a participant.

54 3. (i) Subject to the provisions of subparagraph (ii) of this para-
55 graph, where any additional member contributions required by paragraph

1 one of this subdivision are not paid by deductions from a participant's
2 compensation pursuant to paragraph two of this subdivision:

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

6 (B) such interest on each amount of undeducted contributions shall
7 accrue from the end of the payroll period for which such amount would
8 have been deducted from compensation if he or she had been a participant
9 at the beginning of that payroll period and such deductions had been
10 required for such payroll period until such amount is paid to the
11 retirement system; and

12 (C) (1) interest on each such amount included in such participant's
13 contribution deficiency pursuant to this subparagraph shall be calcu-
14 lated as if such additional member contributions never had been paid by
15 such participant, and such interest shall accrue from the end of the
16 payroll period to which an amount of such additional member contribution
17 is attributable, compounded annually, until such amount is paid to the
18 retirement system;

19 (2) the rate of interest to be applied to each such amount during the
20 period for which interest accrues on that amount shall be equal to the
21 rate or rates of interest required by law to be used during that same
22 period to credit interest on the accumulated deductions of retirement
23 system members;

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

28 (iii) Should any person who, pursuant to paragraph seven of this
29 subdivision has withdrawn any additional member contributions (and any
30 interest paid thereon) again become a participant in the twenty-five
31 year improved benefit retirement program pursuant to paragraph five of
32 subdivision b of this section, an appropriate amount shall be included
33 in such participant's contribution deficiency (including interest there-
34 on as calculated pursuant to this paragraph) for any credited service
35 with respect to which such person received a refund of additional member
36 contributions (including any amount of an unpaid loan balance deemed to
37 have been returned to such person pursuant to paragraph seven of this
38 subdivision), as if such additional member contributions never had been
39 paid.

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

46 5. Where a participant who is otherwise eligible for service retire-
47 ment pursuant to subdivision c of this section did not, prior to the
48 effective date of retirement, pay the entire amount of a contribution
49 deficiency chargeable to him or her pursuant to paragraph three of this
50 subdivision, or repay the entire amount of a loan of his or her addi-
51 tional member contributions pursuant to paragraph eight of this subdivi-
52 sion (including accrued interest on such loan), that participant, never-
53 theless, shall be eligible to retire pursuant to subdivision c of this
54 section, provided, however, that where such participant is not entitled
55 to a refund of additional member contributions pursuant to paragraph
56 seven of this subdivision, such participant's service retirement benefit

1 calculated pursuant to the applicable provisions of subdivision c of
2 this section shall be reduced by a life annuity (calculated in accord-
3 ance with the method set forth in subdivision i of section six hundred
4 thirteen-b of this chapter) which is actuarially equivalent to (i) the
5 amount of any unpaid contribution deficiency chargeable to such member
6 pursuant to paragraph three of this subdivision; plus (ii) the amount of
7 any unpaid balance of a loan of his or her additional member contrib-
8 utions pursuant to paragraph eight of this subdivision (including
9 accrued interest on such loan).

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

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

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

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

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

49 8. A participant in the twenty-five year improved benefit retirement
50 program shall be permitted to borrow from his or her additional member
51 contributions, including any interest paid thereon, which are credited
52 to the additional contributions account established for such participant
53 in the contingent reserve fund of the retirement system. The borrowing
54 from such additional member contributions pursuant to this paragraph
55 shall be governed by the same rights, privileges, obligations and proce-
56 dures set forth in section six hundred thirteen-b of this chapter which

1 govern the borrowing by members subject to article fifteen of this chap-
2 ter of member contributions made pursuant to section six hundred thir-
3 teen of this chapter. The board of trustees of the retirement system
4 may, consistent with the provisions of this subdivision and the
5 provisions of section six hundred thirteen-b of this chapter as made
6 applicable to this subdivision, promulgate regulations governing the
7 borrowing of such additional member contributions.

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

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

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

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

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

32 § 604-j. Twenty-five year retirement program for fire protection
33 inspector members. a. Definitions. The following words and phrases as
34 used in this section shall have the following meanings unless a differ-
35 ent meaning is plainly required by the context.

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

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.

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

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

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

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

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

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

26 3. Each fire protection inspector member, other than a fire protection
27 inspector member subject to paragraph one or two of this subdivision,
28 who becomes subject to the provisions of this article on or after the
29 starting date of the twenty-five year retirement program shall become a
30 participant in the twenty-five year retirement program on the date he or
31 she becomes such a fire protection inspector member. Provided, however,
32 a person subject to this paragraph, and who has exceeded age twenty-five
33 upon employment as a fire protection inspector member, shall be exempt
34 from participation in the improved 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 a
37 fire protection inspector member.

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

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

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

50 7. Notwithstanding any other provision of the law to the contrary, any
51 person who is eligible to elect to become a participant in the twenty-
52 five year retirement program pursuant to paragraph one or two of this
53 subdivision for the full one hundred eighty day period provided for in
54 such applicable paragraph and who fails to timely file a duly executed
55 application for such participation with the retirement system, shall not
56 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 allowable service
4 as a fire protection inspector member; 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 what 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. Notwithstanding the provisions of subdivision a-1 of section six
17 hundred three of this article, or any other provision of law to the
18 contrary, and subject to the provisions of paragraph six of subdivision
19 e of this section, the early service retirement benefit for participants
20 in the twenty-five year retirement program who retire pursuant to para-
21 graph one of this subdivision shall be a retirement allowance consisting
22 of:

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

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

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

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

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

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

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

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

1 (ii) In the case of a participant who is not a New York city revised
2 plan member, such vested benefit shall become payable on the earliest
3 date on which such discontinued member could have retired for service if
4 such discontinuance had not occurred or, in the case of a participant
5 who is a New York city revised plan member, such vested benefit shall
6 become payable at age sixty-three. Subject to the provisions of para-
7 graph seven of subdivision e of this section, such deferred vested bene-
8 fit shall be a retirement allowance consisting of an amount equal to two
9 percent of such discontinued member's final average salary, multiplied
10 by the number of years of credited service.

11 e. Additional member contributions. 1. In addition to the member
12 contributions required by section six hundred thirteen of this article,
13 each participant in the twenty-five year retirement program shall
14 contribute to the retirement system of which he or she is a member
15 (subject to the applicable provisions of subdivision d of section six
16 hundred thirteen of this article and subject to the limitation provided
17 for in paragraph two of this subdivision) an additional six and twenty-
18 five one-hundredths percent of his or her compensation earned from (i)
19 all allowable service, as a participant in the twenty-five year retire-
20 ment program, rendered on or after the starting date of the twenty-five
21 year retirement program, and (ii) all allowable service after such
22 person ceases to be a participant, but before he or she again becomes a
23 participant pursuant to paragraph six of subdivision b of this section.
24 The additional contributions required by this section shall be in lieu
25 of additional member contributions required by subdivision d of section
26 six hundred four-c of this article, as added by chapter ninety-six of
27 the laws of nineteen hundred ninety-five, and no member making addi-
28 tional contributions pursuant to this section shall be required to make
29 contributions pursuant to such subdivision d of section six hundred
30 four-c of this article. Notwithstanding the foregoing provisions of this
31 paragraph, the additional member contribution required to be paid by
32 each participant pursuant to this paragraph shall not exceed the
33 percentage of his or her compensation that, when added to the contrib-
34 ution made pursuant to subdivision d of section six hundred thirteen of
35 this article, equals nine and twenty-five one-hundredths percent of that
36 compensation.

37 2. A participant in the twenty-five year retirement program shall
38 contribute additional member contributions until the later of (i) the
39 first anniversary of the starting date of the twenty-five year retire-
40 ment program, or (ii) the date on which he or she completes thirty years
41 of allowable service as a fire protection inspector member.

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

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

1 annually, and computed in accordance with the provisions of subpara-
2 graphs (ii) and (iii) of this paragraph.

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

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

14 (iii) Except as otherwise provided in paragraph five of this subdivi-
15 sion, no interest shall be due on any unpaid additional member contrib-
16 utions which are not attributable to a period prior to the first full
17 payroll period referred to in paragraph three of this subdivision.

18 5. (i) Should any person who, pursuant to subparagraph (ii) of para-
19 graph ten of this subdivision, has received a refund of his or her addi-
20 tional member contribution including any interest paid on such contrib-
21 utions, again become a participant in the twenty-five year retirement
22 program pursuant to paragraph six of subdivision b of this section, an
23 appropriate amount shall be included in such participant's contribution
24 deficiency (including interest thereon as calculated pursuant to subpar-
25 agraph (ii) of this paragraph) for any credited service for which such
26 person received a refund of such additional member contributions
27 (including any amount of an unpaid loan balance deemed to have been
28 returned to such person pursuant to paragraph twelve of this subdivi-
29 sion), as if such additional member contributions never had been paid.

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

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

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

53 (i) the amount of any unpaid contribution deficiency chargeable to
54 such member pursuant to paragraphs four and five of this subdivision;
55 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 sion (including accrued interest on such loan).

4 7. Where a participant who is otherwise eligible for a vested right to
5 a deferred benefit pursuant to subdivision d of this section did not,
6 prior to the date of discontinuance of service, pay the entire amount of
7 a contribution deficiency chargeable to him or her pursuant to para-
8 graphs four and five of this subdivision, or repay the entire amount of
9 a loan of his or her additional member contributions pursuant to para-
10 graph eleven of this subdivision (including accrued interest on such
11 loan), that participant, nevertheless, shall have a vested right to a
12 deferred benefit pursuant to subdivision d of this section provided,
13 however, that the deferred vested benefit calculated pursuant to para-
14 graph two of subdivision d of this section shall be reduced by a life
15 annuity (calculated in accordance with the method set forth in subdivi-
16 sion i of section six hundred thirteen-b of this article) which is actu-
17 arially equivalent to:

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

20 (ii) the amount of any unpaid balance of a loan of his or her addi-
21 tional member contributions pursuant to paragraph eleven of this subdivi-
22 sion (including accrued interest on such a loan).

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

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

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

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

55 (iii) Notwithstanding any other provision of law to the contrary, (A)
56 no person shall be permitted to withdraw from the retirement system any

1 additional member contributions paid pursuant to this subdivision or any
2 interest paid thereon, except pursuant to and in accordance with the
3 preceding subparagraphs of this paragraph; and (B) no person, while he
4 or she is a participant in the twenty-five year retirement program,
5 shall be permitted to withdraw any such additional member contributions
6 or any interest paid thereon pursuant to any of the preceding subpara-
7 graphs of this paragraph or otherwise.

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

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

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

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

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

53 (iii) The additional member contributions picked up pursuant to this
54 paragraph for any such member shall be paid by such employer in lieu of
55 an equal amount of additional member contributions otherwise required to
56 be paid by such member under the applicable provisions of subdivision e

1 of section six hundred four-j of this article, and shall be deemed to be
2 and treated as employer contributions pursuant to section 414(h) of the
3 Internal Revenue Code.

4 (iv) For the purpose of determining the retirement system rights,
5 benefits and privileges of any member whose additional member contrib-
6 utions are picked up pursuant to this paragraph, such picked up addi-
7 tional member contributions shall be deemed to be and treated as part of
8 such member's additional member contributions under the applicable
9 provisions of subdivision e of section six hundred four-j of this arti-
10 cle.

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

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

22 a-9. Notwithstanding any other provision of law to the contrary, on or
23 after the starting date for pick up, the employer responsible for pick
24 up shall, in the case of a fire protection inspector member (as defined
25 in paragraph two of subdivision a of section four hundred forty-five-j
26 of the retirement and social security law) who is a participant in the
27 twenty-five year improved benefit retirement program (as defined in
28 paragraph three of such subdivision a), pick up and pay to the retire-
29 ment system all additional member contributions which otherwise would be
30 required to be deducted from such member's compensation pursuant to
31 subdivision d of such section four hundred forty-five-j, and shall
32 effect such pick up on each and every payroll of such participant for
33 each and every payroll period with respect to which such subdivision d
34 would otherwise require such deductions.

35 § 7. Subparagraph (ii) of paragraph 1 of subdivision c of section
36 13-125.2 of the administrative code of the city of New York, as amended
37 by chapter 682 of the laws of 2003, is amended to read as follows:

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

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

48 (2-h) For the purpose of determining the retirement system rights,
49 benefits and privileges of any member who is a participant in the twen-
50 ty-five year retirement program (as defined in paragraph three of subdi-
51 vision a of section four hundred forty-five-j of the retirement and
52 social security law), the additional member contributions of such
53 participant picked up pursuant to subdivision a-nine of this section
54 shall be deemed to be and treated as a part of such member's additional
55 contributions under subdivision d of such section four hundred forty-
56 five-j.

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

4 (3) Interest on contributions picked up for any Tier I or Tier II
5 non-uniformed-force member pursuant to this section (other than addi-
6 tional member contributions picked up pursuant to subdivision a-one,
7 subdivision a-two, subdivision a-three, subdivision a-four, subdivision
8 a-five, subdivision a-six, subdivision a-seven ~~[ex]~~, subdivision
9 a-eight, or subdivision a-nine of this section) shall accrue in favor of
10 the member and be payable to the retirement system at the same rate, for
11 the same time periods, in the same manner and under the same circum-
12 stances as interest would be required to accrue in favor of the member
13 and be payable to the retirement system on such contributions if they
14 were made by such member in the absence of a pick up program applicable
15 to such member under the provisions of this section.

16 § 10. Subdivision a of section 603 of the retirement and social secu-
17 rity law, as amended by chapter 18 of the laws of 2012, is amended to
18 read as follows:

19 a. The service retirement benefit specified in section six hundred
20 four of this article shall be payable to members who have met the mini-
21 mum service requirements upon retirement and attainment of age sixty-
22 two, other than members who are eligible for early service retirement
23 pursuant to subdivision c of section six hundred four-b of this article,
24 subdivision c of section six hundred four-c of this article, subdivision
25 d of section six hundred four-d of this article, subdivision c of
26 section six hundred four-e of this article, subdivision c of section six
27 hundred four-f of this article, subdivision c of section six hundred
28 four-g of this article, subdivision c of section six hundred four-h of
29 this article ~~[ex]~~ subdivision c of section six hundred four-i of this
30 article, or subdivision c of section six hundred four-j of this article,
31 provided, however, a member of a teachers' retirement system or the New
32 York state and local employees' retirement system who first joins such
33 system before January first, two thousand ten or a member who is a
34 uniformed court officer or peace officer employed by the unified court
35 system who first becomes a member of the New York state and local
36 employees' retirement system before April first, two thousand twelve may
37 retire without reduction of his or her retirement benefit upon attain-
38 ment of at least fifty-five years of age and completion of thirty or
39 more years of service, provided, however, that a uniformed court officer
40 or peace officer employed by the unified court system who first becomes
41 a member of the New York state and local employees' retirement system on
42 or after January first, two thousand ten and retires without reduction
43 of his or her retirement benefit upon attainment of at least fifty-five
44 years of age and completion of thirty or more years of service pursuant
45 to this section shall be required to make the member contributions
46 required by subdivision f of section six hundred thirteen of this arti-
47 cle for all years of credited and creditable service, provided further
48 that the ~~[the]~~ preceding provisions of this subdivision shall not apply
49 to a New York city revised plan member.

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

56 § 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.

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

SUMMARY OF BILL: This proposed legislation would amend Administrative Code of the City of New York (ACCNY) Section 13-125.2 and Retirement and Social Security Law (RSSL) Sections 444, 445, 603, and 613, and add ACCNY Section 13-157.5 and RSSL Sections 445-j and 604-j to establish a 25-Year Retirement Program for Fire Protection Inspectors (FPI 25-Year Plan) for each tier.

Effective Date: Upon enactment.

BACKGROUND: Members whose duties are one of the following are eligible to participate in the FPI 25-Year Plans:

- * Fire Protection Inspector,
- * Associate Fire Protection Inspector,
- * Supervisor of employees whose duties are those of a fire protection inspector, and
- * Supervisor of employees whose duties are those of an associate fire protection inspector.

For the purposes of this Fiscal Note, these members are collectively referred to as "Fire Inspectors."

Participation in an applicable FPI 25-Year Plan is optional for anyone who is eligible to participate in such Plan on the date of enactment by filing an election form within 180 days of enactment. Anyone who is an existing member of the New York City Employees' Retirement System (NYCERS) on the date of enactment and subsequently becomes employed as a Fire Inspector also has 180 days to elect to join the applicable FPI 25-Year Plan.

Any Fire Inspector who becomes a NYCERS member after the date of enactment is mandated into the Tier 6 FPI 25-Year Plan. However, if the member exceeds age 25 upon being mandated into the FPI 25-Year Plan, the member has the option, within 180 days of becoming a Fire Inspector, to elect not to participate.

IMPACT ON BENEFITS: Currently, Fire Inspectors 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). Note that since there are no active Tier 2 Fire Inspectors remaining, the following summary of the FPI 25-Year Plans is for Tier 4 and Tier 6 members only.

The proposed legislation, if enacted, would provide the following benefits to Fire Inspectors under the FPI 25-Year Plans:

- * Service retirement benefit:
 - * 50% of Final Average Salary (FAS) for the first 25 years of Allowable Service, plus
 - * 2% of FAS for each additional year of Allowable Service, or fraction thereof, exceeding 25 years up to a maximum of 30 years of such service.
- * Final Average Salary:
 - * Tier 4 - Three Year Average (FAS3).
 - * Tier 6 - Five Year Average (FAS5).
- * Vested benefit:
- * Eligibility:
 - * Tier 4 - At least five, but less than 25, years of Allowable Service.
 - * Tier 6 - At least 10, but less than 25, years of Allowable Service.
- * Payable at:
 - * Tier 4 - The date the member would have completed 25 years of Allowable Service.
 - * Tier 6 - Age 63.
- * Amount:
 - * 2% of FAS for each year of Allowable Service.
- * Other benefits: Members of the proposed FPI 25-Year Plans 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 an FPI 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 (AMC) equal to 6.25% of compensation for all service as a Plan participant on and after the starting date of the Plan until the later of the one-year anniversary of the effective date of the Plans or 30 years of Allowable Service. In no event shall BMC plus AMC exceed 9.25% of compensation.

FINANCIAL IMPACT - PRESENT VALUES: Based on the anticipated group of members joining the FPI 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 \$3.3 million and increase the Present Value of member contributions by approximately \$1.7 million. The net result is an increase in the Present Value of future employer contributions of approximately \$1.6 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 \$1.8 million offset by a decrease in the Present Value of future employer Normal Cost of \$0.2 million.

FINANCIAL IMPACT - ANNUAL EMPLOYER CONTRIBUTIONS: In accordance with Section 13-638.2(k-2) of the ACCNY, new UAL attributable to benefit changes are to be amortized as determined by the Actuary but are generally amortized over the remaining working lifetime of those impacted by the benefit changes. As of June 30, 2020, the remaining working lifetime of the Fire Inspectors assumed to join the FPI 25-Year Plans is approximately 10 years.

For the purposes of this Fiscal Note, the increase in UAL was amortized over a 10-year period (nine 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 \$405,000 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 June 30, 2021 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 2023.

CENSUS DATA: The estimates presented herein are based on the census data used in the June 30, 2020 (Lag) actuarial valuation of NYCERS to determine the Preliminary Fiscal Year 2022 employer contributions.

The 99 NYCERS Fire Inspectors as of June 30, 2020 assumed to join the FPI 25-Year Plans had an average age of approximately 48.6 years, average service of approximately 16.3 years, and an average salary of approximately \$74,600.

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 June 30, 2019 (Lag) actuarial valuations used to determine the Preliminary Fiscal Year 2021 employer contributions of NYCERS.

To determine the impact of the elective nature of the proposed legislation, a subgroup of NYCERS Fire Inspectors was developed based on who could potentially benefit actuarially. 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 FPI 25-Year Plan. If the net Present Value of future employer cost under the FPI 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 FPI 25-Year Plan in the future will generally not benefit under the Plan (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 FPI-25 Year Plan.

The Actuary is proposing a set of changes for use beginning with the June 30, 2019 (Lag) actuarial valuations of NYCERS to determine the Final Fiscal Year 2021 Employer Contributions (2021 A&M). If the 2021 A&M is enacted, it is estimated that it would produce increases in the Present Value of Employer Contributions that are approximately 3% larger than the results shown above and annual employer contributions that are approximately 2% larger than the results shown above.

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, Sherry S. Chan, am the Chief Actuary for, and independent of, the New York City Retirement Systems and Pension Funds. I am a Fellow of the Society of Actuaries, an Enrolled Actuary under the Employee Retirement Income and Security Act of 1974, a Member of the American Academy of Actuaries, and a Fellow of the Conference of Consulting Actuaries. I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein. To the best of my knowledge, the results contained herein have been prepared in accordance with generally accepted actuarial principles and procedures and with the Actuarial Standards of Practice issued by the Actuarial Standards Board.

FISCAL NOTE IDENTIFICATION: This Fiscal Note 2021-32 dated May 25, 2021 was prepared by the Chief Actuary for the New York City Employees' Retirement System. This estimate is intended for use only during the 2021 Legislative Session.