STATE OF NEW YORK

10448

IN ASSEMBLY

May 24, 2024

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Pheffer Amato) -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the administrative code of the city of New York and the retirement and social security law, in relation to permitting certain New York city correction members to borrow from their accumulated member contributions; and to repeal certain provisions of the retirement and social security law relating thereto

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

Section 1. Paragraph 8 of subdivision d of section 445-a of the retirement and social security law is REPEALED and paragraphs 9 and 10 are renumbered paragraphs 8 and 9.

§ 2. Paragraph 12 of subdivision d of section 445-c of the retirement and social security law is REPEALED and paragraphs 13, 14 and 15 are renumbered paragraphs 12, 13 and 14.

§ 3. Paragraph 9 of subdivision e of section 504-a of the retirement and social security law is REPEALED.

§ 4. Paragraph 13 of subdivision e of section 504-b of the retirement and social security law is REPEALED.

§ 5. Subdivision a of section 13-140 of the administrative code of the city of New York, as amended by chapter 642 of the laws of 1985, is amended to read as follows:

a. Any member in city service who shall have been a member continuously at least three years, may borrow from the contingent reserve fund, subject to such rules and regulations as may be approved by such board, an amount not exceeding **the sum of (i)** seventy-five per centum of the amount in [~~his or her~~] **such member's** account in the annuity savings fund**, (ii) all additional contributions, together with interest thereon, made by such member pursuant to section four hundred forty-five-a of the retirement and social security law, and (iii) all additional contributions, together with interest thereon, made by such member pursuant to section four hundred forty-five-c of the retirement and social security law**. The rate of interest payable on any loan made under this section

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

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shall be two per centum higher than the rate of regular interest creditable to the account of the member. The amount so borrowed, together with interest on any unpaid balance thereof shall be repaid to the retirement system in equal installments by deduction from the compensation of the member at the time the compensation is paid, but such installments shall be at least five per centum of the member's earnable compensation. All payments of principal and interest made by such member shall be credited to the contingent reserve fund.

§ 6. Paragraph 1 of subdivision b of section 517-c of the retirement and social security law, as amended by section 1 of part JJ of chapter 55 of the laws of 2023, is amended to read as follows:

1. A member of the New York state and local employees' retirement system, the New York state and local police and fire retirement system, the New York city employees' retirement system, the New York city board of education retirement system or the New York city police pension fund in active service who has credit for at least one year of member service may borrow, no more than once during each twelve month period, an amount not exceeding seventy-five percent of the total contributions made pursuant to section **five hundred four-a (including interest credited at the rate set forth in subparagraph (ii) of paragraph eight of subdivision e of such section five hundred four-a compounded annually), or section five hundred four-b (including interest credited at the rate set forth in subparagraph (ii) of paragraph twelve of subdivision e of such section five hundred four-b compounded annually) or section** five hundred seventeen of this article (including interest credited at the rate set forth in subdivision c of such section five hundred seventeen compounded annually) and not less than one thousand dollars[~~, provided, however, that the provisions of this section shall not apply to a New York city uniformed correction/sanitation revised plan member or an investigator revised plan member~~].

§ 7. This act shall take effect immediately.

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

SUMMARY: This proposed legislation would permit NYCERS Tier 2 and Tier 3 members participating in the Correction Officers 20-Year Improved Benefit Program (CO-20 Plans) and for similar plans for Correction Captains and above (CC-20 Plans), to take loans against their accumulated Additional Member Contributions (AMC) with interest.

EXPECTED INCREASE (DECREASE) IN EMPLOYER CONTRIBUTIONS
by Fiscal Year for the first 25 years ($ in Millions)

Year	NYCERS
2025	3.5
2026	3.5
2027	0.1
2028	0.1
2029	0.1
2030	0.1
2031	0.0
2032	0.0
2033	0.0
2034	0.0
2035	0.0
2036	0.0
2037	0.0
2038	0.0
2039	0.0

2040	0.0
2041	0.0
2042	0.0
2043	0.0
2044	0.0
2045	0.0
2046	0.0
2047	0.0
2048	0.0
2049	0.0

The potential costs related to lost investment earnings are not included above.

The increase in employer contributions will be allocated to New York City.

INITIAL INCREASE (DECREASE) IN ACTUARIAL LIABILITIES
as of June 30, 2023 ($ in Millions)

Present Value (PV)	NYCERS
PV of Benefits:	6.4
PV of Employee Contributions:	0.0
PV of Employer Contributions:	6.4
Unfunded Accrued Liabilities:	5.7

AMORTIZATION OF UNFUNDED ACCRUED LIABILITY

	NYCERS
Number of Payments:	2
Fiscal Year of Last Payment:	2026
Amortization Payment:	3.3 M

Unfunded Accrued Liability increases were amortized over the expected remaining working lifetime of those impacted by the benefit changes using level dollar payments.

CENSUS DATA: The estimates presented herein are based on preliminary census data collected as of June 30, 2023. The census data for the impacted population is summarized below.

	NYCERS
Active Members	
- Number Count:	489
- Average Age:	52.6
- Average Service:	22.4
- Average Salary:	149,300

IMPACT ON MEMBER BENEFITS: The proposed legislation would permit NYCERS members who are participants in the Tier 2 CO-20 and CC-20 Plans to borrow 100% of their AMC, and permit Tier 3 CO-20 and CC-20 Plan participants to borrow up to 75% of their AMC.

The loans on the AMC would be in addition to the currently permissible loans on Basic Member Contributions for such Plans.

Employer contributions will increase if a member takes a loan and the assets earn more than the rate of interest charged for the loan, or if there is an outstanding loan balance at retirement.

Currently, member contributions are invested with other NYCERS assets which are expected to earn 7.0% per annum. When an active member borrows member contributions from NYCERS, the loan is repaid with interest at

6.0% per annum prior to retirement. The potential costs related to lost investment earnings are not included in the costs measured in this fiscal note.

In the event an outstanding loan balance exists at retirement, the balance of the unpaid loan is converted to an annuity based on the yield on 30-year U.S. Treasury securities and deducted from the annual retirement allowance otherwise payable. This conversion is made on an actuarial basis that is different than the basis used to determine the employer contributions to NYCERS, and unpaid loans therefore result in costs to employers.

ASSUMPTIONS AND METHODS: The estimates presented herein have been calculated based on the Revised 2021 Actuarial Assumptions and Methods of the impacted retirement systems.

For purposes of this Fiscal Note, it has been assumed that the yield on 30-year U.S. Treasury securities would equal 3.5% per year and that 50% of member AMC balances available for borrowing would be taken as loans.

RISK AND UNCERTAINTY: The costs presented in this Fiscal Note depend highly on the actuarial assumptions, methods, and models used, demographics of the impacted population and other factors such as investment, contribution, and other risks. If actual experience deviates from actuarial assumptions, the actual costs could differ from those presented herein. Quantifying these risks is beyond the scope of this Fiscal Note.

This Fiscal Note is intended to measure pension-related impacts and does not include other potential costs (e.g., administrative and Other Postemployment Benefits).

STATEMENT OF ACTUARIAL OPINION: Marek Tyszkiewicz and Gregory Zelikovsky are members of the Society of Actuaries and the American Academy of Actuaries. We are members of NYCERS but do not believe it impairs our objectivity and we meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein. To the best of our 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 2024-50 dated May 8, 2024 was prepared by the Chief Actuary for the New York City Retirement Systems and Pension Funds. This estimate is intended for use only during the 2024 Legislative Session.