§ 1210-a. Flexible benefits program. 1. For purposes of this section, the following terms shall have the following meanings:

a. "Code" shall mean the United States internal revenue code of nineteen hundred eighty-six, as amended, and regulations promulgated thereunder.

b. "Authority" shall mean (1) the New York city transit authority, (2) the Manhattan and Bronx surface transit operating authority, or (3) the Staten Island rapid transit operating authority.

c. "Employee" shall mean any officer or employee of any of the entities set forth in paragraph c of this subdivision who is not eligible to receive benefits from the New York city employee benefits program.

For purposes of this section, an independent contractor shall not be considered an employee.

d. "Flexible benefits program" shall mean the program established pursuant to this section, qualifying as a cafeteria plan as defined in section one hundred twenty-five of the code or any successor section thereto providing similar benefits, and provided as a part of an employee benefits program administered by the authority.

e. "Program administrator" shall mean that agent, as determined by the authority, responsible for the maintenance and management of the flexible benefits program as authorized in subdivision two of this section.

2. The authority is authorized to establish and implement a flexible benefits program for its employees who are not eligible to receive benefits from the New York city employee benefits program, consistent with applicable provisions of the code. It may enter into agreements with persons or entities to act as program administrators of the flexible benefits program. It shall establish regulations for the appropriate administration of such flexible benefits program.

3. At the request of an employee, the chief fiscal officer of the authority, or the officer responsible for the administration of the authority's payroll, shall, by payroll deduction, adjust the payment of the compensation of such employee as provided in a written statement by the employee in connection with the establishment and maintenance of the flexible benefits program as authorized by subdivision two of this section, and shall transfer the amount so adjusted to the authorized program administrator.

4. Moneys held for employees in any accounts established pursuant to the flexible benefits program, as authorized in subdivision two of this section, shall be held by the program administrator as agent for the participating employee, shall be accounted for separately and shall remain the property of the authority to the extent required by the code. Notwithstanding any law to the contrary, moneys may be paid out of such accounts without any appropriation by law. Any unexpended balances in such accounts at the end of a plan year as that term is defined by the United States internal revenue service shall be returned to the control of the authority to the extent required by the code.

5. To the extent permitted by the code, any salary deduction or deferral to an employee under the flexible benefits program established pursuant to this section shall be considered part of such employee's annual compensation for the purpose of computing pension contributions and retirement benefits by any retirement system or plan to which the authority contributes on behalf of said employee. However, this subdivision shall in no way be construed to supersede the provisions of sections four hundred thirty-one, five hundred twelve and six hundred eight of the retirement and social security law or any other similar provision of law which limits the salary base for computing retirement benefits payable by a public retirement system.