§ 445-b. Optional twenty-year improved benefit retirement program for New York city sanitation 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. "New York city sanitation member" shall mean a member of the retirement system who is subject to the provisions of this article, who is a member of the uniformed force of the New York city department of sanitation and who has elected to contribute to the retirement system on the basis of a minimum retirement period of twenty years of allowable service rendered in such sanitation force pursuant to the optional retirement provisions of section 13-159 or 13-160 of the administrative code.

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

4. "Starting date of the twenty-year improved benefit retirement program" shall mean the commencement date of the payroll period which includes July first, nineteen hundred ninety-two.

5. "Enactment date of the twenty-year improved benefit retirement program" shall mean the date of enactment of the act which added this section, as such date is certified pursuant to section forty-one of the legislative law.

6. "Participant in the twenty-year improved benefit retirement program" shall mean any New York city sanitation 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-year improved benefit retirement program, as applicable to him or her.

7. "Administrative code" shall mean the administrative code of the

city of New York.

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

b. Election of twenty-year improved benefit retirement program. 1. Subject to the provisions of paragraph five of this subdivision, any person who is a New York city sanitation member on the enactment date of the twenty-year improved benefit retirement program may elect to become a participant in the twenty-year improved benefit retirement program by filing, within ninety days after such enactment date, a duly executed application for such participation with the retirement system, provided he or she is such a sanitation member on the date such application is filed.

2. Subject to the provisions of paragraph five of this subdivision, any person who becomes a New York city sanitation member after the enactment date of the twenty-year improved benefit retirement program may elect to become a participant in the twenty-year improved benefit retirement program by filing, within ninety days after becoming such a sanitation member, a duly executed application for such participation with the retirement system, provided he or she is such a sanitation member on the date such application is filed.

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

4. Where any participant in the twenty-year improved benefit retirement program shall cease to hold a position in the uniformed force of the New York city department of sanitation, he or she shall cease to be such a participant and, during any period in which such person does not hold such a uniformed sanitation position, he or she shall not be a participant in the twenty-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-year improved benefit

retirement program terminates service in the uniformed force of the New York city department of sanitation and returns to such service as a New York city sanitation member at a later date, he or she shall again become such a participant on that date.

c. Notwithstanding any other provision of law to the contrary, where a participant in the twenty-year improved benefit retirement program, who is otherwise qualified for a retirement allowance pursuant to section 13-159, 13-160 or 13-173.1 of the administrative code, has made and/or paid, while he or she is a New York city sanitation member, all additional member contributions and interest (if any) required by subdivision d of this section, then:

(i) 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 chapter; and

(ii) 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 chapter; and

(iii) the maximum retirement benefit computed without optional modification payable to that participant upon his or her retirement for service as such a participant shall equal that payable upon completion of thirty years of service.

d. Additional member contributions. 1. In addition to the member contributions required pursuant to section 13-159 or 13-160 of the administrative code, each participant in the twenty-year improved benefit retirement program shall contribute (subject to the applicable provisions of section 13-125.1 of the administrative code) an additional five and thirty-five one-hundredths percent of his or her compensation earned from all service as a New York city sanitation member (including service creditable as such sanitation service) rendered on and after the starting date of the twenty-year improved benefit retirement program. A participant in the twenty-year improved benefit retirement program shall contribute additional member contributions only until he or she is eligible to retire with twenty years of allowable service in the uniformed force of the New York city department of sanitation under such retirement program.

2. (i) Commencing with the payroll period which begins on the starting date of the twenty-year improved benefit retirement program (for a person who elects to become a participant prior to such starting date), or commencing with the first full payroll period after a person becomes such a participant (for a person who becomes a participant on or after such starting date), additional member contributions at the rate specified in paragraph one of this subdivision shall be deducted (subject to the applicable provisions of section 13-125.1 of the administrative code) from the compensation of such participant on each and every payroll of such participant for each and every payroll period.

(ii) (A) Where any additional member contributions required by paragraph one of this subdivision are not paid by deductions from a participant's compensation pursuant to subparagraph (i) of this paragraph because such contributions are for service rendered in a payroll period prior to the actual commencement of deductions pursuant to such subparagraph (i), such amounts shall be paid by deductions from the compensation of such participant pursuant to item (B) of this subparagraph.

(B) Commencing with the payroll period in which deductions of additional member contributions from a participant's compensation are begun pursuant to subparagraph (i) of this paragraph, addition to such deductions required by such subparagraph (i), there shall be another deduction of additional member contributions made from the compensation of such participant at the rate specified in paragraph one of this subdivision (subject to the applicable provisions of section 13-125.1 of the administrative code) on each and every payroll period until the total amount of unpaid additional member contributions described in item (A) of this subparagraph, if any, has been paid by deductions from compensation pursuant to this subparagraph.

3. (i) (A) 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, that participant shall be charged with a contribution deficiency consisting of such unpaid amounts, together with interest thereon as required by subparagraph (ii) of this paragraph compounded

annually.

(B) Except as provided in subparagraph (ii) of this paragraph, no participant shall be required to pay any interest on his or her contribution deficiency.

(ii) (A) 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-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 item (B) of this subparagraph) as if such additional contributions had never been made.

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

(C) 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, compounded annually.

4. A participant, while he or she is a New York city sanitation member, shall pay the total amount of his or her contribution deficiency to the retirement system in accordance with payment procedures which shall be established by the executive director of the retirement system, and approved by the board of trustees of the retirement system.

5. Where a contribution deficiency chargeable to a participant pursuant to paragraph three of this subdivision has not been paid in full while the participant is a New York city sanitation member, that participant shall not be entitled to the benefits provided in subdivision c of this section.

6. 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 accumulated deductions of a member of the retirement system while he or she is a participant in the twenty-year improved benefit retirement program or otherwise.

(ii) (A) Should a participant in the twenty-year improved benefit retirement program, who has rendered less than fifteen years of service in the uniformed force of the New York city department of sanitation cease to hold a position in such uniformed force 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 eight and one-quarter percent per annum, compounded annually.

(B) Upon the death of a participant in the twenty-year improved benefit retirement program, there shall be paid to such person as he or she has nominated or shall nominate to receive his or her accumulated deductions by written designation duly executed and filed with the retirement system during the lifetime of such participant, or, to his or her estate if no such person is nominated, his or her accumulated additional member contributions made pursuant to this subdivision (including any interest thereon paid to the retirement system), together with interest thereon at the rate of eight and one-quarter percent per annum, compounded annually.

(iii) Except as otherwise provided in subparagraph (ii) of this paragraph, no member of the retirement system, while he or she is a participant in such retirement program or otherwise, shall have a right to withdraw such additional member contributions or any interest thereon from the retirement system.

8. No member of the retirement system shall be permitted to borrow any portion of the additional member contributions (including any interest paid thereon) which are subject to this subdivision.

9. 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.

10. 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-year improved benefit retirement program which are greater than those which would be received by a similarly situated member of the uniformed force of the New York city department of sanitation who is governed by the provisions of section 13-159 or 13-160 of the administrative code, but who is not governed by the provisions of this article.