§ 445-g. Optional twenty-five year/age fifty improved benefit retirement program for automotive 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. "Automotive member" shall mean a member of the retirement system employed by the mayoral and non-mayoral agencies of the city of New York as a senior automotive service worker, an automotive service worker, an auto body worker, an auto mechanic, a marine maintenance mechanic, an oil burner specialist, a supervisor of mechanics (mechanical equipment), senior stationary engineer, stationary engineer, auto mechanic (diesel), auto electrician, auto machinist, machinist or machinist helper.

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

4. "Starting date of the twenty-five year/age fifty improved benefit retirement program" shall mean, with respect to supervisors of mechanics (mechanical equipment), the effective date of an act amending chapter five hundred sixty of the laws of two thousand one, as such date is certified pursuant to section forty-one of the legislative law, and shall mean December twelfth, two thousand one with respect to all other automotive members.

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

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

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

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

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

2. Subject to the provisions of paragraphs five and six of this subdivision, any person who becomes an automotive member after the starting date of the twenty-five year/age fifty improved benefit retirement program may elect to become a participant in the twenty-five year/age fifty improved benefit retirement program by filing, within two hundred seventy days after becoming such an automotive member, a duly executed application for such participation with the retirement system, provided he or she is such an automotive member on the date such application is filed.

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

4. Where any participant in the twenty-five/age fifty improved benefit retirement program shall cease to hold a position as an automotive member, he or she shall cease to be such a participant and during any period in which such a person does not hold such an automotive position, he or she shall not be a participant in the twenty-five year/age fifty

improved benefit retirement program and shall not be eligible for the benefits of subdivision c of this section.

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

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

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

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

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

3. his or her retirement allowance shall be an amount, on account of the required minimum period of service, equal to the sum of (i) an annuity which shall be the actuarial equivalent of the accumulated

deductions from his or her pay during such period, (ii) a pension for increased-take-home-pay which shall be the actuarial equivalent of the reserve for increased-take-home-pay to which he or she may be entitled for such period, and (iii) a pension which, when added to such annuity and such pension for increased-take-home-pay, produces a retirement allowance equal to fifty percent of his or her final average salary, plus an amount for each additional year of allowable service, or fraction thereof, beyond such required minimum period of service equal to two percent of his or her final average salary; and

4. 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 13-125 or 13-162 of the administrative code, each participant in the twenty-five year/age fifty improved benefit retirement program shall contribute, subject to the applicable provisions of section 13-125.2 of the administrative code, an additional four and eighty-three one-hundredths percent of his or her compensation earned from (i) all credited service, as a participant in the twenty-five year/age fifty improved benefit retirement program, rendered on and after the date which is one hundred eighty days prior to the starting date of the improved benefit retirement program, and (ii) all credited service after such person ceases to be a participant, but before he or she again becomes a participant pursuant to paragraph five of subdivision b of this section. A participant in the twenty-five year/age fifty improved benefit retirement program shall contribute additional member contributions until the later of (i) the date as of which he or she is eligible to retire with twenty-five years of credited service under such retirement program, or (ii) the first anniversary of the starting date of the twenty-five year/age fifty improved benefit retirement program. The additional contributions required by this paragraph shall be in lieu of additional member contributions required by subdivision d of section four hundred forty-five-d of this article, as added by chapter ninety-six of the laws of nineteen hundred

ninety-five, and no member paying additional contributions pursuant to this section shall be required to pay additional contributions pursuant to such subdivision d of section four hundred forty-five-d of this article.

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

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

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

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

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

(ii) The rate of interest to be applied to each such amount during the period for which interest accrues on that amount shall be equal to the

rate or rates of interest required by law to be used during that same period to credit interest on the accumulated deductions of retirement system members.

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

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

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

5. Where a participant who is otherwise eligible for service retirement pursuant to subdivision c of this section did not prior to the effective date of retirement pay the entire amount of a contribution deficiency chargeable to him or her pursuant to paragraph three of this subdivision, or repay the entire amount of a loan of his or her additional member contributions pursuant to paragraph eight of this subdivision (including accrued interest on such loan), that participant nevertheless shall be eligible to retire pursuant to subdivision c of this section, provided, however, that where such participant is not

entitled to a refund of additional member contributions pursuant to paragraph seven of this subdivision, such participant's service retirement benefit calculated pursuant to the applicable provisions of subdivision c of this section shall be reduced by a life annuity (calculated in accordance with the method set forth in subdivision i of section six hundred thirteen-b of this chapter) which is actuarially equivalent to:

(i) the amount of any unpaid contribution deficiency chargeable to such member pursuant to paragraph three of this subdivision; plus

(ii) the amount of any unpaid balance of a loan of his or her additional member contributions pursuant to paragraph eight of this subdivision (including accrued interest on such loan).

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

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

(ii) Should a participant in the twenty-five year/age fifty improved benefit retirement program, who has rendered less than five years of credited service cease to hold a position as an automotive member for any reason whatsoever, his or her accumulated additional member contributions made pursuant to this subdivision (together with any

interest thereon paid to the retirement system) which remain credited to such participant's account may be withdrawn by him or her pursuant to procedures promulgated in regulations of the board of trustees of the retirement system, together with interest thereon at the rate of interest required by law to be used to credit interest on the accumulated deductions of retirement system members compounded annually.

(iii) Notwithstanding any other provision of law to the contrary, (A) no person shall be permitted to withdraw from the retirement system any additional member contributions paid pursuant to this subdivision or any interest paid thereon, except pursuant to and in accordance with the preceding subparagraphs of this paragraph; and (B) no person, while he or she is a participant in the twenty-five year/age fifty improved benefit retirement program shall be permitted to withdraw any such additional member contributions or any interest paid thereon pursuant to any of the preceding subparagraphs of this paragraph or otherwise.

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

9. Wherever a person has an unpaid balance of a loan of his or her additional member contributions pursuant to paragraph eight of this subdivision at the time he or she becomes entitled to a refund of his or her additional member contributions pursuant to subparagraph (ii) of paragraph seven of this subdivision, the amount of such unpaid loan

balance (including accrued interest) shall be deemed to have been returned to such member, and the refund of such additional contributions shall be the net amount of such contributions, together with interest thereon in accordance with the provisions of such subparagraph.

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

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