STATE OF NEW YORK

6416

2023-2024 Regular Sessions

IN SENATE

April 18, 2023

Introduced by Sen. JACKSON -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

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 Paragraph 8 of subdivision d of section 445-a of the retirement and social security law is REPEALED and paragraphs 9 and 10 are renumbered paragraphs 8 and 9.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 Paragraph 12 of subdivision d of section 445-c of the retirement and social security law is REPEALED and paragraphs 13, 14 and 15 are renumbered paragraphs 12, 13 and 14.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 Paragraph 9 of subdivision e of section 504-a of the retirement and social security law is REPEALED.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 Paragraph 13 of subdivision e of section 504-b of the retirement and social security law is REPEALED.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 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

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

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hundred forty-five-c of the retirement and social security law. The rate of interest payable on any loan made under this section 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 chapter 303 of the laws of 2017, 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 or the New York city board of education retirement system 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 OF BILL: This proposed legislation would amend Retirement and Social Security Law (RSSL) and Administrative Code of the City of New York (ACCNY) to permit certain correction officer members of the New York City Employees' Retirement System (NYCERS), who are participants in the Tier 2 and Tier 3 20-Year Improved Benefit Program for correction officers (CO-20 Plans) and such Plans for ranks of correction captains and above (CC-20 Plans), to take loans against their accumulated Additional Member Contributions (AMC) with interest.

Effective Date: Upon enactment.

BACKGROUND: NYCERS members who participate in the Tier 2 and Tier 3 CO-20 and CC-20 Plans are generally permitted, subject to certain restrictions, to borrow up to 75% of the value of their accumulated Basic Member Contributions (BMC) with interest. However, these correction members are currently not permitted to take loans on their AMC.

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 of BMC for such Plans.

FINANCIAL IMPACT - RELATED TO OUTSTANDING LOANS AT RETIREMENT: 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 contribution to NYCERS. As a result of this difference in actuarial bases and based on the census data and actuarial assumptions and methods described herein, the enactment of this proposed legislation would increase the Present Value of Future Benefits (PVFB) by approximately $7.4 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 $6.5 million and an increase in the Present Value of Future Employer Normal Cost of approximately $0.9 million.

FINANCIAL IMPACT - RELATED TO LOST INVESTMENT EARNINGS: 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 difference in these rates would lead to smaller asset returns due to the decrease in assets attributable to the amount of loans outstanding.

Assuming loan repayment within one year, the member contributions borrowed while in active service is expected to reduce overall NYCERS investment earnings by approximately $472 for every $100,000 borrowed.

As of June 30, 2022, members eligible to borrow member contributions under this proposed legislation had contribution balances totaling approximately $70.3 million, $52.7 million of which would be eligible for a loan.

Based on the assumptions described below, the result of this difference between the loan repayment rate of 6.0% and the expected investment earnings rate of 7.0% is a decrease in the Market Value of Assets (MVA), or asset loss, of approximately $0.1 million per year.

FINANCIAL IMPACT - ANNUAL EMPLOYER CONTRIBUTIONS: The enactment of this proposed legislation would result in an initial increase in annual employer contributions of approximately $4.0 million. This increase consists of an increase in the Normal Cost in addition to the UAL payment.

New UAL attributable to benefit changes are generally amortized over the remaining working lifetime of those impacted by the benefit changes. The remaining working lifetime for this group is approximately three years and the increase in UAL was therefore amortized over a three-year period (two payments under the One-Year Lag Methodology) using level dollar payments.

CENSUS DATA: The estimates presented herein are based on the census data to be used in the June 30, 2022 actuarial valuation of NYCERS to determine the Preliminary Fiscal Year 2024 employer contributions.

The 591 Tier 3 CO-20 and CC-20 Plan members who participate in NYCERS as of June 30, 2022 had an average age of approximately 52.0 years, average service of approximately 21.8 years, and an average salary of approximately $144,800.

ACTUARIAL ASSUMPTIONS AND METHODS: The estimates presented herein have been calculated based on the actuarial assumptions and methods used to determine the Preliminary Fiscal Year 2024 employer contributions of NYCERS.

For the purposes of this Fiscal Note, it is assumed that the changes would be reflected for the first time in the June 30, 2022 actuarial valuation of NYCERS used to determine employer contributions for Fiscal Year 2024.

It has been further assumed that the yield on 30-year U.S. Treasury securities, on a long-term basis would equal 3.5% per year and that 50% of member balances available for borrowing would be taken as loans.

RISK AND UNCERTAINTY: The costs presented in this Fiscal Note depend highly on the realization of the actuarial assumptions 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.

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 to implement the proposed legislation.

STATEMENT OF ACTUARIAL OPINION: I, Marek Tyszkiewicz, am the Chief Actuary for, and independent of, the New York City Retirement Systems and Pension Funds. I am an Associate of the Society of Actuaries and a Member of the American Academy of Actuaries. I am a member of NYCERS but do not believe it impairs my objectivity and 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 2023-33 dated April 17, 2023 was prepared by the Chief Actuary for the New York City Employees' Retirement System. This estimate is intended for use only during the 2023 Legislative Session.