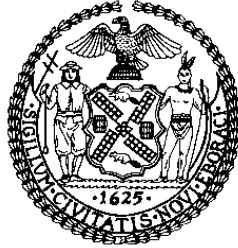


Committee on Civil Service and Labor  
Malcom Butehorn, *Senior Legislative Counsel*  
Kevin Kotowski, *Policy Analyst*  
Kendall Stephenson, *Senior Economist*



**The Council of the City of New York**

**COMMITTEE REPORT OF THE HUMAN SERVICES DIVISION**

Jeffrey Baker, *Legislative Director*  
Andrea Vazquez, *Deputy Director for Human Services*

**COMMITTEE ON CIVIL SERVICE AND LABOR**

Hon. I. Daneek Miller, *Chair*

**December 19, 2018**

**Res. No. 566-2018:**

By Council Members Miller, Dromm,  
Rosenthal, Gibson and Kallos

**Title:**

Resolution calling on the state legislature to pass and the Governor to sign, A. 10935-A and S.8844-A, which would amend the education law to automatically enroll “optional employees” in the New York City Board of Education Retirement System (BERS) after 90 days of employment unless the employee affirmatively opts in or out of the program in advance.

## **INTRODUCTION**

On Wednesday, December 19, 2018, the Committee on Civil Service and Labor, chaired by Council Member I. Daneek Miller, will hold a hearing on Res. No. 566, introduced by Council Member Miller, calling on the state legislature to pass and the Governor to sign, A.10935-A and S.8844-A, which would amend the education law to automatically enroll “optional employees” in the New York City Board of Education Retirement System (BERS) after 90 days of employment unless the employee affirmatively opts in or out of the program in advance. The Committee first held a hearing on this resolution on November 27, 2018, of which included an oversight topic entitled “Examining the Civil Service System (Focus on the Provisional Employee Reduction Plan)” and included the hearing of a bill, Int. No. 1235. Witnesses that testified on November 27, 2018, included Dawn Pinnock, Executive Deputy Commissioner, and Barbara Dannenberg, Deputy Commissioner for Human Capital, from Department of Citywide Administrative Services (DCAS) and Shawn Francois I from Local 372.

## **BACKGROUND**

A.10935-A and S.8844-A were introduced as the same bills in May of 2018 in the New York State Assembly and Senate by Assemblyman N. Nick Perry and Representative Diane J. Savino, respectively. Both would provide for the automatic enrollment into the New York City Board of Education Retirement System (BERS) of future pension-eligible employees who do not elect to opt out of a pension. In essence, they both provide for a one-time automatic enrollment window into BERS for current pension-eligible employees who did not elect to opt in or out of a pension. Currently, A.10935-A and S.8844-A have passed the New York State Assembly and Senate, awaiting signing by the Governor.

Res. No. 566

Resolution calling on the state legislature to pass and the Governor to sign, A.10935-A and S.8844-A, which would amend the education law to automatically enroll “optional employees” in the New York City Board of Education Retirement System (BERS) after 90 days of employment unless the employee affirmatively opts in or out of the program in advance.

By Council Members Miller, Dromm, Rosenthal, Gibson and Kallos

Whereas, Public-sector employees comprise a significant portion of New York City’s workforce; and

Whereas, According to a report from the Department of Citywide Administrative Services (DCAS), the City of New York employs approximately 363,000 people, or 8.2 percent of the city’s total workforce, as estimated by the Bureau of Labor Statistics; and

Whereas, DCAS also found that roughly 37,000, or 10 percent of city government employees, are part-time or temporary employees, and that 29 percent of all City employees, or roughly 105,000 people, are eligible to retire within the next five years; and

Whereas, Currently, part-time and temporary employees, as well as those who are not required to take civil service exams, are allowed optional enrollment in the Board of Education Retirement System (BERS), which, according to the office of the Comptroller, holds over \$4 billion in assets; and

Whereas, Part-time City employees have been eligible for pension benefits since 1988, when the State Court of Appeals ruled in their favor in a 7-0 decision; and

Whereas, Pension enrollment is optional; and

Whereas, According to the Chief Actuary for the New York City Retirement Systems and Pension Funds, only 73 percent of eligible employees join BERS; and

Whereas, Furthermore, the Chief Actuary has reported that 64 percent of those who have not elected to enroll are women, with an average salary of approximately \$22,410; and

Whereas, A simple lack of awareness can mean that a committed City employee can lose access to years of benefits to which he or she is entitled; and

Whereas, There is currently legislation in both the New York State Assembly and the New York State Senate that would address this issue; and

Whereas, A.10935-A and its companion, S.8844-A, would amend the education law by automatically enrolling new employees in the pension system 90 days after beginning employment; and

Whereas, The proposed legislation would also allow employees to either opt-in immediately or opt-out in accordance with their wishes; and

Whereas, These bills have won the support of District Council 37, New York City's largest public employee union, which represents 125,000 members and 50,000 retirees, and

Whereas, Most importantly, however this measure would ensure that City employees can obtain the pension benefits that they have earned; now, therefore, be it

Resolved, That the Council of the City of New York calls on the state legislature to pass and the Governor to sign, A.10935-A and S.8844-A, which would amend the education law to automatically enroll "optional employees" in to the New York City Board of Education Retirement System (BERS) after 90 days of employment unless the employee affirmatively opts in or out of the program in advance.