

2592

2013-2014 Regular Sessions

I N S E N A T E

January 22, 2013

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

AN ACT to amend the retirement and social security law and the education law, in relation to imposing a cap on the amount of contributions paid by employers

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 17 of the retirement and social security law, as
2 amended by chapter 33 of the laws of 1986, subdivision a as amended by
3 chapter 62 of the laws of 1989, subdivision c as amended by chapter 260
4 of the laws of 2004, is amended to read as follows:
5 S 17. Annual appropriation by participating employers. a. On or before
6 the fifteenth day of November, nineteen hundred eighty-nine and of each
7 succeeding calendar year, the comptroller shall determine the amount
8 which each participating employer is required to pay to the retirement
9 system to discharge its obligations thereto for the fiscal year of the
10 retirement system which ends on March thirty-first of nineteen hundred
11 ninety and of each succeeding calendar year on account of its employees
12 who are members of this system. The comptroller shall submit to the
13 fiscal officer of each such employer a statement of the amount so payable.
14 ble.
15 This amount shall consist of the amount deemed necessary to provide
16 for payment in full of (i) all estimated obligations of each participating
17 employer for the current fiscal year of the retirement systems and
18 (ii) any additional obligation, plus interest on such amount, for fiscal
19 years preceding the current fiscal year. SUCH AMOUNT SHALL, HOWEVER, BE
20 SUBJECT TO THE LIMITATION SET FORTH IN SUBDIVISION F OF THIS SECTION. If
21 as a result of the amount determined to be paid for any fiscal year, a
22 participating employer overpaid its actual obligation to the retirement
23 system for that year, the amount to be determined by the comptroller for
24 the next succeeding November fifteenth shall reflect the amount of the

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

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1 overpayment, plus interest as defined in section sixteen of this article
2 on such amount, as a reduction in the amount otherwise required to be
3 paid by such participating employer.

4 b. Each participating employer annually shall appropriate a sum suffi-
5 cient to pay such amount, SUBJECT TO THE LIMITATION SET FORTH IN SUBDI-
6 VISION F OF THIS SECTION. In the event the comptroller's statement is
7 not received before annual appropriations are made by such employer, a
8 sum estimated by the comptroller to be sufficient for such purpose shall
9 be included with such annual appropriations.

10 c. Payment of the amount specified in the comptroller's statement,
11 SUBJECT TO THE LIMITATION SET FORTH IN SUBDIVISION F OF THIS SECTION,
12 shall be made by a participating employer within seventy-eight days
13 after the receipt of such statement; provided, however, that in no case
14 shall any participating employer be required to make this payment before
15 February first of the calendar year next succeeding the calendar year in
16 which such statement is received. The comptroller is authorized to
17 provide for and accept pre-payment.

18 d. If payment of the [full amount] EMPLOYER'S PORTION of such obli-
19 gations is not made by the date required by subdivision c of this
20 section, interest at a rate determined in accordance with the provisions
21 of section sixteen of this article shall commence to run against the
22 unpaid balance thereof on the first day after the date required by said
23 subdivision c.

24 e. The comptroller shall have full power and authority to bring suit
25 in the supreme court against any participating employer to recover any
26 sum FOR WHICH THE EMPLOYER IS RESPONSIBLE, payment of which is not made
27 as herein required. While any such sum OWED BY THE EMPLOYER shall remain
28 due and unpaid [he] THE COMPTROLLER may refuse to audit any claim for
29 funds due to such employer from the state.

30 F. (1) OF THE AMOUNT DETERMINED BY THE COMPTROLLER PURSUANT TO SUBDI-
31 VISION A OF THIS SECTION, AN EMPLOYER SHALL NOT BE REQUIRED TO PAY MORE
32 THAN THE PRIOR YEAR'S EMPLOYER CONTRIBUTION PLUS THE LESSER OF: TWO
33 PERCENT OR THE INFLATION FACTOR.

34 (2) ANY DIFFERENCE BETWEEN THE AMOUNT COMPUTED BY THE COMPTROLLER
35 PURSUANT TO SUBDIVISION A OF THIS SECTION AND THE MAXIMUM AMOUNT
36 REQUIRED TO BE PAID BY THE EMPLOYER PURSUANT TO PARAGRAPH ONE OF THIS
37 SUBDIVISION SHALL BE APPROPRIATED TO THE RETIREMENT SYSTEM OUT OF MONEYS
38 IN THE GENERAL FUND OF THE STATE.

39 (3) FOR THE PURPOSES OF THIS SUBDIVISION, "INFLATION FACTOR" MEANS THE
40 QUOTIENT OF: (I) THE AVERAGE OF THE NATIONAL CONSUMER PRICE INDEXES
41 DETERMINED BY THE UNITED STATES DEPARTMENT OF LABOR FOR THE TWELVE-MONTH
42 PERIOD ENDING SIX MONTHS PRIOR TO THE START OF THE COMING FISCAL YEAR
43 MINUS THE AVERAGE OF THE NATIONAL CONSUMER PRICE INDEXES DETERMINED BY
44 THE UNITED STATES DEPARTMENT OF LABOR FOR THE TWELVE-MONTH PERIOD ENDING
45 SIX MONTHS PRIOR TO THE START OF THE PRIOR FISCAL YEAR, DIVIDED BY: (II)
46 THE AVERAGE OF THE NATIONAL CONSUMER PRICE INDEXES DETERMINED BY THE
47 UNITED STATES DEPARTMENT OF LABOR FOR THE TWELVE-MONTH PERIOD ENDING SIX
48 MONTHS PRIOR TO THE START OF THE PRIOR FISCAL YEAR, WITH THE RESULT
49 EXPRESSED AS A DECIMAL TO FOUR PLACES.

50 (4) FOR PURPOSES OF THIS SUBDIVISION, THE BASE YEAR FOR THE INITIAL
51 CALCULATION OF LIMITED EMPLOYER CONTRIBUTIONS PURSUANT TO PARAGRAPH ONE
52 OF THIS SUBDIVISION SHALL BE THE AMOUNT PAID BY THE EMPLOYER IN THE YEAR
53 TWO THOUSAND THIRTEEN. THE EMPLOYER PARTICIPATION CAP IMPOSED BY THIS
54 SUBDIVISION SHALL COMMENCE WITH EMPLOYER CONTRIBUTIONS MADE IN THE YEAR
55 TWO THOUSAND FOURTEEN.

(5) THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY IN CITIES WITH A POPULATION OF ONE MILLION OR MORE.

S 2. Section 317 of the retirement and social security law, as amended by chapter 33 of the laws of 1986, subdivision a as amended by chapter 62 of the laws of 1989, and subdivision c as amended by chapter 260 of the laws of 2004, is amended to read as follows:

S 317. Annual appropriation by participating employers. a. On or before the fifteenth day of November, nineteen hundred eighty-nine and of each succeeding year, the comptroller shall determine the amount which each participating employer is required to pay to the police and fire retirement system to discharge its obligations thereto for the fiscal year of the retirement system which ends on March thirty-first of nineteen hundred ninety and of each succeeding calendar year on account of its employees who are members of this system. The comptroller shall submit to the fiscal officer of each of such employer a statement of the amount so payable.

This amount shall consist of the amount deemed necessary to provide for payment in full of (i) all estimated obligations of each participating employer for the current fiscal year of the retirement systems and (ii) any additional obligation, plus interest on such amount, for fiscal years preceding the current fiscal year. SUCH AMOUNT SHALL, HOWEVER, BE SUBJECT TO THE LIMITATION SET FORTH IN SUBDIVISION F OF THIS SECTION. If as a result of the amount determined to be paid for any fiscal year, a participating employer overpaid its actual obligation to the retirement system for that year, the amount to be determined by the comptroller for the next succeeding November fifteenth shall reflect the amount of the overpayment, plus interest as defined in section three hundred sixteen of this article on such amount, as a reduction in the amount otherwise required to be paid by such participating employer.

b. Each participating employer annually shall appropriate a sum sufficient to pay such amount, SUBJECT TO THE LIMITATION SET FORTH IN SUBDIVISION F OF THIS SECTION. In the event the comptroller's statement is not received before annual appropriations are made by such employer, a sum estimated by the comptroller to be sufficient for such purpose shall be included with such annual appropriations.

c. Payment of the amount specified in the comptroller's statement, SUBJECT TO THE LIMITATION SET FORTH IN SUBDIVISION F OF THIS SECTION, shall be made by a participating employer within seventy-eight days after the receipt of such statement; provided, however, that in no case shall any participating employer be required to make this payment before February first of the calendar year next succeeding the calendar year in which such statement is received. The comptroller is authorized to provide for and accept pre-payment.

d. If payment of the [full amount] EMPLOYER'S PORTION of such obligations is not made by the date required by subdivision c of this section, interest at a rate determined in accordance with the provisions of section three hundred sixteen of this article shall commence to run against the unpaid balance thereof on the first day after the date required by said subdivision c.

e. The comptroller shall have full power and authority to bring suit in the supreme court against any participating employer to recover any sum FOR WHICH THE EMPLOYER IS RESPONSIBLE, payment of which is not made as herein required. While any such sum OWED BY THE EMPLOYER shall remain due and unpaid [he] THE COMPTROLLER may refuse to audit any claim for funds due to such employer from the state.

1 F. (1) OF THE AMOUNT DETERMINED BY THE COMPTROLLER PURSUANT TO SUBDI-
2 VISION A OF THIS SECTION, AN EMPLOYER SHALL NOT BE REQUIRED TO PAY MORE
3 THAN THE PRIOR YEAR'S EMPLOYER CONTRIBUTION PLUS THE LESSER OF: TWO
4 PERCENT OR THE INFLATION FACTOR.

5 (2) ANY DIFFERENCE BETWEEN THE AMOUNT COMPUTED BY THE COMPTROLLER
6 PURSUANT TO SUBDIVISION A OF THIS SECTION AND THE MAXIMUM AMOUNT
7 REQUIRED TO BE PAID BY THE EMPLOYER PURSUANT TO PARAGRAPH ONE OF THIS
8 SUBDIVISION SHALL BE APPROPRIATED TO THE RETIREMENT SYSTEM OUT OF MONEYS
9 IN THE GENERAL FUND OF THE STATE.

10 (3) FOR THE PURPOSES OF THIS SUBDIVISION, "INFLATION FACTOR" MEANS THE
11 QUOTIENT OF: (I) THE AVERAGE OF THE NATIONAL CONSUMER PRICE INDEXES
12 DETERMINED BY THE UNITED STATES DEPARTMENT OF LABOR FOR THE TWELVE-MONTH
13 PERIOD ENDING SIX MONTHS PRIOR TO THE START OF THE COMING FISCAL YEAR
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15 THE UNITED STATES DEPARTMENT OF LABOR FOR THE TWELVE-MONTH PERIOD ENDING
16 SIX MONTHS PRIOR TO THE START OF THE PRIOR FISCAL YEAR, DIVIDED BY: (II)
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18 UNITED STATES DEPARTMENT OF LABOR FOR THE TWELVE-MONTH PERIOD ENDING SIX
19 MONTHS PRIOR TO THE START OF THE PRIOR FISCAL YEAR, WITH THE RESULT
20 EXPRESSED AS A DECIMAL TO FOUR PLACES.

21 (4) FOR PURPOSES OF THIS SUBDIVISION, THE BASE YEAR FOR THE INITIAL
22 CALCULATION OF LIMITED EMPLOYER CONTRIBUTIONS PURSUANT TO PARAGRAPH ONE
23 OF THIS SUBDIVISION SHALL BE THE AMOUNT PAID BY THE EMPLOYER IN THE YEAR
24 TWO THOUSAND THIRTEEN. THE EMPLOYER PARTICIPATION CAP IMPOSED BY THIS
25 SUBDIVISION SHALL COMMENCE WITH EMPLOYER CONTRIBUTIONS MADE IN THE YEAR
26 TWO THOUSAND FOURTEEN.

27 (5) THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY IN CITIES WITH
28 A POPULATION OF ONE MILLION OR MORE.

29 S 3. Subdivision 2 of section 521 of the education law, paragraph a as
30 amended by chapter 553 of the laws of 1997, paragraph b as amended by
31 chapter 871 of the laws of 1963, paragraphs f and g as added by chapter
32 538 of the laws of 1984, paragraph h as amended by chapter 830 of the
33 laws of 1992, paragraphs i, j, k, l, and m as added by chapter 175 of
34 the laws of 1990, and paragraph n as added by chapter 482 of the laws of
35 1996, is amended and a new subdivision 3 is added to read as follows:

36 2. The collection of employers' contributions shall be made as
37 follows:

38 a. Upon the basis of each actuarial determination and appraisal
39 provided herein, the retirement board shall annually prepare and certify
40 to the commissioner [of education] a statement of the total amount
41 necessary to be paid by all employers for the ensuing fiscal year to the
42 pension accumulation and expense funds as provided under subdivision two
43 of section five hundred seventeen and under section five hundred nine-
44 teen of this article. Upon the basis of the rate of contribution for
45 supplemental retirement allowances, determined in accordance with
46 section five hundred thirty-two of this article, the retirement board
47 shall certify to the commissioner [of education] a statement of the
48 total amount necessary to be paid by all employers for the ensuing
49 fiscal year to the supplemental retirement allowance fund. Said certif-
50 ication shall include interest on amounts necessary to repay advances
51 made to the supplemental retirement allowance fund pursuant to subdivi-
52 sion f of section five hundred thirty-two of this article computed from
53 the date of such advances at the rate determined in accordance with
54 paragraph f of this subdivision.

55 b. The commissioner [of education] shall include in the certificate
56 which he files with the state comptroller showing the amount of state

1 funds apportioned to the school districts within each county for the
2 support of common schools, a statement showing the amount to be contrib-
3 uted by each employer in each of such counties as required under this
4 article.

5 The amount to be contributed by each employer except those who operate
6 local district pension systems, shall be such percentage of the total
7 compensation or salaries of all teachers in his employ who are members
8 of the retirement system as the aggregate amount of the normal and defi-
9 ciency contributions for the year shall bear to the total compensation
10 or salaries paid by all employers, except those who operate local
11 district pension systems, to all teachers who are members of the retire-
12 ment system; PROVIDED, HOWEVER, THAT THE AMOUNT ACTUALLY PAID BY SUCH
13 EMPLOYER SHALL BE SUBJECT TO THE CONTRIBUTION LIMITS ESTABLISHED IN
14 SUBDIVISION THREE OF THIS SECTION.

15 c. The comptroller shall issue his warrant to the custodian of such
16 fund directing such custodian to credit to the pension accumulation fund
17 and expense fund respectively, from the appropriation for the support of
18 common schools the amounts required to be made as contributions to such
19 funds by the employers as shown by the certificate of the commissioner
20 [of education] filed with him as directed in paragraph b of this subdi-
21 vision, BUT SUBJECT TO THE CONTRIBUTION LIMIT ESTABLISHED PURSUANT TO
22 SUBDIVISION THREE OF THIS SECTION.

23 d. The comptroller, in issuing his warrant to the custodian for
24 payment to each county treasurer of that portion of the moneys appor-
25 tioned for the support of common schools, shall deduct therefrom an
26 amount equal to the amount required to be contributed by employers of
27 such county, as shown by the certificate of the commissioner [of educa-
28 tion] of this state filed with the comptroller as required by paragraph
29 b of this subdivision, BUT SUBJECT TO THE CONTRIBUTION LIMIT ESTABLISHED
30 PURSUANT TO SUBDIVISION THREE OF THIS SECTION.

31 e. In order to meet the financial requirements of this article,
32 employers who obtain funds directly by taxation are hereby authorized
33 and directed to levy annually such additional taxes as are required to
34 provide the [funds deducted from the amounts apportioned to such employ-
35 ers from the appropriation of the state for the support of the common
36 schools] EMPLOYER'S CONTRIBUTION AMOUNT AS DETERMINED PURSUANT TO SUBDI-
37 VISION THREE OF THIS SECTION.

38 f. Employers whose payments from the moneys apportioned from the state
39 for the support of common schools are insufficient to pay the EMPLOYER'S
40 PORTION OF THE amount due and owing the system, or who do not receive
41 such payments, shall pay the system each year the amount of contrib-
42 utions due and owing from the employer, SUBJECT TO THE CONTRIBUTION
43 LIMIT ESTABLISHED PURSUANT TO SUBDIVISION THREE OF THIS SECTION, pursu-
44 ant to this article within thirty days from the date a bill is mailed by
45 the system. Interest, at a rate equal to the average yield payable on
46 fifty-two week United States treasury bills on June thirtieth immedi-
47 ately preceding the day the bill is mailed by the system, shall accrue on
48 the EMPLOYER'S PORTION OF THE outstanding amount due and owing commenc-
49 ing with the thirty-first day after the bill is mailed.

50 g. Whenever the system determines the contributions made by an employ-
51 er are less than the percentage of total compensation or salaries of
52 members of the system in the employ of such employer, as required by
53 this article, such employer shall pay the system such deficiency within
54 thirty days from the date a bill is mailed by the system, PROVIDED SUCH
55 DEFICIENCY AMOUNT DOES NOT CAUSE THE EMPLOYER TO PAY MORE THAN THE MAXI-
56 MUM REQUIRED CONTRIBUTION AMOUNT CALCULATED PURSUANT TO SUBDIVISION

1 THREE OF THIS SECTION. Interest, at a rate equal to the average yield
2 payable on fifty-two week United States treasury bills on June thirtieth
3 immediately preceding the day before the bill is mailed by the system,
4 shall accrue on the EMPLOYER'S PORTION OF THE outstanding amount due and
5 owing commencing with the thirty-first day after the bill is mailed.

6 h. Notwithstanding any provision of law to the contrary, commencing
7 with the payments made in the fiscal year beginning July first, nineteen
8 hundred ninety, and each fiscal year thereafter, the employer contrib-
9 utions due and payable as determined pursuant to the provisions of this
10 article and the employee contributions due and payable pursuant to this
11 article and articles fourteen and fifteen of the retirement and social
12 security law, on account of compensation paid in the fiscal year imme-
13 diately preceding, and those employer contributions due and payable in
14 each fiscal year pursuant to chapter six hundred sixty-five of the laws
15 of nineteen hundred eighty-four shall be made to the retirement system
16 and collected in the manner set forth in this section each fiscal year
17 in three payments, each equal to thirty-three and one-third percent of
18 the total amount due for such fiscal year. Such payments shall be paid
19 on September fifteenth, October fifteenth, and November fifteenth of
20 each fiscal year. If a participating employer underpaid its obligation
21 to the retirement system, such underpayment as determined by the retire-
22 ment system shall be deducted from the amounts apportioned to such
23 employer from the appropriation of the state for the support of the
24 common schools due and payable the next April fifteenth. Employers whose
25 payments from such appropriation are insufficient to pay the amount due
26 and owing the system, or who do not receive such payments, shall be
27 billed by the system for such underpayment and shall pay the system the
28 amount due within thirty days from the date a bill is mailed by the
29 system. The amount of any employer overpayment of its obligation to the
30 retirement system, as determined by such system shall be a credit to the
31 employer and shall reduce by an equal amount thereof the initial payment
32 to be made by such employer to such system on the next succeeding
33 September fifteenth.

34 i. Notwithstanding any provision of law to the contrary, the employer
35 and employee contributions due and payable in the nineteen hundred
36 eighty-nine--ninety fiscal year on account of compensation paid in the
37 nineteen hundred eighty-eight--eighty-nine fiscal year which were paid
38 prior to April first, nineteen hundred ninety shall be deemed (to the
39 extent such amount is sufficient) to have consisted of all the employee
40 contributions due and payable pursuant to this article and articles
41 fourteen and fifteen of the retirement and social security law in the
42 nineteen hundred eighty-nine--ninety fiscal year and those employer
43 contributions due and payable in such fiscal year pursuant to chapter
44 six hundred sixty-five of the laws of nineteen hundred eighty-four; and
45 the remaining employer contributions so paid shall be applied evenly to
46 the payments due and payable on September fifteenth, nineteen hundred
47 ninety, October fifteenth, nineteen hundred ninety and November
48 fifteenth, nineteen hundred ninety and the employer contributions
49 amounting to eight hundred seventy-three million seven hundred eleven
50 thousand six hundred fifteen dollars (\$873,711,615), due and payable
51 pursuant to the provisions of this section in the nineteen hundred
52 eighty-nine--ninety fiscal year on account of compensation paid in nine-
53 teen hundred eighty-eight--eighty-nine fiscal year, except those employ-
54 er contributions due and payable in such fiscal year pursuant to chapter
55 six hundred sixty-five of the laws of nineteen hundred eighty-four,
56 shall be deferred and payment shall be made to the retirement system in

1 fifteen equal annual payments of ninety-eight million five hundred thir-
2 ty-seven thousand five hundred seven dollars (\$98,537,507) on October
3 fifteenth, commencing on October fifteenth, nineteen hundred ninety.
4 Such payments are calculated at an interest rate of eight percent per
5 annum. Provided, however, the retirement board is directed to permit the
6 pre-payment of the amounts outstanding under this paragraph. The retire-
7 ment board shall: (1) On or before September first, nineteen hundred
8 ninety, in addition to the amount due for the current fiscal year bill-
9 ing and for the payment of the amortized annual installment, furnish the
10 total amount due and be authorized to accept pre-payment in full of said
11 amount by October fifteenth, nineteen hundred ninety. (2) On or before
12 each September first thereafter, in addition to the amount due for the
13 current fiscal year billing and for the payment of the annual amortized
14 installment, furnish the total amount still outstanding and be author-
15 ized to accept the pre-payment of any portion of the balance remaining
16 to be paid by October fifteenth of that year.

17 j. Prior to June first, nineteen hundred ninety, the valuation rate of
18 interest adopted by the retirement board on April twenty-seventh, nine-
19 teen hundred eighty-nine, may be retroactively revised to eight percent
20 by the retirement board, as recommended by the actuary, as if adopted at
21 the April twenty-seventh, nineteen hundred eighty-nine board meeting,
22 and the employer contribution rate, adopted by the retirement board at
23 the April twenty-seventh, nineteen hundred eighty-nine board meeting,
24 revised by the retirement board at the July twenty-seventh, nineteen
25 hundred eighty-nine board meeting, may be retroactively amended by the
26 retirement board as if adopted at the July twenty-seventh, nineteen
27 hundred eighty-nine board meeting and applied to contributions paid in
28 the nineteen hundred ninety--ninety-one fiscal year. Notwithstanding any
29 provision of law to the contrary, the actions of the retirement board
30 pursuant to the provisions of this paragraph shall be deemed reasonable,
31 prudent and proper. No member of the retirement board, officer, or
32 employee of the New York state teachers' retirement system shall incur
33 or suffer any liability whatsoever by reason of any actions pursuant to
34 this paragraph, and such system shall save harmless and indemnify all
35 members of the retirement board, its officers and employees from finan-
36 cial loss arising out of any claim, demand, suit, action or judgment as
37 a result of the actions taken pursuant to this paragraph provided that
38 such person shall, within five days after the date on which he is served
39 with any summons, complaint, process, notice, demand, claim or pleading,
40 deliver the original or a true copy thereof to the legal advisor of such
41 system. Upon such delivery, the legal advisor of such system may assume
42 control of the representation of such person in connection with such
43 claim, demand, suit, action or proceeding. Such person shall cooperate
44 fully with the legal advisor of the system or any other person desig-
45 nated to assume such defense in respect of such representation or
46 defense.

47 k. The retirement board is authorized to adopt procedures and/or to
48 promulgate rules and regulations as it deems necessary to adjust and
49 reconcile any payments from employers to actual amounts due whether such
50 payments were received prior or subsequent to the effective date of
51 [the] chapter ONE HUNDRED SEVENTY-FIVE of the laws of nineteen hundred
52 ninety [which added this paragraph to this section].

53 l. The provisions of paragraphs h and i of this subdivision shall
54 constitute a contract and the rights of the New York state teachers'
55 retirement system thereunder shall not be impaired in any way whatsoev-
56 er.

1 m. In addition to any other payment or collection procedure provided
2 by this article, if the amounts credited from the appropriation for the
3 support of common schools are insufficient to fully cover the amounts to
4 be contributed by the employers, SUBJECT TO THE EMPLOYER'S CONTRIBUTION
5 LIMIT ESTABLISHED PURSUANT TO SUBDIVISION THREE OF THIS SECTION, the
6 retirement board is authorized to certify the unpaid amount OF THE
7 EMPLOYER'S CONTRIBUTION to the state comptroller, and the state comp-
8 troller shall, to the extent not otherwise prohibited by law, withhold
9 such amount from any succeeding payment from any other form of state aid
10 provided to the employer. If any employer fails to pay the amounts
11 required to be contributed pursuant to this section, the retirement
12 system shall be entitled to reasonable attorney fees and other expenses
13 incurred to collect such amounts due and owing. Fees shall be determined
14 pursuant to prevailing market rates for the kind and quality of the
15 services furnished.

16 n. Notwithstanding any other provision of law to the contrary, the
17 board of education or trustees of a school district which is a partic-
18 ipating employer, which has elected to make payments of the employer
19 contributions due and payable to the retirement system pursuant to para-
20 graph i of this subdivision in amortized annual installments, and which
21 has determined to make pre-payment of the total amount of such contrib-
22 utions outstanding in accordance with said paragraph i, may adopt a bond
23 resolution authorizing the refinancing of such debt by the issuance of
24 bonds in the amount of such pre-payment without conducting a vote on a
25 tax to be collected in installments, provided that such refinancing will
26 result in savings to the school district, as certified by the state
27 comptroller, and provided further that the issuance of such obligations
28 otherwise complies with the requirements of the local finance law and
29 this chapter.

30 3. A. OF THE AMOUNT REQUIRED TO BE CONTRIBUTED BY EMPLOYERS OF THE
31 COUNTY AS STATED IN SUBDIVISION TWO OF THIS SECTION, AN EMPLOYER SHALL
32 NOT BE REQUIRED TO CONTRIBUTE MORE THAN THE PRIOR YEAR'S EMPLOYER
33 CONTRIBUTION PLUS THE LESSER OF: TWO PERCENT OR THE INFLATION FACTOR.

34 B. ANY DIFFERENCE BETWEEN THE AMOUNT CONTAINED IN THE WARRANT ISSUED
35 BY THE COMPTROLLER PURSUANT TO SUBDIVISION TWO OF THIS SECTION AND THE
36 MAXIMUM AMOUNT REQUIRED TO BE PAID BY THE EMPLOYER PURSUANT TO THIS
37 SUBDIVISION SHALL BE APPROPRIATED TO THE RETIREMENT SYSTEM OUT OF MONEYS
38 IN THE GENERAL FUND OF THE STATE.

39 C. FOR THE PURPOSES OF THIS SUBDIVISION, "INFLATION FACTOR" MEANS THE
40 QUOTIENT OF: (I) THE AVERAGE OF THE NATIONAL CONSUMER PRICE INDEXES
41 DETERMINED BY THE UNITED STATES DEPARTMENT OF LABOR FOR THE TWELVE-MONTH
42 PERIOD ENDING SIX MONTHS PRIOR TO THE START OF THE COMING FISCAL YEAR
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44 THE UNITED STATES DEPARTMENT OF LABOR FOR THE TWELVE-MONTH PERIOD ENDING
45 SIX MONTHS PRIOR TO THE START OF THE PRIOR FISCAL YEAR, DIVIDED BY: (II)
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47 UNITED STATES DEPARTMENT OF LABOR FOR THE TWELVE-MONTH PERIOD ENDING SIX
48 MONTHS PRIOR TO THE START OF THE PRIOR FISCAL YEAR, WITH THE RESULT
49 EXPRESSED AS A DECIMAL TO FOUR PLACES.

50 D. FOR PURPOSES OF THIS SUBDIVISION, THE BASE YEAR FOR THE INITIAL
51 CALCULATION OF LIMITED EMPLOYER CONTRIBUTIONS PURSUANT TO PARAGRAPH A OF
52 THIS SUBDIVISION SHALL BE THE AMOUNT PAID BY THE EMPLOYER IN THE YEAR
53 TWO THOUSAND THIRTEEN. THE EMPLOYER CONTRIBUTION CAP IMPOSED BY THIS
54 SUBDIVISION SHALL COMMENCE WITH EMPLOYER CONTRIBUTIONS MADE IN THE YEAR
55 TWO THOUSAND FOURTEEN.

1 E. THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY IN CITIES WITH A
2 POPULATION OF ONE MILLION OR MORE.

3 S 4. This act shall take effect immediately and shall apply to employ-
4 er contributions made commencing January 1, 2014.