

6931--A

2015-2016 Regular Sessions

I N   A S S E M B L Y

April 10, 2015

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Introduced by M. of A. NOLAN, BUCHWALD, GALEF -- (at request of the New York State Teachers' Retirement System) -- read once and referred to the Committee on Education -- recommitted to the Committee on Education in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to a retirement contribution reserve fund for the purposes of the New York state teachers' retirement system

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

1     Section 1. The education law is amended by adding a new section 3653  
2     to read as follows:  
3     S 3653. RETIREMENT CONTRIBUTION RESERVE FUND. 1. THE BOARD OF EDUCA-  
4     TION OR TRUSTEES OF A PARTICIPATING EMPLOYER MAY, BY RESOLUTION, ESTAB-  
5     LISH A RETIREMENT CONTRIBUTION RESERVE FUND FOR THE PURPOSE OF OFFSET-  
6     TING EMPLOYER CONTRIBUTIONS TO THE NEW YORK STATE TEACHERS' RETIREMENT  
7     SYSTEM AND PAYABLE PURSUANT TO THIS CHAPTER.  
8     2. THERE MAY BE PAID INTO A RETIREMENT CONTRIBUTION RESERVE FUND:  
9     A. SUCH AMOUNTS AS MAY BE PROVIDED THEREFOR BY BUDGETARY APPROPRIATION  
10    OR RAISED BY TAX THEREFOR;  
11    B. SUCH REVENUES AS ARE NOT REQUIRED BY LAW TO BE PAID INTO ANY OTHER  
12    FUND OR ACCOUNT;  
13    C. SUCH OTHER FUNDS AS MAY BE LEGALLY APPROPRIATED; AND  
14    D. NOTWITHSTANDING ANY LAW TO THE CONTRARY, SUCH AMOUNTS AS MAY BE  
15    TRANSFERRED FROM A RESERVE FUND ESTABLISHED PURSUANT TO SECTION SIX-C,  
16    SIX-D, SIX-E, SIX-F OR SIX-G OF THE GENERAL MUNICIPAL LAW COMPRISED OF  
17    MONEYS RAISED FROM THE SAME TAX BASE AS THE MONEYS IN THE RETIREMENT  
18    CONTRIBUTION RESERVE FUND, OR A RESERVE FUND ESTABLISHED PURSUANT TO  
19    SECTION THIRTY-SIX HUNDRED FIFTY-ONE OF THIS ARTICLE, PROVIDED THAT ANY  
20    SUCH TRANSFER SHALL ONLY BE MADE BY RESOLUTION OF THE BOARD OF EDUCATION

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

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1 OR TRUSTEES OF SUCH EMPLOYER ADOPTED AFTER A PUBLIC HEARING HELD ON AT  
2 LEAST FIFTEEN DAYS PRIOR PUBLISHED NOTICE IN AT LEAST ONE NEWSPAPER  
3 HAVING GENERAL CIRCULATION IN THE SCHOOL DISTRICT OF THE EMPLOYER.

4 3. FOR PURPOSES OF THIS SECTION:

5 A. "RETIREMENT CONTRIBUTION" SHALL MEAN ALL OR ANY PORTION OF THE  
6 EMPLOYER CONTRIBUTION PAYABLE BY A PARTICIPATING EMPLOYER TO THE NEW  
7 YORK STATE TEACHERS' RETIREMENT SYSTEM PURSUANT TO ARTICLE ELEVEN OF  
8 THIS CHAPTER; AND

9 B. "EMPLOYER" SHALL MEAN THE STATE OF NEW YORK, THE CITY, THE VILLAGE,  
10 SCHOOL DISTRICT BOARD OR TRUSTEE, OR OTHER AGENCY OF AND WITHIN THE  
11 STATE BY WHICH A TEACHER IS PAID.

12 4. THE MONEYS IN THE RETIREMENT CONTRIBUTION RESERVE FUND SHALL BE  
13 DEPOSITED AND SECURED IN THE MANNER PROVIDED BY SECTION TEN OF THE  
14 GENERAL MUNICIPAL LAW. THE BOARD OF EDUCATION OR TRUSTEES, OR CHIEF  
15 ADMINISTRATIVE OFFICER OR HIS OR HER DESIGNEE THEREOF IF THE BOARD OR  
16 TRUSTEES SHALL DELEGATE SUCH DUTY TO HIM OR HER, MAY INVEST THE MONEYS  
17 IN SUCH FUND IN THE MANNER PROVIDED BY SECTION ELEVEN OF THE GENERAL  
18 MUNICIPAL LAW. ANY INTEREST EARNED OR CAPITAL GAIN REALIZED ON THE MONEY  
19 SO DEPOSITED OR INVESTED SHALL ACCRUE TO AND BECOME PART OF SUCH FUND.

20 5. THE BOARD OF EDUCATION OR TRUSTEES OF SUCH EMPLOYER MAY, BY RESOL-  
21 UTION, AUTHORIZE EXPENDITURES FROM THE RETIREMENT CONTRIBUTION RESERVE  
22 FUND. EXCEPT AS OTHERWISE PROVIDED BY LAW, MONEYS IN A RETIREMENT  
23 CONTRIBUTION RESERVE FUND MAY ONLY BE EXPENDED TO OFFSET THE EMPLOYER  
24 CONTRIBUTIONS PAYABLE IN ACCORDANCE WITH ARTICLE ELEVEN OF THIS CHAPTER.

25 6. THE BOARD OF EDUCATION OR TRUSTEES OF SUCH EMPLOYER MAY, BY RESOL-  
26 UTION, AUTHORIZE THE TRANSFER OF A PORTION OF THE MONEYS IN A RETIREMENT  
27 CONTRIBUTION RESERVE FUND TO A RESERVE FUND OF THE EMPLOYER ESTABLISHED  
28 PURSUANT TO SECTION SIX-C, SIX-D, SIX-E, SIX-F OR SIX-G OF THE GENERAL  
29 MUNICIPAL LAW COMPRISED OF MONEYS RAISED FROM THE SAME TAX BASE AS THE  
30 MONEYS IN THE RETIREMENT CONTRIBUTION RESERVE FUND, OR A RESERVE FUND  
31 ESTABLISHED PURSUANT TO SECTION THIRTY-SIX HUNDRED FIFTY-ONE OF THIS  
32 ARTICLE, PROVIDED, THAT ANY TRANSFER SHALL ONLY BE MADE BY RESOLUTION OF  
33 THE BOARD OF EDUCATION OR TRUSTEES OF SUCH EMPLOYER ADOPTED AFTER A  
34 PUBLIC HEARING HELD ON AT LEAST FIFTEEN DAYS PRIOR PUBLISHED NOTICE IN  
35 AT LEAST ONE NEWSPAPER HAVING GENERAL CIRCULATION IN THE SCHOOL DISTRICT  
36 OF THE EMPLOYER.

37 7. THE CHIEF ADMINISTRATIVE OFFICER, OR HIS OR HER DESIGNEE, OF SUCH  
38 EMPLOYER SHALL ACCOUNT FOR A RETIREMENT CONTRIBUTION RESERVE FUND SEPA-  
39 RATE AND APART FROM ALL OTHER FUNDS OF THE EMPLOYER. SUCH ACCOUNTING  
40 SHALL SHOW: THE SOURCE, DATE AND AMOUNT OF EACH SUM PAID INTO THE FUND;  
41 THE INTEREST EARNED BY SUCH FUND, CAPITAL GAINS OR LOSSES RESULTING FROM  
42 THE SALE OF INVESTMENTS OF THIS FUND; THE ORDER, PURPOSE THEREOF, DATE  
43 AND AMOUNT OF EACH PAYMENT FROM THIS FUND; THE ASSETS OF THE FUND, INDI-  
44 CATING CASH BALANCE AND A SCHEDULE OF INVESTMENTS. THE CHIEF ADMINISTRA-  
45 TIVE OFFICER, OR HIS OR HER DESIGNEE, WITHIN SIXTY DAYS AFTER THE CLOSE  
46 OF EACH FISCAL YEAR, SHALL FURNISH A DETAILED REPORT OF THE OPERATION  
47 AND CONDITION OF THIS FUND TO THE BOARD OF EDUCATION OR TRUSTEES.

48 8. THE MEMBERS OF THE BOARD OF EDUCATION OR TRUSTEES OF SUCH EMPLOYER  
49 ARE HEREBY DECLARED TRUSTEES OF A RETIREMENT CONTRIBUTION RESERVE FUND  
50 AND SHALL BE SUBJECT TO ALL THE DUTIES AND RESPONSIBILITIES IMPOSED BY  
51 LAW ON TRUSTEES, AND SUCH DUTIES AND RESPONSIBILITIES MAY BE ENFORCED BY  
52 THE EMPLOYER, AS THE CASE MAY BE, OR BY ANY OFFICER OR TAXPAYER THEREOF.

53 9. NO MEMBER OF THE BOARD OF EDUCATION OR TRUSTEES OF SUCH EMPLOYER  
54 SHALL:

55 A. AUTHORIZE A WITHDRAWAL FROM A RETIREMENT CONTRIBUTION RESERVE FUND  
56 FOR ANY PURPOSE EXCEPT AS PROVIDED IN THIS SECTION; OR

1 B. EXPEND ANY MONEY WITHDRAWN FROM SUCH FUND FOR A PURPOSE OTHER THAN  
2 AS PROVIDED IN THIS SECTION.

3 ANY MEMBER OF THE BOARD OF EDUCATION OR ANY TRUSTEE WHO VIOLATES THE  
4 PROVISIONS OF THIS SUBDIVISION SHALL BE GUILTY OF A MISDEMEANOR.

5 10. THE BOARD OF EDUCATION OR TRUSTEES OF SUCH EMPLOYER MAY, BY RESOL-  
6 UTION, DETERMINE A RETIREMENT CONTRIBUTION RESERVE FUND IS NO LONGER  
7 NEEDED AND MAY TERMINATE SUCH FUND. SUCH RESOLUTION SHALL TRANSFER ANY  
8 MONEYS REMAINING IN SUCH FUND TO ONE OR MORE RESERVE FUNDS OF THE  
9 EMPLOYER AS ESTABLISHED PURSUANT TO SECTION SIX-C, SIX-D, SIX-E, SIX-F  
10 OR SIX-G OF THE GENERAL MUNICIPAL LAW COMPRISED OF MONEYS RAISED FROM  
11 THE SAME TAX BASE AS THE MONEYS IN THE RETIREMENT CONTRIBUTION RESERVE  
12 FUND, OR ONE OR MORE RESERVE FUNDS ESTABLISHED PURSUANT TO SECTION THIR-  
13 TY-SIX HUNDRED FIFTY-ONE OF THIS CHAPTER.

14 S 2. This act shall take effect on the first of July next succeeding  
15 the date on which it shall have become a law.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill would add a new Section 3653 to the Education Law to permit the board of education or trustees of a participating employer of the New York State Teachers' Retirement System (NYSTRS) to establish a retirement contribution reserve fund for the purpose of offsetting future required employer contributions. The money that may be paid into a retirement contribution reserve fund shall consist of amounts provided for by budgetary appropriation, revenues that are not required by law to be paid into any other fund or account, such other funds as may be legally appropriated, and transfers from other reserve funds.

The moneys in the retirement contribution reserve fund shall be deposited and secured in the manner provided by Section 10 of the General Municipal Law, and may be invested in the manner provided by Section 11 of the General Municipal Law. Any interest earned or capital gain realized shall accrue to and become part of the retirement contribution reserve fund.

Except as otherwise provided by law, the moneys in the retirement contribution reserve fund may only be expended to offset required employer contributions payable in accordance with Article 11 of the Education Law.

This act shall take effect on the first day of July next succeeding the date on which it shall have become a law.

It is estimated that there will be no annual cost to the employers of members of the New York State Teachers' Retirement System if this bill is enacted.

Employee data is from the System's most recent actuarial valuation files, consisting of data provided by the employers to the Retirement System. Data distributions and statistics can be found in the System's Comprehensive Annual Financial Report (CAFR). System assets are as reported in the System's financial statements, and can also be found in the CAFR. Actuarial assumptions and methods are provided in the System's Actuarial Valuation Report.

The source of this estimate is Fiscal Note 2016-2 dated October 9, 2015 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2016 Legislative Session. I, Richard A. Young, am the Actuary for the New York State Teachers' Retirement System. I am a member of the American Academy of Actuaries and I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.