

8899

2009-2010 Regular Sessions

I N A S S E M B L Y

June 12, 2009

Introduced by M. of A. ABBATE -- (at request of the New York State Comptroller) -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the retirement and social security law, in relation to the manner of paying employer contributions to the New York state and local employees' retirement system and the New York state and local police and fire retirement system

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

1 Section 1. The retirement and social security law is amended by adding
2 a new section 19-a to read as follows:

3 S 19-A. EMPLOYER CONTRIBUTIONS FOR THE TWO THOUSAND TEN - TWO THOU-
4 SAND ELEVEN FISCAL YEAR AND SUBSEQUENT FISCAL YEARS. A. IN ADDITION TO
5 THE DEFINITIONS IN SECTION TWO OF THIS ARTICLE, WHEN USED IN THIS
6 SECTION:

7 (1) "AMORTIZING EMPLOYER" SHALL MEAN AN EMPLOYER THAT ELECTS TO AMOR-
8 TIZE A PORTION OF THE EMPLOYER'S ANNUAL BILL PURSUANT TO PARAGRAPH ONE
9 OF SUBDIVISION D OF THIS SECTION FOR THE TWO THOUSAND TEN - TWO THOUSAND
10 ELEVEN FISCAL YEAR, OR ANY SUBSEQUENT FISCAL YEAR, REGARDLESS OF WHETHER
11 THE EMPLOYER HAS SUBSEQUENTLY PAID IN FULL ALL SUCH AMORTIZED AMOUNTS.

12 (2) "AMOUNT ELIGIBLE FOR AMORTIZATION" FOR A GIVEN FISCAL YEAR SHALL
13 MEAN THE AMOUNT BY WHICH AN EMPLOYER'S ACTUARIAL CONTRIBUTION FOR SUCH
14 FISCAL YEAR EXCEEDS THE EMPLOYER'S GRADED CONTRIBUTION FOR THE SAME
15 FISCAL YEAR, LESS ANY AMOUNT FROM THE EMPLOYER CONTRIBUTION RESERVE FUND
16 APPLIED TO REDUCE THE EMPLOYER'S PAYMENT TO THE RETIREMENT SYSTEM FOR
17 THE FISCAL YEAR, PROVIDED, HOWEVER, THAT IF THE EMPLOYER'S AVERAGE ACTU-
18 ARIAL CONTRIBUTION RATE FOR THE FISCAL YEAR IS LESS THAN NINE AND
19 ONE-HALF PERCENT, THEN THE AMOUNT ELIGIBLE FOR AMORTIZATION SHALL BE
20 ZERO.

21 (3) "EMPLOYER'S ACTUARIAL CONTRIBUTION" FOR A GIVEN FISCAL YEAR SHALL
22 MEAN AN EMPLOYER'S ANNUAL BILL FOR SUCH FISCAL YEAR EXCLUSIVE OF DEFI-

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

LBD14111-04-9

1 CIENCY CONTRIBUTIONS AND PAYMENTS ON ACCOUNT OF GROUP TERM LIFE INSUR-
2 ANCE, ADJUSTMENTS RELATING TO PRIOR FISCAL YEARS' OBLIGATIONS, RETIRE-
3 MENT INCENTIVES AND PRIOR AMORTIZATIONS.

4 (4) "EMPLOYER'S ANNUAL BILL" SHALL MEAN FOR A GIVEN FISCAL YEAR THE
5 SUM OF THE FOLLOWING AMOUNTS: (I) AN EMPLOYER'S NORMAL CONTRIBUTIONS FOR
6 THE FISCAL YEAR DETERMINED IN ACCORDANCE WITH PARAGRAPH ONE OF SUBDIVI-
7 SION B OF SECTION TWENTY-THREE OF THIS ARTICLE AND THE COMPREHENSIVE
8 STRUCTURAL REFORM PROGRAM IMPLEMENTED PURSUANT TO SUBDIVISION B OF
9 SECTION TWENTY-THREE-A OF THIS ARTICLE, INCLUDING THE PROVISIONS OF
10 SUBDIVISION B OF SECTION TWENTY-THREE-A OF THIS ARTICLE RELATING TO THE
11 REQUIRED MINIMUM ANNUAL CONTRIBUTION OF FOUR AND ONE-HALF PERCENT OF
12 PENSIONABLE SALARIES; (II) THE EMPLOYER'S DEFICIENCY CONTRIBUTIONS AND
13 ADMINISTRATION CONTRIBUTIONS FOR THE FISCAL YEAR DETERMINED IN ACCORD-
14 ANCE WITH PARAGRAPHS TWO AND THREE OF SUBDIVISION B OF SECTION
15 TWENTY-THREE OF THIS ARTICLE; AND (III) ANY PAYMENTS BY THE EMPLOYER DUE
16 IN THE FISCAL YEAR ON ACCOUNT OF GROUP TERM LIFE INSURANCE, ADJUSTMENTS
17 RELATING TO PRIOR FISCAL YEARS' OBLIGATIONS, RETIREMENT INCENTIVES AND
18 PRIOR AMORTIZATIONS.

19 (5) "EMPLOYER'S AVERAGE ACTUARIAL CONTRIBUTION RATE" FOR A GIVEN
20 FISCAL YEAR SHALL MEAN AN EMPLOYER'S ACTUARIAL CONTRIBUTION FOR SUCH
21 FISCAL YEAR DIVIDED BY THE EMPLOYER'S PROJECTED PAYROLL FOR THE SAME
22 FISCAL YEAR.

23 (6) "EMPLOYER CONTRIBUTION RESERVE FUND" OR "FUND" SHALL MEAN THE
24 EMPLOYER CONTRIBUTION RESERVE FUND ESTABLISHED PURSUANT TO SUBDIVISION E
25 OF THIS SECTION.

26 (7) "EMPLOYER'S GRADED CONTRIBUTION" FOR A GIVEN FISCAL YEAR SHALL
27 MEAN THE AMOUNT DETERMINED BY APPLYING THE SYSTEM GRADED CONTRIBUTION
28 RATE FOR SUCH FISCAL YEAR TO AN EMPLOYER'S PROJECTED PAYROLL FOR THE
29 SAME FISCAL YEAR.

30 (8) "EMPLOYER'S GRADED PAYMENT" FOR A GIVEN FISCAL YEAR SHALL MEAN THE
31 AMOUNT BY WHICH AN EMPLOYER'S GRADED CONTRIBUTION FOR SUCH FISCAL YEAR
32 EXCEEDS THE EMPLOYER'S ACTUARIAL CONTRIBUTION FOR THE SAME FISCAL YEAR.

33 (9) "PRIOR AMORTIZATION" SHALL MEAN WITH RESPECT TO A GIVEN FISCAL
34 YEAR ANY PAYMENT DUE IN SUCH FISCAL YEAR ON ACCOUNT OF AN OBLIGATION
35 FROM A PRIOR FISCAL YEAR THAT AN EMPLOYER IS PERMITTED TO PAY TO THE
36 RETIREMENT SYSTEM ON AN AMORTIZED BASIS.

37 (10) "SYSTEM AVERAGE ACTUARIAL CONTRIBUTION RATE" FOR A GIVEN FISCAL
38 YEAR SHALL MEAN THE SUM OF ALL EMPLOYERS' ACTUARIAL CONTRIBUTIONS FOR
39 SUCH FISCAL YEAR DIVIDED BY THE SUM OF ALL EMPLOYERS' PROJECTED PAYROLL
40 FOR THE SAME FISCAL YEAR.

41 (11) "SYSTEM GRADED CONTRIBUTION RATE" FOR A GIVEN FISCAL YEAR SHALL
42 MEAN THE GRADED CONTRIBUTION RATE FOR THE RETIREMENT SYSTEM AS A WHOLE
43 DETERMINED FOR SUCH FISCAL YEAR PURSUANT TO SUBDIVISION C OF THIS
44 SECTION.

45 B. NOTWITHSTANDING THE PROVISIONS OF THIS CHAPTER OR ANY OTHER LAW TO
46 THE CONTRARY, THE COMPTROLLER, IN HIS OR HER DISCRETION, SHALL HAVE
47 AUTHORITY TO IMPLEMENT THIS SECTION. IF THE COMPTROLLER ELECTS TO IMPL-
48 EMENT THIS SECTION, THE PROVISIONS OF THIS SECTION SHALL APPLY TO THE
49 PAYMENT OF EMPLOYER CONTRIBUTIONS FOR THE FISCAL YEAR COMMENCING ON
50 APRIL FIRST, TWO THOUSAND TEN, AND FOR SUBSEQUENT FISCAL YEARS.

51 C. FOR EACH FISCAL YEAR TO WHICH THE PROVISIONS OF THIS SECTION APPLY,
52 THE COMPTROLLER SHALL DETERMINE A GRADED CONTRIBUTION RATE FOR THE
53 RETIREMENT SYSTEM AS A WHOLE IN THE MANNER PROVIDED IN THIS SUBDIVISION.

54 (1) FOR THE TWO THOUSAND TEN - TWO THOUSAND ELEVEN FISCAL YEAR THE
55 SYSTEM GRADED CONTRIBUTION RATE SHALL BE NINE AND ONE-HALF PERCENT.

1 (2) FOR THE TWO THOUSAND ELEVEN - TWO THOUSAND TWELVE FISCAL YEAR, AND
2 SUBSEQUENT FISCAL YEARS, SYSTEM GRADED CONTRIBUTION RATES SHALL BE
3 DETERMINED AS FOLLOWS:

4 (I) IF THE SYSTEM AVERAGE ACTUARIAL CONTRIBUTION RATE FOR A GIVEN
5 FISCAL YEAR IS AT LEAST NINE AND ONE-HALF PERCENT AND EXCEEDS THE SYSTEM
6 GRADED CONTRIBUTION RATE FOR THE IMMEDIATELY PRECEDING FISCAL YEAR BY
7 MORE THAN ONE PERCENTAGE POINT, THEN THE SYSTEM GRADED CONTRIBUTION RATE
8 FOR THE GIVEN FISCAL YEAR SHALL EQUAL THE SYSTEM GRADED CONTRIBUTION
9 RATE FOR THE IMMEDIATELY PRECEDING FISCAL YEAR PLUS ONE PERCENTAGE
10 POINT, PROVIDED, HOWEVER, THAT IN NO EVENT SHALL THE SYSTEM GRADED
11 CONTRIBUTION RATE BE LESS THAN NINE AND ONE-HALF PERCENT;

12 (II) IF THE SYSTEM AVERAGE ACTUARIAL CONTRIBUTION RATE FOR A GIVEN
13 FISCAL YEAR IS AT LEAST NINE AND ONE-HALF PERCENT AND EITHER EQUALS THE
14 SYSTEM GRADED CONTRIBUTION RATE FOR THE IMMEDIATELY PRECEDING FISCAL
15 YEAR OR EXCEEDS THE SYSTEM GRADED CONTRIBUTION RATE FOR THE IMMEDIATELY
16 PRECEDING FISCAL YEAR BY ONE PERCENTAGE POINT OR LESS, THEN THE SYSTEM
17 GRADED CONTRIBUTION RATE FOR THE GIVEN FISCAL YEAR SHALL EQUAL THE
18 SYSTEM AVERAGE ACTUARIAL CONTRIBUTION RATE FOR SUCH FISCAL YEAR,
19 PROVIDED, HOWEVER, THAT IN NO EVENT SHALL THE SYSTEM GRADED CONTRIBUTION
20 RATE BE LESS THAN NINE AND ONE-HALF PERCENT;

21 (III) IF THE SYSTEM AVERAGE ACTUARIAL CONTRIBUTION RATE FOR A GIVEN
22 FISCAL YEAR IS LESS THAN NINE AND ONE-HALF PERCENT AND GREATER THAN THE
23 SYSTEM GRADED CONTRIBUTION RATE FOR THE IMMEDIATELY PRECEDING FISCAL
24 YEAR, THEN THE SYSTEM GRADED CONTRIBUTION RATE FOR THE GIVEN FISCAL YEAR
25 SHALL EQUAL THE SYSTEM ACTUARIAL CONTRIBUTION RATE FOR SUCH FISCAL YEAR;

26 (IV) IF THE SYSTEM AVERAGE ACTUARIAL CONTRIBUTION RATE FOR A GIVEN
27 FISCAL YEAR IS SMALLER THAN THE SYSTEM GRADED CONTRIBUTION RATE FOR THE
28 IMMEDIATELY PRECEDING FISCAL YEAR BY MORE THAN ONE PERCENTAGE POINT,
29 THEN THE SYSTEM GRADED CONTRIBUTION RATE FOR THE GIVEN FISCAL YEAR SHALL
30 EQUAL THE SYSTEM GRADED CONTRIBUTION RATE FOR THE IMMEDIATELY PRECEDING
31 FISCAL YEAR MINUS ONE PERCENTAGE POINT; AND

32 (V) IF THE SYSTEM AVERAGE ACTUARIAL CONTRIBUTION RATE FOR A GIVEN
33 FISCAL YEAR EITHER EQUALS THE SYSTEM GRADED CONTRIBUTION RATE FOR THE
34 IMMEDIATELY PRECEDING FISCAL YEAR OR IS SMALLER THAN THE SYSTEM GRADED
35 CONTRIBUTION RATE FOR THE IMMEDIATELY PRECEDING FISCAL YEAR BY ONE
36 PERCENTAGE POINT OR LESS, THEN THE SYSTEM GRADED CONTRIBUTION RATE FOR
37 THE GIVEN FISCAL YEAR SHALL EQUAL THE SYSTEM ACTUARIAL CONTRIBUTION RATE
38 FOR SUCH FISCAL YEAR.

39 D. (1) FOR ANY GIVEN FISCAL YEAR FOR WHICH AN EMPLOYER'S AVERAGE ACTU-
40 ARIAL CONTRIBUTION RATE EXCEEDS THE SYSTEM GRADED CONTRIBUTION RATE, THE
41 EMPLOYER SHALL PAY TO THE RETIREMENT SYSTEM AN AMOUNT EQUAL TO THE
42 EMPLOYER'S ANNUAL BILL FOR SUCH YEAR OR, IN LIEU OF PAYING THE ENTIRE
43 ANNUAL BILL, THE EMPLOYER MAY PAY AN AMOUNT EQUAL TO THE EMPLOYER'S
44 ANNUAL BILL LESS ALL OR A PORTION OF THE EMPLOYER'S AMOUNT ELIGIBLE FOR
45 AMORTIZATION FOR THE FISCAL YEAR. IF IN ACCORDANCE WITH THIS PARAGRAPH
46 THE EMPLOYER'S PAYMENT TO THE RETIREMENT SYSTEM IS LESS THAN THE ENTIRE
47 AMOUNT OF THE EMPLOYER'S ANNUAL BILL, THEN THE DIFFERENCE BETWEEN THE
48 EMPLOYER'S ANNUAL BILL, AND THE AMOUNT ACTUALLY PAID BY THE EMPLOYER TO
49 THE RETIREMENT SYSTEM EXCLUSIVE OF ANY AMOUNT FROM THE EMPLOYER CONTRIB-
50 UTION RESERVE FUND APPLIED TO REDUCE THE EMPLOYER'S PAYMENT, SHALL BE
51 THE AMOUNT AMORTIZED FOR THE FISCAL YEAR. THE AMOUNT AMORTIZED FOR THE
52 FISCAL YEAR SHALL BE PAID TO THE RETIREMENT SYSTEM IN EQUAL ANNUAL
53 INSTALLMENTS OVER A TEN-YEAR PERIOD, WITH INTEREST ON THE UNPAID BALANCE
54 AT A RATE DETERMINED BY THE COMPTROLLER WHICH APPROXIMATES A MARKET RATE
55 OF RETURN ON TAXABLE FIXED RATE SECURITIES WITH SIMILAR TERMS ISSUED BY

1 COMPARABLE ISSUERS, AND WITH THE FIRST INSTALLMENT DUE IN THE IMMEDIATE-
2 LY SUCCEEDING FISCAL YEAR.

3 (2) FOR ANY GIVEN FISCAL YEAR FOR WHICH THE SYSTEM GRADED CONTRIBUTION
4 RATE EQUALS OR EXCEEDS AN AMORTIZING EMPLOYER'S AVERAGE ACTUARIAL
5 CONTRIBUTION RATE, THE AMORTIZING EMPLOYER SHALL PAY TO THE RETIREMENT
6 SYSTEM AN AMOUNT EQUAL TO THE EMPLOYER'S ANNUAL BILL FOR SUCH YEAR PLUS
7 THE EMPLOYER'S GRADED PAYMENT FOR THE FISCAL YEAR.

8 (I) IF THE AMORTIZING EMPLOYER'S ANNUAL BILL FOR THE FISCAL YEAR DOES
9 NOT INCLUDE AN AMOUNT ATTRIBUTABLE TO A PRIOR AMORTIZATION, THEN THE
10 EMPLOYER'S GRADED PAYMENT SHALL BE PAID INTO THE EMPLOYER CONTRIBUTION
11 RESERVE FUND PROVIDED FOR IN SUBDIVISION E OF THIS SECTION AND CREDITED
12 TO AN ACCOUNT WITHIN SUCH FUND ESTABLISHED FOR THE EMPLOYER.

13 (II) IF THE AMORTIZING EMPLOYER'S ANNUAL BILL FOR THE FISCAL YEAR
14 INCLUDES AN AMOUNT ATTRIBUTABLE TO A PRIOR AMORTIZATION, THE EMPLOYER'S
15 GRADED PAYMENT SHALL BE USED FIRST TO ELIMINATE THE AMOUNT OF THE
16 EMPLOYER'S UNPAID PRIOR AMORTIZATION BALANCES IN CHRONOLOGICAL ORDER
17 STARTING WITH THE OLDEST PRIOR AMORTIZATION BALANCE. WHEN IN ANY FISCAL
18 YEAR THE EMPLOYER'S GRADED PAYMENT ELIMINATES ALL BALANCES OWED ON THE
19 EMPLOYER'S PRIOR AMORTIZATIONS, ANY REMAINING PORTION OF THE EMPLOYER'S
20 GRADED PAYMENT FOR SUCH FISCAL YEAR, AND THE EMPLOYER'S GRADED PAYMENT
21 IN ANY SUBSEQUENT FISCAL YEAR IN WHICH THE AMORTIZING EMPLOYER HAS NO
22 UNPAID PRIOR AMORTIZATIONS, SHALL BE PAID INTO THE EMPLOYER CONTRIBUTION
23 RESERVE FUND PROVIDED FOR IN SUBDIVISION E OF THIS SECTION AND CREDITED
24 TO AN ACCOUNT WITHIN SUCH FUND ESTABLISHED FOR THE EMPLOYER.

25 (3) NOTHING IN THIS SUBDIVISION SHALL BE CONSTRUED AS PROHIBITING AN
26 EMPLOYER FROM PRE-PAYING ANY PRIOR AMORTIZATION.

27 E. (1) NOTWITHSTANDING ANY LAW TO THE CONTRARY, THERE SHALL BE MAIN-
28 TAINED SEPARATE AND APART FROM THE OTHER FUNDS OF THE RETIREMENT SYSTEM
29 AN EMPLOYER CONTRIBUTION RESERVE FUND, THE ASSETS OF WHICH SHALL NOT BE
30 USED OR INVESTED IN A MANNER CONTRARY TO THE PROVISIONS OF THIS SUBDIVI-
31 SION. THE FUND SHALL CONSIST OF ALL EMPLOYER CONTRIBUTIONS REQUIRED TO
32 BE DEPOSITED INTO THE FUND PURSUANT TO SUBDIVISION D OF THIS SECTION.
33 WITHIN SUCH FUND THERE SHALL BE A SEPARATE ACCOUNT FOR EACH EMPLOYER
34 MAKING SUCH CONTRIBUTIONS AND PAYMENTS.

35 (2) FOR ANY GIVEN FISCAL YEAR FOR WHICH (I) THE SYSTEM ACTUARIAL
36 CONTRIBUTION RATE EXCEEDS NINE AND ONE-HALF PERCENT OF PAYROLL, AND (II)
37 AN EMPLOYER'S AVERAGE ACTUARIAL CONTRIBUTION RATE EXCEEDS THE SYSTEM
38 GRADED CONTRIBUTION RATE, THE BALANCE IN THE EMPLOYER'S ACCOUNT WITHIN
39 SUCH FUND SHALL BE APPLIED TO REDUCE THE EMPLOYER'S PAYMENT TO THE
40 RETIREMENT SYSTEM FOR SUCH FISCAL YEAR IN AN AMOUNT NOT TO EXCEED THE
41 DIFFERENCE BETWEEN THE EMPLOYER'S ACTUARIAL CONTRIBUTION AND THE EMPLOY-
42 ER'S GRADED CONTRIBUTION FOR THE FISCAL YEAR.

43 (3) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH TWO OF THIS SUBDIVI-
44 SION, IF AT THE CLOSE OF ANY GIVEN FISCAL YEAR THE BALANCE OF AN EMPLOY-
45 ER'S ACCOUNT WITHIN THE FUND EXCEEDS ONE HUNDRED PERCENT OF THE EMPLOY-
46 ER'S PAYROLL FOR SUCH FISCAL YEAR, THE EXCESS SHALL BE APPLIED TO REDUCE
47 THE EMPLOYER'S PAYMENT TO THE RETIREMENT SYSTEM FOR THE NEXT SUCCEEDING
48 FISCAL YEAR.

49 (4) THE ASSETS OF THE FUND SHALL BE INVESTED IN ONLY THE FOLLOWING
50 TYPES OF INVESTMENTS:

51 (I) OBLIGATIONS OF THE UNITED STATES OF AMERICA OR IN OBLIGATIONS
52 GUARANTEED BY AGENCIES OF THE UNITED STATES OF AMERICA WHERE THE PAYMENT
53 OF PRINCIPAL AND INTEREST ARE GUARANTEED BY THE UNITED STATES OF AMERICA
54 OR IN OBLIGATIONS OF THE STATE OF NEW YORK;

1 (II) GENERAL OBLIGATION BONDS AND NOTES OF ANY STATE OTHER THAN THIS
2 STATE, PROVIDED THAT SUCH BONDS AND NOTES RECEIVE THE HIGHEST RATING OF
3 AT LEAST ONE INDEPENDENT RATING AGENCY;

4 (III) OBLIGATIONS OF, OR INSTRUMENTS ISSUED BY OR FULLY GUARANTEED AS
5 TO PRINCIPAL AND INTEREST BY, ANY AGENCY OR INSTRUMENTALITY OF THE
6 UNITED STATES ACTING PURSUANT TO A GRANT OF AUTHORITY FROM THE CONGRESS
7 OF THE UNITED STATES, INCLUDING, BUT NOT LIMITED TO, ANY FEDERAL HOME
8 LOAN BANK OR BANKS, THE TENNESSEE VALLEY AUTHORITY, THE FEDERAL NATIONAL
9 MORTGAGE ASSOCIATION, THE FEDERAL HOME LOAN MORTGAGE CORPORATION AND THE
10 UNITED STATES POSTAL SERVICE;

11 (IV) CERTIFICATE OF DEPOSITS THAT ARE FULLY SECURED BY THE ISSUER BY
12 DEPOSITING WITH THE COMPTROLLER DIRECT OR INDIRECT OBLIGATIONS OF THE
13 UNITED STATES OR ITS AGENCIES OR A LETTER OF CREDIT ISSUED BY THE FEDER-
14 AL HOME LOAN BANK; AND

15 (V) OBLIGATIONS OF ANY CORPORATION ORGANIZED UNDER THE LAWS OF ANY
16 STATE IN THE UNITED STATES MATURING WITHIN TWO HUNDRED SEVENTY DAYS
17 PROVIDED THAT SUCH OBLIGATIONS RECEIVE THE HIGHEST RATING OF TWO INDE-
18 PENDENT RATING SERVICES DESIGNATED BY THE COMPTROLLER.

19 (5) AT THE CLOSE OF EACH FISCAL YEAR, THE AMOUNT OF INTEREST AND EARN-
20 INGS ATTRIBUTABLE TO EACH EMPLOYER'S ACCOUNT SHALL BE COMPUTED BY THE
21 ACTUARY AND CERTIFIED TO THE COMPTROLLER, WHO SHALL THEREUPON CREDIT
22 EACH EMPLOYER'S ACCOUNT IN ACCORDANCE THEREWITH.

23 (6) THE ASSETS OF THE FUND SHALL BE EXCLUDED FROM THE ANNUAL VALUATION
24 OF THE ASSETS AND LIABILITIES OF THE FUNDS OF THE RETIREMENT SYSTEM
25 REQUIRED BY SECTION ELEVEN OF THIS TITLE. THE ASSETS OF THE FUND SHALL
26 NOT BE USED TO FINANCE INCREASES IN PENSION BENEFITS.

27 S 2. The opening paragraph and paragraph 1 of subdivision b of section
28 23 of the retirement and social security law, as amended by chapter 210
29 of the laws of 1990 and clause (ii) of subparagraph (a) of paragraph 1
30 as amended by chapter 947 of the laws of 1990, are amended to read as
31 follows:

32 Each employer shall make [two] THREE contributions annually. They
33 shall be known as the normal contribution [as defined in subparagraph
34 (a) of paragraph one of this subdivision and], the deficiency contrib-
35 ution [as defined in paragraph two of this subdivision], AND THE ADMIN-
36 ISTRATION CONTRIBUTION. The rates thereof shall be computed by the
37 actuary.

38 1. [(a)] Normal contribution. The rate of such contribution shall be
39 applied to the members' annual compensation as of the end of the fiscal
40 year. Such rate shall be a uniform and constant rate per centum of annu-
41 al compensation [when determined by dividing the valuation costs by the
42 payroll amount used in the valuation. Notwithstanding any provision of
43 law to the contrary, the valuation costs consist of:

44 (i) the normal cost, which shall be the actuarial present value of the
45 employer provided benefits accrued during the year, based upon the
46 projected future salary on which benefits are expected to be paid, by
47 prorating each employee's projected benefit over his or her total years
48 of service;

49 (ii) the supplemental cost, which shall be the cost of providing
50 supplemental retirement allowance payments pursuant to subdivision e of
51 section seventy-eight of this article;

52 (iii) the administrative cost, which shall be the expenses of the
53 retirement system pursuant to paragraph three of subdivision b of this
54 section;

55 (iv) the prior service cost, which shall be equal to the interest on
56 the unfunded actuarial accrued liability or surplus plus a portion of

1 the unfunded liability or surplus, said portion to be equal to the
2 unfunded liability or surplus divided by the average future years of
3 service of active employees; and

4 (v) the annual amortization cost, which shall be equal to the amount
5 of the annual amortization payment required to be paid into the system's
6 pension accumulation fund under sections sixteen-a and seventeen-a of
7 this article.

8 Provided, however, in no event shall the amount of contribution be
9 less than zero.

10 (b) The comptroller is authorized to make appropriate adjustments for
11 those participating employers that have paid an amount in excess of the
12 minimum annual amortization payment required by section seventeen-a of
13 this article. The excess payment shall accumulate with interest earned
14 at the rate used in the annual actuarial valuation and be applied
15 against future pension contribution requirements to insure equitable
16 treatment of all participating employers.

17 (c) In any year in which no contribution is required to the pension
18 accumulation fund, any adjustment reducing a prior year's contribution
19 resulting from the enactment of section sixteen-b of this chapter, shall
20 be credited with interest earned at the rate used in the annual actuari-
21 al valuation and applied against future pension contributions]. WHEN
22 APPLIED TO THE COMPENSATION OF THE AVERAGE NEW ENTRANT DURING THE
23 REMAINING PERIOD OF HIS OR HER MEMBERSHIP, SUCH RATE SHALL BE COMPUTED
24 TO BE SUFFICIENT TO PROVIDE ALL THE BENEFITS, OTHER THAN THOSE ON
25 ACCOUNT OF PRIOR SERVICE, GRANTED BY THIS ARTICLE AND WHICH ARE PAYABLE
26 FROM FUNDS CONTRIBUTED TO THE PENSION ACCUMULATION FUND.

27 Such rate shall be computed each year by means of an actuarial valu-
28 ation as prescribed in section eleven of this [chapter] ARTICLE AND AS
29 AUTHORIZED BY SECTION TWENTY-THREE-A OF THIS TITLE.

30 S 3. The retirement and social security law is amended by adding a new
31 section 319-a to read as follows:

32 S 319-A. EMPLOYER CONTRIBUTIONS FOR THE TWO THOUSAND TEN - TWO THOU-
33 SAND ELEVEN FISCAL YEAR AND SUBSEQUENT FISCAL YEARS. A. IN ADDITION TO
34 THE DEFINITIONS IN SECTION THREE HUNDRED TWO OF THIS ARTICLE, WHEN USED
35 IN THIS SECTION:

36 (1) "AMORTIZING EMPLOYER" SHALL MEAN AN EMPLOYER THAT ELECTS TO AMOR-
37 TIZE A PORTION OF THE EMPLOYER'S ANNUAL BILL PURSUANT TO PARAGRAPH ONE
38 OF SUBDIVISION D OF THIS SECTION FOR THE TWO THOUSAND TEN - TWO THOUSAND
39 ELEVEN FISCAL YEAR, OR ANY SUBSEQUENT FISCAL YEAR, REGARDLESS OF WHETHER
40 THE EMPLOYER HAS SUBSEQUENTLY PAID IN FULL ALL SUCH AMORTIZED AMOUNTS.

41 (2) "AMOUNT ELIGIBLE FOR AMORTIZATION" FOR A GIVEN FISCAL YEAR SHALL
42 MEAN THE AMOUNT BY WHICH AN EMPLOYER'S ACTUARIAL CONTRIBUTION FOR SUCH
43 FISCAL YEAR EXCEEDS THE EMPLOYER'S GRADED CONTRIBUTION FOR THE SAME
44 FISCAL YEAR, LESS ANY AMOUNT FROM THE EMPLOYER CONTRIBUTION RESERVE FUND
45 APPLIED TO REDUCE THE EMPLOYER'S PAYMENT TO THE RETIREMENT SYSTEM FOR
46 THE FISCAL YEAR, PROVIDED, HOWEVER, THAT IF THE EMPLOYER'S AVERAGE ACTU-
47 ARIAL CONTRIBUTION RATE FOR THE FISCAL YEAR IS LESS THAN SEVENTEEN AND
48 ONE-HALF PERCENT, THEN THE AMOUNT ELIGIBLE FOR AMORTIZATION SHALL BE
49 ZERO.

50 (3) "EMPLOYER'S ACTUARIAL CONTRIBUTION" FOR A GIVEN FISCAL YEAR SHALL
51 MEAN AN EMPLOYER'S ANNUAL BILL FOR SUCH FISCAL YEAR EXCLUSIVE OF THE
52 DEFICIENCY CONTRIBUTIONS AND PAYMENTS ON ACCOUNT OF GROUP TERM LIFE
53 INSURANCE, ADJUSTMENTS RELATING TO PRIOR FISCAL YEARS' OBLIGATIONS,
54 RETIREMENT INCENTIVES AND PRIOR AMORTIZATIONS.

55 (4) "EMPLOYER'S ANNUAL BILL" SHALL MEAN FOR A GIVEN FISCAL YEAR THE
56 SUM OF THE FOLLOWING AMOUNTS: (I) AN EMPLOYER'S NORMAL CONTRIBUTIONS FOR

1 THE FISCAL YEAR DETERMINED IN ACCORDANCE WITH PARAGRAPH ONE OF SUBDIVI-
2 SION B OF SECTION THREE HUNDRED TWENTY-THREE OF THIS ARTICLE AND THE
3 COMPREHENSIVE STRUCTURAL REFORM PROGRAM IMPLEMENTED PURSUANT TO SUBDIVI-
4 SION B OF SECTION THREE HUNDRED TWENTY-THREE-A OF THIS ARTICLE, INCLUD-
5 ING THE PROVISIONS OF SUBDIVISION B OF SECTION THREE HUNDRED
6 TWENTY-THREE-A OF THIS ARTICLE RELATING TO THE REQUIRED MINIMUM ANNUAL
7 CONTRIBUTION OF FOUR AND ONE-HALF PERCENT OF PENSIONABLE SALARIES; (II)
8 THE EMPLOYER'S DEFICIENCY CONTRIBUTIONS AND ADMINISTRATION CONTRIBUTIONS
9 FOR THE FISCAL YEAR DETERMINED IN ACCORDANCE WITH PARAGRAPHS TWO AND
10 THREE OF SUBDIVISION B OF SECTION THREE HUNDRED TWENTY-THREE OF THIS
11 ARTICLE; AND (III) ANY PAYMENTS BY THE EMPLOYER DUE IN THE FISCAL YEAR
12 ON ACCOUNT OF GROUP TERM LIFE INSURANCE, ADJUSTMENTS RELATING TO PRIOR
13 FISCAL YEARS' OBLIGATIONS, RETIREMENT INCENTIVES AND PRIOR AMORTI-
14 ZATIONS.

15 (5) "EMPLOYER'S AVERAGE ACTUARIAL CONTRIBUTION RATE" FOR A GIVEN
16 FISCAL YEAR SHALL MEAN AN EMPLOYER'S ACTUARIAL CONTRIBUTION FOR SUCH
17 FISCAL YEAR DIVIDED BY THE EMPLOYER'S PROJECTED PAYROLL FOR THE SAME
18 FISCAL YEAR.

19 (6) "EMPLOYER CONTRIBUTION RESERVE FUND" OR "FUND" SHALL MEAN THE
20 EMPLOYER CONTRIBUTION RESERVE FUND ESTABLISHED PURSUANT TO SUBDIVISION E
21 OF THIS SECTION.

22 (7) "EMPLOYER'S GRADED CONTRIBUTION" FOR A GIVEN FISCAL YEAR SHALL
23 MEAN THE AMOUNT DETERMINED BY APPLYING THE EMPLOYER'S GRADED CONTRIB-
24 UTION RATE FOR SUCH FISCAL YEAR TO AN EMPLOYER'S PROJECTED PAYROLL FOR
25 THE SAME FISCAL YEAR.

26 (8) "EMPLOYER'S GRADED CONTRIBUTION RATE" FOR A GIVEN FISCAL YEAR
27 SHALL MEAN (I) THE SYSTEM GRADED CONTRIBUTION RATE FOR SUCH FISCAL YEAR,
28 OR (II) IN THE CASE OF AN INDIVIDUAL EMPLOYER FOR WHICH A GRADED
29 CONTRIBUTION RATE HAS BEEN DETERMINED PURSUANT TO PARAGRAPH THREE OF
30 SUBDIVISION C OF THIS SECTION, THE GRADED CONTRIBUTION RATE FOR THE
31 INDIVIDUAL EMPLOYER FOR SUCH FISCAL YEAR.

32 (9) "EMPLOYER'S GRADED PAYMENT" FOR A GIVEN FISCAL YEAR SHALL MEAN THE
33 AMOUNT BY WHICH AN EMPLOYER'S GRADED CONTRIBUTION FOR SUCH FISCAL YEAR
34 EXCEEDS THE EMPLOYER'S ACTUARIAL CONTRIBUTION FOR THE SAME FISCAL YEAR.

35 (10) "PRIOR AMORTIZATION" SHALL MEAN WITH RESPECT TO A GIVEN FISCAL
36 YEAR ANY PAYMENT DUE IN SUCH FISCAL YEAR ON ACCOUNT OF AN OBLIGATION
37 FROM A PRIOR FISCAL YEAR THAT AN EMPLOYER IS PERMITTED TO PAY TO THE
38 RETIREMENT SYSTEM ON AN AMORTIZED BASIS.

39 (11) "SYSTEM AVERAGE ACTUARIAL CONTRIBUTION RATE" FOR A GIVEN FISCAL
40 YEAR SHALL MEAN THE SUM OF ALL EMPLOYERS' ACTUARIAL CONTRIBUTIONS FOR
41 SUCH FISCAL YEAR, DIVIDED BY THE SUM OF ALL EMPLOYERS' PROJECTED PAYROLL
42 FOR THE SAME FISCAL YEAR.

43 (12) "SYSTEM GRADED CONTRIBUTION RATE" FOR A GIVEN FISCAL YEAR SHALL
44 MEAN THE GRADED CONTRIBUTION RATE FOR THE RETIREMENT SYSTEM AS A WHOLE
45 DETERMINED FOR SUCH FISCAL YEAR PURSUANT TO PARAGRAPH ONE OR TWO OF
46 SUBDIVISION C OF THIS SECTION.

47 B. NOTWITHSTANDING THE PROVISIONS OF THIS CHAPTER OR ANY OTHER LAW TO
48 THE CONTRARY, THE COMPTROLLER, IN HIS OR HER DISCRETION, SHALL HAVE
49 AUTHORITY TO IMPLEMENT THIS SECTION. IF THE COMPTROLLER ELECTS TO IMPL-
50 EMENT THIS SECTION, THE PROVISIONS OF THIS SECTION SHALL APPLY TO THE
51 PAYMENT OF EMPLOYER CONTRIBUTIONS FOR THE FISCAL YEAR COMMENCING ON
52 APRIL FIRST, TWO THOUSAND TEN, AND FOR SUBSEQUENT FISCAL YEARS.

53 C. FOR EACH FISCAL YEAR TO WHICH THE PROVISIONS OF THIS SECTION APPLY,
54 THE COMPTROLLER SHALL DETERMINE A GRADED CONTRIBUTION RATE FOR THE
55 RETIREMENT SYSTEM AS A WHOLE IN THE MANNER PROVIDED IN THIS SUBDIVISION.

1 (1) FOR THE TWO THOUSAND TEN - TWO THOUSAND ELEVEN FISCAL YEAR THE
2 SYSTEM GRADED CONTRIBUTION RATE SHALL BE SEVENTEEN AND ONE-HALF PERCENT.

3 (2) FOR THE TWO THOUSAND ELEVEN - TWO THOUSAND TWELVE FISCAL YEAR, AND
4 SUBSEQUENT FISCAL YEARS, SYSTEM GRADED CONTRIBUTION RATES SHALL BE
5 DETERMINED AS FOLLOWS:

6 (I) IF THE SYSTEM AVERAGE ACTUARIAL CONTRIBUTION RATE FOR A GIVEN
7 FISCAL YEAR IS AT LEAST SEVENTEEN AND ONE-HALF PERCENT AND EXCEEDS THE
8 SYSTEM GRADED CONTRIBUTION RATE FOR THE IMMEDIATELY PRECEDING FISCAL
9 YEAR BY MORE THAN ONE PERCENTAGE POINT, THEN THE SYSTEM GRADED CONTRIB-
10 UTION RATE FOR THE GIVEN FISCAL YEAR SHALL EQUAL THE SYSTEM GRADED
11 CONTRIBUTION RATE FOR THE IMMEDIATELY PRECEDING FISCAL YEAR PLUS ONE
12 PERCENTAGE POINT, PROVIDED HOWEVER, THAT IN NO EVENT SHALL THE SYSTEM
13 GRADED CONTRIBUTION RATE BE LESS THAN SEVENTEEN AND ONE-HALF PERCENT;

14 (II) IF THE SYSTEM AVERAGE ACTUARIAL CONTRIBUTION RATE FOR A GIVEN
15 FISCAL YEAR IS AT LEAST SEVENTEEN AND ONE-HALF PERCENT AND EITHER EQUALS
16 THE SYSTEM GRADED CONTRIBUTION RATE FOR THE IMMEDIATELY PRECEDING FISCAL
17 YEAR OR EXCEEDS THE SYSTEM GRADED CONTRIBUTION RATE FOR THE IMMEDIATELY
18 PRECEDING FISCAL YEAR BY ONE PERCENTAGE POINT OR LESS, THEN THE SYSTEM
19 GRADED CONTRIBUTION RATE FOR THE GIVEN FISCAL YEAR SHALL EQUAL THE
20 SYSTEM AVERAGE ACTUARIAL CONTRIBUTION RATE FOR SUCH FISCAL YEAR,
21 PROVIDED, HOWEVER, THAT IN NO EVENT SHALL THE SYSTEM GRADED CONTRIBUTION
22 RATE BE LESS THAN SEVENTEEN AND ONE-HALF PERCENT;

23 (III) IF THE SYSTEM AVERAGE ACTUARIAL CONTRIBUTION RATE FOR A GIVEN
24 FISCAL YEAR IS LESS THAN SEVENTEEN AND ONE-HALF PERCENT AND GREATER THAN
25 THE SYSTEM GRADED CONTRIBUTION RATE FOR THE IMMEDIATELY PRECEDING FISCAL
26 YEAR, THEN THE SYSTEM GRADED CONTRIBUTION RATE FOR THE GIVEN FISCAL YEAR
27 SHALL EQUAL THE SYSTEM ACTUARIAL CONTRIBUTION RATE FOR SUCH FISCAL YEAR;

28 (IV) IF THE SYSTEM AVERAGE ACTUARIAL CONTRIBUTION RATE FOR A GIVEN
29 FISCAL YEAR IS SMALLER THAN THE SYSTEM GRADED CONTRIBUTION RATE FOR THE
30 IMMEDIATELY PRECEDING FISCAL YEAR BY MORE THAN ONE PERCENTAGE POINT,
31 THEN THE SYSTEM GRADED CONTRIBUTION RATE FOR THE GIVEN FISCAL YEAR SHALL
32 EQUAL THE SYSTEM GRADED CONTRIBUTION RATE FOR THE IMMEDIATELY PRECEDING
33 FISCAL YEAR MINUS ONE PERCENTAGE POINT; AND

34 (V) IF THE SYSTEM AVERAGE ACTUARIAL CONTRIBUTION RATE FOR A GIVEN
35 FISCAL YEAR EITHER EQUALS THE SYSTEM GRADED CONTRIBUTION RATE FOR THE
36 IMMEDIATELY PRECEDING FISCAL YEAR OR IS SMALLER THAN THE SYSTEM GRADED
37 CONTRIBUTION RATE FOR THE IMMEDIATELY PRECEDING FISCAL YEAR BY ONE
38 PERCENTAGE POINT OR LESS, THEN THE SYSTEM GRADED CONTRIBUTION RATE FOR
39 THE GIVEN FISCAL YEAR SHALL EQUAL THE SYSTEM ACTUARIAL CONTRIBUTION RATE
40 FOR SUCH FISCAL YEAR.

41 (3) THE COMPTROLLER SHALL DETERMINE A GRADED CONTRIBUTION RATE FOR
42 INDIVIDUAL EMPLOYERS AS PROVIDED IN THIS PARAGRAPH.

43 (I) IF THE ACTUARIAL CONTRIBUTION RATE FOR AN EMPLOYER FOR A GIVEN
44 FISCAL YEAR IS EQUAL TO OR GREATER THAN FIFTY PERCENT OF THE SYSTEM
45 ACTUARIAL CONTRIBUTION RATE FOR SUCH YEAR, AND LESS THAN OR EQUAL SEVEN-
46 TY-FIVE PERCENT OF SUCH SYSTEM ACTUARIAL CONTRIBUTION RATE, THEN THE
47 GRADED CONTRIBUTION RATE FOR THE EMPLOYER FOR THE FISCAL YEAR SHALL
48 EQUAL SEVENTY-FIVE PERCENT OF THE SYSTEM GRADED CONTRIBUTION FOR SUCH
49 YEAR.

50 (II) IF THE ACTUARIAL CONTRIBUTION RATE FOR AN EMPLOYER FOR A GIVEN
51 FISCAL YEAR IS LESS THAN FIFTY PERCENT OF THE SYSTEM ACTUARIAL CONTRIB-
52 UTION RATE FOR SUCH YEAR, THEN THE GRADED CONTRIBUTION RATE FOR THE
53 EMPLOYER FOR THE FISCAL YEAR SHALL EQUAL FIFTY PERCENT OF THE SYSTEM
54 GRADED CONTRIBUTION RATE FOR SUCH YEAR.

55 D. (1) FOR ANY GIVEN FISCAL YEAR FOR WHICH AN EMPLOYER'S AVERAGE ACTU-
56 ARIAL CONTRIBUTION RATE EXCEEDS THE GRADED CONTRIBUTION RATE, THE

1 EMPLOYER SHALL PAY TO THE RETIREMENT SYSTEM AN AMOUNT EQUAL TO THE
2 EMPLOYER'S ANNUAL BILL FOR SUCH YEAR OR, IN LIEU OF PAYING THE ENTIRE
3 ANNUAL BILL, THE EMPLOYER MAY PAY AN AMOUNT EQUAL TO THE EMPLOYER'S
4 ANNUAL BILL LESS ALL OR A PORTION OF THE EMPLOYER'S AMOUNT ELIGIBLE FOR
5 AMORTIZATION FOR THE FISCAL YEAR. IF IN ACCORDANCE WITH THIS PARAGRAPH
6 THE EMPLOYER'S PAYMENT TO THE RETIREMENT SYSTEM IS LESS THAN THE ENTIRE
7 AMOUNT OF THE EMPLOYER'S ANNUAL BILL, THEN THE DIFFERENCE BETWEEN THE
8 EMPLOYER'S ANNUAL BILL, AND THE AMOUNT ACTUALLY PAID BY THE EMPLOYER TO
9 THE RETIREMENT SYSTEM EXCLUSIVE OF ANY AMOUNT FROM THE EMPLOYER CONTRIB-
10 UTION RESERVE FUND APPLIED TO REDUCE THE EMPLOYER'S PAYMENT, SHALL BE
11 THE AMOUNT AMORTIZED FOR THE FISCAL YEAR. THE AMOUNT AMORTIZED FOR THE
12 FISCAL YEAR SHALL BE PAID TO THE RETIREMENT SYSTEM IN EQUAL ANNUAL
13 INSTALLMENTS OVER A TEN-YEAR PERIOD, WITH INTEREST ON THE UNPAID BALANCE
14 AT A RATE DETERMINED BY THE COMPTROLLER WHICH APPROXIMATES A MARKET RATE
15 OF RETURN ON TAXABLE FIXED RATE SECURITIES WITH SIMILAR TERMS ISSUED BY
16 COMPARABLE ISSUERS, AND WITH THE FIRST INSTALLMENT DUE IN THE IMMEDIATE-
17 LY SUCCEEDING FISCAL YEAR.

18 (2) FOR ANY GIVEN FISCAL YEAR FOR WHICH THE SYSTEM GRADED CONTRIBUTION
19 RATE EQUALS OR EXCEEDS AN AMORTIZING EMPLOYER'S AVERAGE ACTUARIAL
20 CONTRIBUTION RATE, THE AMORTIZING EMPLOYER SHALL PAY TO THE RETIREMENT
21 SYSTEM AN AMOUNT EQUAL TO THE EMPLOYER'S ANNUAL BILL FOR SUCH YEAR PLUS
22 THE EMPLOYER'S GRADED PAYMENT FOR THE FISCAL YEAR.

23 (I) IF THE AMORTIZING EMPLOYER'S ANNUAL BILL FOR THE FISCAL YEAR DOES
24 NOT INCLUDE AN AMOUNT ATTRIBUTABLE TO A PRIOR AMORTIZATION, THEN THE
25 EMPLOYER'S GRADED PAYMENT SHALL BE PAID INTO THE EMPLOYER CONTRIBUTION
26 RESERVE FUND PROVIDED FOR IN SUBDIVISION E OF THIS SECTION AND CREDITED
27 TO AN ACCOUNT WITHIN SUCH FUND ESTABLISHED FOR THE EMPLOYER.

28 (II) IF THE AMORTIZING EMPLOYER'S ANNUAL BILL FOR THE FISCAL YEAR
29 INCLUDES AN AMOUNT ATTRIBUTABLE TO A PRIOR AMORTIZATION, THE EMPLOYER'S
30 GRADED PAYMENT SHALL BE USED FIRST TO ELIMINATE THE AMOUNT OF THE
31 EMPLOYER'S UNPAID PRIOR AMORTIZATION BALANCES IN CHRONOLOGICAL ORDER
32 STARTING WITH OLDEST PRIOR AMORTIZATION BALANCE. WHEN IN ANY FISCAL
33 YEAR THE EMPLOYER'S GRADED PAYMENT ELIMINATES ALL BALANCES OWED ON THE
34 EMPLOYER'S PRIOR AMORTIZATIONS, ANY REMAINING PORTION OF THE EMPLOYER'S
35 GRADED PAYMENT FOR SUCH FISCAL YEAR, AND THE EMPLOYER'S GRADED PAYMENT
36 IN ANY SUBSEQUENT FISCAL YEAR IN WHICH THE AMORTIZING EMPLOYER HAS NO
37 UNPAID PRIOR AMORTIZATIONS, SHALL BE PAID INTO THE EMPLOYER CONTRIBUTION
38 RESERVE FUND PROVIDED FOR IN SUBDIVISION E OF THIS SECTION AND CREDITED
39 TO AN ACCOUNT WITHIN SUCH FUND ESTABLISHED FOR THE EMPLOYER.

40 (3) NOTHING IN THIS SUBDIVISION SHALL BE CONSTRUED AS PROHIBITING AN
41 EMPLOYER FROM PRE-PAYING ANY PRIOR AMORTIZATION.

42 E. (1) NOTWITHSTANDING ANY LAW TO THE CONTRARY, THERE SHALL BE MAIN-
43 TAINED SEPARATE AND APART FROM THE OTHER FUNDS OF THE RETIREMENT SYSTEM
44 AN EMPLOYER CONTRIBUTION RESERVE FUND, THE ASSETS OF WHICH SHALL NOT BE
45 USED OR INVESTED IN A MANNER CONTRARY TO THE PROVISIONS OF THIS SUBDIVI-
46 SION. THE FUND SHALL CONSIST OF ALL EMPLOYER CONTRIBUTIONS REQUIRED TO
47 BE DEPOSITED INTO THE FUND PURSUANT TO SUBDIVISION D OF THIS SECTION.
48 WITHIN SUCH FUND THERE SHALL BE A SEPARATE ACCOUNT FOR EACH EMPLOYER
49 MAKING SUCH CONTRIBUTIONS AND PAYMENTS.

50 (2) FOR ANY GIVEN FISCAL YEAR FOR WHICH (I) THE SYSTEM ACTUARIAL
51 CONTRIBUTION RATE EXCEEDS SEVENTEEN AND ONE-HALF PERCENT OF PAYROLL, AND
52 (II) FOR WHICH AN EMPLOYER'S AVERAGE ACTUARIAL CONTRIBUTION RATE EXCEEDS
53 THE GRADED CONTRIBUTION RATE, THE BALANCE IN THE EMPLOYER'S ACCOUNT
54 WITHIN SUCH FUND SHALL BE APPLIED TO REDUCE THE EMPLOYER'S PAYMENT TO
55 THE RETIREMENT SYSTEM FOR SUCH FISCAL YEAR IN AN AMOUNT NOT TO EXCEED

1 THE DIFFERENCE BETWEEN THE EMPLOYER'S ACTUARIAL CONTRIBUTION AND THE
2 EMPLOYER'S GRADED CONTRIBUTION FOR THE FISCAL YEAR.

3 (3) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH TWO OF THIS SUBDIVI-
4 SION, IF AT THE CLOSE OF ANY GIVEN FISCAL YEAR THE BALANCE OF AN EMPLOY-
5 ER'S ACCOUNT WITHIN THE FUND EXCEEDS ONE HUNDRED PERCENT OF THE EMPLOY-
6 ER'S PAYROLL FOR SUCH FISCAL YEAR, THE EXCESS SHALL BE APPLIED TO REDUCE
7 THE EMPLOYER'S PAYMENT TO THE RETIREMENT SYSTEM FOR THE NEXT SUCCEEDING
8 FISCAL YEAR.

9 (4) THE ASSETS OF THE FUND SHALL BE INVESTED IN ONLY THE FOLLOWING
10 TYPES OF INVESTMENTS:

11 (I) OBLIGATIONS OF THE UNITED STATES OF AMERICA OR IN OBLIGATIONS
12 GUARANTEED BY AGENCIES OF THE UNITED STATES OF AMERICA WHERE THE PAYMENT
13 OF PRINCIPAL AND INTEREST ARE GUARANTEED BY THE UNITED STATES OF AMERICA
14 OR IN OBLIGATIONS OF THE STATE OF NEW YORK;

15 (II) GENERAL OBLIGATION BONDS AND NOTES OF ANY STATE OTHER THAN THIS
16 STATE, PROVIDED THAT SUCH BONDS AND NOTES RECEIVE THE HIGHEST RATING OF
17 AT LEAST ONE INDEPENDENT RATING AGENCY; AND

18 (III) OBLIGATIONS OF, OR INSTRUMENTS ISSUED BY OR FULLY GUARANTEED AS
19 TO PRINCIPAL AND INTEREST BY, ANY AGENCY OR INSTRUMENTALITY OF THE
20 UNITED STATES ACTING PURSUANT TO A GRANT OF AUTHORITY FROM THE CONGRESS
21 OF THE UNITED STATES, INCLUDING, BUT NOT LIMITED TO, ANY FEDERAL HOME
22 LOAN BANK OR BANKS, THE TENNESSEE VALLEY AUTHORITY, THE FEDERAL NATIONAL
23 MORTGAGE ASSOCIATION, THE FEDERAL HOME LOAN MORTGAGE CORPORATION AND THE
24 UNITED STATES POSTAL SERVICE.

25 (5) AT THE CLOSE OF EACH FISCAL YEAR, THE AMOUNT OF INTEREST AND EARN-
26 INGS ATTRIBUTABLE TO EACH EMPLOYER'S ACCOUNT SHALL BE COMPUTED BY THE
27 ACTUARY AND CERTIFIED TO THE COMPTROLLER, WHO SHALL THEREUPON CREDIT
28 EACH EMPLOYER'S ACCOUNT IN ACCORDANCE THEREWITH.

29 (6) THE ASSETS OF THE FUND SHALL BE EXCLUDED FROM THE ANNUAL VALUATION
30 OF THE ASSETS AND LIABILITIES OF THE FUNDS OF THE RETIREMENT SYSTEM
31 REQUIRED BY SECTION THREE HUNDRED ELEVEN OF THIS TITLE. THE ASSETS OF
32 THE FUND SHALL NOT FINANCE INCREASES IN PENSION BENEFITS.

33 S 4. The opening paragraph and paragraph 1 of subdivision b of section
34 323 of the retirement and social security law, as amended by chapter 210
35 of the laws of 1990 and clause (ii) of subparagraph (a) of paragraph 1
36 as amended by chapter 947 of the laws of 1990, are amended to read as
37 follows:

38 Each employer shall make [two] THREE contributions annually. They
39 shall be known as the normal contribution [as defined in subparagraph
40 (a) of paragraph one of this subdivision and], the deficiency contrib-
41 ution [as defined in paragraph two of this subdivision], AND THE ADMIN-
42 ISTRATION CONTRIBUTION. The rates thereof shall be computed by the actu-
43 ary.

44 1. [(a)] Normal contribution. The rate of such contribution shall be
45 applied to the members' annual compensation as of the end of the fiscal
46 year. Such rate shall be a uniform and constant rate per centum of annu-
47 al compensation [when determined by dividing the valuation costs by the
48 payroll amount used in the valuation. Notwithstanding any provision of
49 law to the contrary, the valuation costs consist of:

50 (i) the normal cost, which shall be the actuarial present value of the
51 employer provided benefits accrued during the year, based upon the
52 projected future salary on which benefits are expected to be paid, by
53 prorating each employee's projected benefit over his or her total years
54 of service;

1 (ii) the supplemental cost, which shall be the cost of providing
2 supplemental retirement allowance payments pursuant to subdivision e of
3 section three hundred seventy-eight of this article;

4 (iii) the administrative cost, which shall be the expenses of the
5 retirement system pursuant to paragraph three of subdivision b of this
6 section;

7 (iv) the prior service cost, which shall be equal to the interest on
8 the unfunded actuarial accrued liability or surplus plus a portion of
9 the unfunded liability or surplus, said portion to be equal to the
10 unfunded liability or surplus divided by the average future years of
11 service of active employees; and

12 (v) the annual amortization cost, which shall be equal to the amount
13 of the annual amortization payment required to be paid into the system's
14 pension accumulation fund under section three hundred sixteen-a and
15 three hundred seventeen-a of this article.

16 Provided, however, in no event shall the amount of contribution cost
17 be less than zero.

18 (b) The comptroller is authorized to make appropriate adjustments for
19 those participating employers that have paid an amount in excess of the
20 minimum annual amortization payment required by section three hundred
21 seventeen-a of this article. The excess payment shall accumulate with
22 interest earned at the rate used in the annual actuarial valuation and
23 be applied against future pension contribution requirements to insure
24 equitable treatment of all participating employers.

25 (c) In any year in which no contribution is required to the pension
26 accumulation fund, any adjustment reducing a prior year's contribution
27 resulting from the enactment of section three hundred sixteen-b of this
28 chapter, shall be credited with interest earned at the rate used in the
29 annual actuarial valuation and applied against future pension contribu-
30 tions]. WHEN APPLIED TO THE COMPENSATION OF THE AVERAGE NEW ENTRANT
31 DURING THE REMAINING PERIOD OF HIS OR HER MEMBERSHIP, SUCH RATE SHALL BE
32 COMPUTED TO BE SUFFICIENT TO PROVIDE ALL THE BENEFITS, OTHER THAN THOSE
33 ON ACCOUNT OF PRIOR SERVICE, GRANTED BY THIS ARTICLE AND WHICH ARE PAYA-
34 BLE FROM FUNDS CONTRIBUTED TO THE PENSION ACCUMULATION FUND.

35 Such rate shall be computed each year by means of an actuarial valu-
36 ation as prescribed in section three hundred eleven of this [chapter]
37 ARTICLE AND AS AUTHORIZED BY SECTION THREE HUNDRED TWENTY-THREE-A OF
38 THIS TITLE.

39 S 5. This act shall take effect immediately.

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

This bill would amend the Retirement and Social Security Law as it
pertains to employer bills of the New York State and Local Employees'
Retirement System (ERS) and the New York State and Local Police and Fire
Retirement System (PFRS).

This bill puts in place a program that allows ERS and PFRS employers,
if they choose to participate, to amortize a portion of their bill with
their respective Retirement System when employer contributions rates
rise above certain levels. If they do this, then when rates are falling
below certain levels and they have paid off all outstanding amorti-
zations, the employer will be required to pay additional monies into a
reserve fund that will be used when employer contribution rates begin to
rise in the future.

If this bill is enacted, we estimate that there would be a small
administrative cost to the System to revise the current billing proc-
esses.

This estimate, dated May 28, 2009, and intended for use only during the 2009 Legislative Session, is Fiscal Note No. 2009-262, prepared by the Actuary for the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System.