

S T A T E O F N E W Y O R K

8899--A

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 State Comptroller)
-- read once and referred to the Committee on Governmental Employees
-- recommitted to the Committee on Governmental Employees 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 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

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

LBD14111-08-0

1 ONE-HALF PERCENT, THEN THE AMOUNT ELIGIBLE FOR AMORTIZATION SHALL BE
2 ZERO.

3 (3) "EMPLOYER'S ACTUARIAL CONTRIBUTION" FOR A GIVEN FISCAL YEAR SHALL
4 MEAN AN EMPLOYER'S ANNUAL BILL FOR SUCH FISCAL YEAR EXCLUSIVE OF DEFICI-
5 CIENCY CONTRIBUTIONS AND PAYMENTS ON ACCOUNT OF GROUP TERM LIFE INSUR-
6 ANCE, ADJUSTMENTS RELATING TO PRIOR FISCAL YEARS' OBLIGATIONS, RETIRE-
7 MENT INCENTIVES AND PRIOR AMORTIZATIONS.

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

23 (5) "EMPLOYER'S AVERAGE ACTUARIAL CONTRIBUTION RATE" FOR A GIVEN
24 FISCAL YEAR SHALL MEAN AN EMPLOYER'S ACTUARIAL CONTRIBUTION FOR SUCH
25 FISCAL YEAR DIVIDED BY THE EMPLOYER'S PROJECTED PAYROLL FOR THE SAME
26 FISCAL YEAR.

27 (6) "EMPLOYER CONTRIBUTION RESERVE FUND" OR "FUND" SHALL MEAN THE
28 EMPLOYER CONTRIBUTION RESERVE FUND ESTABLISHED PURSUANT TO SUBDIVISION E
29 OF THIS SECTION.

30 (7) "EMPLOYER'S GRADED CONTRIBUTION" FOR A GIVEN FISCAL YEAR SHALL
31 MEAN THE AMOUNT DETERMINED BY APPLYING THE SYSTEM GRADED CONTRIBUTION
32 RATE FOR SUCH FISCAL YEAR TO AN EMPLOYER'S PROJECTED PAYROLL FOR THE
33 SAME FISCAL YEAR.

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

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

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

45 (11) "SYSTEM GRADED CONTRIBUTION RATE" FOR A GIVEN FISCAL YEAR SHALL
46 MEAN THE GRADED CONTRIBUTION RATE FOR THE RETIREMENT SYSTEM AS A WHOLE
47 DETERMINED FOR SUCH FISCAL YEAR PURSUANT TO SUBDIVISION C OF THIS
48 SECTION.

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

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

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

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

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

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

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

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

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

44 D. (1) FOR ANY GIVEN FISCAL YEAR FOR WHICH AN EMPLOYER'S AVERAGE ACTU-
45 ARIAL CONTRIBUTION RATE EXCEEDS THE SYSTEM GRADED CONTRIBUTION RATE, THE
46 EMPLOYER SHALL PAY TO THE RETIREMENT SYSTEM AN AMOUNT EQUAL TO THE
47 EMPLOYER'S ANNUAL BILL FOR SUCH YEAR OR, IN LIEU OF PAYING THE ENTIRE
48 ANNUAL BILL, THE EMPLOYER MAY PAY AN AMOUNT EQUAL TO THE EMPLOYER'S
49 ANNUAL BILL LESS ALL OR A PORTION OF THE EMPLOYER'S AMOUNT ELIGIBLE FOR
50 AMORTIZATION FOR THE FISCAL YEAR. IF IN ACCORDANCE WITH THIS PARAGRAPH
51 THE EMPLOYER'S PAYMENT TO THE RETIREMENT SYSTEM IS LESS THAN THE ENTIRE
52 AMOUNT OF THE EMPLOYER'S ANNUAL BILL, THEN THE DIFFERENCE BETWEEN THE
53 EMPLOYER'S ANNUAL BILL, AND THE AMOUNT ACTUALLY PAID BY THE EMPLOYER TO
54 THE RETIREMENT SYSTEM EXCLUSIVE OF ANY AMOUNT FROM THE EMPLOYER CONTRIB-
55 UTION RESERVE FUND APPLIED TO REDUCE THE EMPLOYER'S PAYMENT, SHALL BE
56 THE AMOUNT AMORTIZED FOR THE FISCAL YEAR. THE AMOUNT AMORTIZED FOR THE

1 FISCAL YEAR SHALL BE PAID TO THE RETIREMENT SYSTEM IN EQUAL ANNUAL
2 INSTALLMENTS OVER A TEN-YEAR PERIOD, WITH INTEREST ON THE UNPAID BALANCE
3 AT A RATE DETERMINED BY THE COMPTROLLER WHICH APPROXIMATES A MARKET RATE
4 OF RETURN ON TAXABLE FIXED RATE SECURITIES WITH SIMILAR TERMS ISSUED BY
5 COMPARABLE ISSUERS, AND WITH THE FIRST INSTALLMENT DUE IN THE IMMEDIATE-
6 LY SUCCEEDING FISCAL YEAR.

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

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

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

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

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

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

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

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

55 (I) OBLIGATIONS OF THE UNITED STATES OF AMERICA OR IN OBLIGATIONS
56 GUARANTEED BY AGENCIES OF THE UNITED STATES OF AMERICA WHERE THE PAYMENT

1 OF PRINCIPAL AND INTEREST ARE GUARANTEED BY THE UNITED STATES OF AMERICA
2 OR IN OBLIGATIONS OF THE STATE OF NEW YORK;
3 (II) GENERAL OBLIGATION BONDS AND NOTES OF ANY STATE OTHER THAN THIS
4 STATE, PROVIDED THAT SUCH BONDS AND NOTES RECEIVE THE HIGHEST RATING OF
5 AT LEAST ONE INDEPENDENT RATING AGENCY;
6 (III) OBLIGATIONS OF, OR INSTRUMENTS ISSUED BY OR FULLY GUARANTEED AS
7 TO PRINCIPAL AND INTEREST BY, ANY AGENCY OR INSTRUMENTALITY OF THE
8 UNITED STATES ACTING PURSUANT TO A GRANT OF AUTHORITY FROM THE CONGRESS
9 OF THE UNITED STATES, INCLUDING, BUT NOT LIMITED TO, ANY FEDERAL HOME
10 LOAN BANK OR BANKS, THE TENNESSEE VALLEY AUTHORITY, THE FEDERAL NATIONAL
11 MORTGAGE ASSOCIATION, THE FEDERAL HOME LOAN MORTGAGE CORPORATION AND THE
12 UNITED STATES POSTAL SERVICE;
13 (IV) CERTIFICATE OF DEPOSITS THAT ARE FULLY SECURED BY THE ISSUER BY
14 DEPOSITING WITH THE COMPTROLLER DIRECT OR INDIRECT OBLIGATIONS OF THE
15 UNITED STATES OR ITS AGENCIES OR A LETTER OF CREDIT ISSUED BY THE FEDER-
16 AL HOME LOAN BANK; AND
17 (V) OBLIGATIONS OF ANY CORPORATION ORGANIZED UNDER THE LAWS OF ANY
18 STATE IN THE UNITED STATES MATURING WITHIN TWO HUNDRED SEVENTY DAYS
19 PROVIDED THAT SUCH OBLIGATIONS RECEIVE THE HIGHEST RATING OF TWO INDE-
20 PENDENT RATING SERVICES DESIGNATED BY THE COMPTROLLER.
21 (5) AT THE CLOSE OF EACH FISCAL YEAR, THE AMOUNT OF INTEREST AND EARN-
22 INGS ATTRIBUTABLE TO EACH EMPLOYER'S ACCOUNT SHALL BE COMPUTED BY THE
23 ACTUARY AND CERTIFIED TO THE COMPTROLLER, WHO SHALL THEREUPON CREDIT
24 EACH EMPLOYER'S ACCOUNT IN ACCORDANCE THEREWITH.
25 (6) THE ASSETS OF THE FUND SHALL BE EXCLUDED FROM THE ANNUAL VALUATION
26 OF THE ASSETS AND LIABILITIES OF THE FUNDS OF THE RETIREMENT SYSTEM
27 REQUIRED BY SECTION ELEVEN OF THIS TITLE. THE ASSETS OF THE FUND SHALL
28 NOT BE USED TO FINANCE INCREASES IN PENSION BENEFITS.
29 S 2. The opening paragraph and paragraph 1 of subdivision b of section
30 23 of the retirement and social security law, as amended by chapter 210
31 of the laws of 1990 and clause (ii) of subparagraph (a) of paragraph 1
32 as amended by chapter 947 of the laws of 1990, are amended to read as
33 follows:
34 Each employer shall make [two] THREE contributions annually. They
35 shall be known as the normal contribution [as defined in subparagraph
36 (a) of paragraph one of this subdivision and], the deficiency contrib-
37 ution [as defined in paragraph two of this subdivision], AND THE ADMIN-
38 ISTRATION CONTRIBUTION. The rates thereof shall be computed by the
39 actuary.
40 1. [(a)] Normal contribution. The rate of such contribution shall be
41 applied to the members' annual compensation as of the end of the fiscal
42 year. Such rate shall be a uniform and constant rate per centum of annu-
43 al compensation [when determined by dividing the valuation costs by the
44 payroll amount used in the valuation. Notwithstanding any provision of
45 law to the contrary, the valuation costs consist of:
46 (i) the normal cost, which shall be the actuarial present value of the
47 employer provided benefits accrued during the year, based upon the
48 projected future salary on which benefits are expected to be paid, by
49 prorating each employee's projected benefit over his or her total years
50 of service;
51 (ii) the supplemental cost, which shall be the cost of providing
52 supplemental retirement allowance payments pursuant to subdivision e of
53 section seventy-eight of this article;
54 (iii) the administrative cost, which shall be the expenses of the
55 retirement system pursuant to paragraph three of subdivision b of this
56 section;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 EMPLOYER FOR THE FISCAL YEAR SHALL EQUAL FIFTY PERCENT OF THE SYSTEM
2 GRADED CONTRIBUTION RATE FOR SUCH YEAR.

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

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

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

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

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

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

54 (2) FOR ANY GIVEN FISCAL YEAR FOR WHICH (I) THE SYSTEM ACTUARIAL
55 CONTRIBUTION RATE EXCEEDS SEVENTEEN AND ONE-HALF PERCENT OF PAYROLL, AND
56 (II) FOR WHICH AN EMPLOYER'S AVERAGE ACTUARIAL CONTRIBUTION RATE EXCEEDS

1 THE GRADED CONTRIBUTION RATE, THE BALANCE IN THE EMPLOYER'S ACCOUNT
2 WITHIN SUCH FUND SHALL BE APPLIED TO REDUCE THE EMPLOYER'S PAYMENT TO
3 THE RETIREMENT SYSTEM FOR SUCH FISCAL YEAR IN AN AMOUNT NOT TO EXCEED
4 THE DIFFERENCE BETWEEN THE EMPLOYER'S ACTUARIAL CONTRIBUTION AND THE
5 EMPLOYER'S GRADED CONTRIBUTION FOR THE FISCAL YEAR.

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

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

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

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

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

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

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

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

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

44 S 4. The opening paragraph and paragraph 1 of subdivision b of section
45 323 of the retirement and social security law, as amended by chapter 210
46 of the laws of 1990 and clause (ii) of subparagraph (a) of paragraph 1
47 as amended by chapter 947 of the laws of 1990, are amended to read as
48 follows:

49 Each employer shall make [two] THREE contributions annually. They
50 shall be known as the normal contribution [as defined in subparagraph
51 (a) of paragraph one of this subdivision and], the deficiency contrib-
52 ution [as defined in paragraph two of this subdivision], AND THE ADMIN-
53 ISTRATION CONTRIBUTION. The rates thereof shall be computed by the actu-
54 ary.

55 1. [(a)] Normal contribution. The rate of such contribution shall be
56 applied to the members' annual compensation as of the end of the fiscal

1 year. Such rate shall be a uniform and constant rate per centum of annual compensation [when determined by dividing the valuation costs by the payroll amount used in the valuation. Notwithstanding any provision of law to the contrary, the valuation costs consist of:

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

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

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

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

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

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

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

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

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

11 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 amortizations, 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 processes.

This estimate, dated February 2, 2010, and intended for use only during the 2010 Legislative Session, is Fiscal Note No. 2010-104, 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.