

8505

2011-2012 Regular Sessions

I N A S S E M B L Y

June 20, 2011

Introduced by M. of A. ABINANTI, LATIMER, PAULIN, THIELE, RUSSELL,
GOODELL, GUNTHER -- Multi-Sponsored by -- M. of A. CASTELLI, ENGLE-
BRIGHT, JAFFEE, KATZ, LUPARDO, MAGEE, REILLY, SCHIMEL, SPANO -- read
once and referred to the Committee on Governmental Employees

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 ASSEM-
BLY, 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 paya-
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 participat-
17 ing 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

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

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1 system for that year, the amount to be determined by the comptroller for
2 the next succeeding November fifteenth shall reflect the amount of the
3 overpayment, plus interest as defined in section sixteen of this article
4 on such amount, as a reduction in the amount otherwise required to be
5 paid by such participating employer.

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

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

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

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

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

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

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

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

1 SUBDIVISION SHALL COMMENCE WITH EMPLOYER CONTRIBUTIONS MADE IN THE YEAR
2 TWO THOUSAND TWELVE.

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

5 S 2. Section 317 of the retirement and social security law, as
6 amended by chapter 33 of the laws of 1986, subdivision a as amended by
7 chapter 62 of the laws of 1989, and subdivision c as amended by chapter
8 260 of the laws of 2004, is amended to read as follows:

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

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

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

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

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

52 e. The comptroller shall have full power and authority to bring suit
53 in the supreme court against any participating employer to recover any
54 sum FOR WHICH THE EMPLOYER IS RESPONSIBLE, payment of which is not made
55 as herein required. While any such sum OWED BY THE EMPLOYER shall remain

1 due and unpaid [he] THE COMPTROLLER may refuse to audit any claim for
2 funds due to such employer from the state.

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

7 (2) ANY DIFFERENCE BETWEEN THE AMOUNT COMPUTED BY THE COMPTROLLER
8 PURSUANT TO SUBDIVISION A OF THIS SECTION AND THE MAXIMUM AMOUNT
9 REQUIRED TO BE PAID BY THE EMPLOYER PURSUANT TO PARAGRAPH ONE OF THIS
10 SUBDIVISION SHALL BE APPROPRIATED TO THE RETIREMENT SYSTEM OUT OF MONEYS
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13 QUOTIENT OF: (I) THE AVERAGE OF THE NATIONAL CONSUMER PRICE INDEXES
14 DETERMINED BY THE UNITED STATES DEPARTMENT OF LABOR FOR THE TWELVE-MONTH
15 PERIOD ENDING SIX MONTHS PRIOR TO THE START OF THE COMING FISCAL YEAR
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17 THE UNITED STATES DEPARTMENT OF LABOR FOR THE TWELVE-MONTH PERIOD ENDING
18 SIX MONTHS PRIOR TO THE START OF THE PRIOR FISCAL YEAR, DIVIDED BY: (II)
19 THE AVERAGE OF THE NATIONAL CONSUMER PRICE INDEXES DETERMINED BY THE
20 UNITED STATES DEPARTMENT OF LABOR FOR THE TWELVE-MONTH PERIOD ENDING SIX
21 MONTHS PRIOR TO THE START OF THE PRIOR FISCAL YEAR, WITH THE RESULT
22 EXPRESSED AS A DECIMAL TO FOUR PLACES.

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

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

31 S 3. Subdivision 2 of section 521 of the education law, paragraph a as
32 amended by chapter 553 of the laws of 1997, paragraph b as amended by
33 chapter 871 of the laws of 1963, paragraphs f and g as added by chapter
34 538 of the laws of 1984, paragraph h as amended by chapter 830 of the
35 laws of 1992, paragraphs i, j, k, l, and m as added by chapter 175 of
36 the laws of 1990, and paragraph n as added by chapter 482 of the laws of
37 1996, is amended and a new subdivision 3 is added to read as follows:

38 2. The collection of employers' contributions shall be made as
39 follows:

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

1 b. The commissioner [of education] shall include in the certificate
2 which he files with the state comptroller showing the amount of state
3 funds apportioned to the school districts within each county for the
4 support of common schools, a statement showing the amount to be contrib-
5 uted by each employer in each of such counties as required under this
6 article.

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

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

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

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

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

52 g. Whenever the system determines the contributions made by an employ-
53 er are less than the percentage of total compensation or salaries of
54 members of the system in the employ of such employer, as required by
55 this article, such employer shall pay the system such deficiency within
56 thirty days from the date a bill is mailed by the system, PROVIDED SUCH

DEFICIENCY AMOUNT DOES NOT CAUSE THE EMPLOYER TO PAY MORE THAN THE MAXIMUM REQUIRED CONTRIBUTION AMOUNT CALCULATED PURSUANT TO SUBDIVISION THREE OF THIS SECTION. Interest, at a rate equal to the average yield payable on fifty-two week United States treasury bills on June thirtieth immediately preceding the day before the bill is mailed by the system, shall accrue on the EMPLOYER'S PORTION OF THE outstanding amount due and owing commencing with the thirty-first day after the bill is mailed.

h. Notwithstanding any provision of law to the contrary, commencing with the payments made in the fiscal year beginning July first, nineteen hundred ninety, and each fiscal year thereafter, the employer contributions due and payable as determined pursuant to the provisions of this article and the employee contributions due and payable pursuant to this article and articles fourteen and fifteen of the retirement and social security law, on account of compensation paid in the fiscal year immediately preceding, and those employer contributions due and payable in each fiscal year pursuant to chapter six hundred sixty-five of the laws of nineteen hundred eighty-four shall be made to the retirement system and collected in the manner set forth in this section each fiscal year in three payments, each equal to thirty-three and one-third percent of the total amount due for such fiscal year. Such payments shall be paid on September fifteenth, October fifteenth, and November fifteenth of each fiscal year. If a participating employer underpaid its obligation to the retirement system, such underpayment as determined by the retirement system shall be deducted from the amounts apportioned to such employer from the appropriation of the state for the support of the common schools due and payable the next April fifteenth. Employers whose payments from such appropriation are insufficient to pay the amount due and owing the system, or who do not receive such payments, shall be billed by the system for such underpayment and shall pay the system the amount due within thirty days from the date a bill is mailed by the system. The amount of any employer overpayment of its obligation to the retirement system, as determined by such system shall be a credit to the employer and shall reduce by an equal amount thereof the initial payment to be made by such employer to such system on the next succeeding September fifteenth.

i. Notwithstanding any provision of law to the contrary, the employer and employee contributions due and payable in the nineteen hundred eighty-nine--ninety fiscal year on account of compensation paid in the nineteen hundred eighty-eight--eighty-nine fiscal year which were paid prior to April first, nineteen hundred ninety shall be deemed (to the extent such amount is sufficient) to have consisted of all the employee contributions due and payable pursuant to this article and articles fourteen and fifteen of the retirement and social security law in the nineteen hundred eighty-nine--ninety fiscal year and those employer contributions due and payable in such fiscal year pursuant to chapter six hundred sixty-five of the laws of nineteen hundred eighty-four; and the remaining employer contributions so paid shall be applied evenly to the payments due and payable on September fifteenth, nineteen hundred ninety, October fifteenth, nineteen hundred ninety and November fifteenth, nineteen hundred ninety and the employer contributions amounting to eight hundred seventy-three million seven hundred eleven thousand six hundred fifteen dollars (\$873,711,615), due and payable pursuant to the provisions of this section in the nineteen hundred eighty-nine--ninety fiscal year on account of compensation paid in nineteen hundred eighty-eight--eighty-nine fiscal year, except those employer contributions due and payable in such fiscal year pursuant to chapter

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

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

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

55 l. The provisions of paragraphs h and i of this subdivision shall
56 constitute a contract and the rights of the New York state teachers'

1 retirement system thereunder shall not be impaired in any way whatsoev-
2 er.

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

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

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

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

41 C. FOR THE PURPOSES OF THIS SUBDIVISION, "INFLATION FACTOR" MEANS THE
42 QUOTIENT OF: (I) THE AVERAGE OF THE NATIONAL CONSUMER PRICE INDEXES
43 DETERMINED BY THE UNITED STATES DEPARTMENT OF LABOR FOR THE TWELVE-MONTH
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52 D. FOR PURPOSES OF THIS SUBDIVISION, THE BASE YEAR FOR THE INITIAL
53 CALCULATION OF LIMITED EMPLOYER CONTRIBUTIONS PURSUANT TO PARAGRAPH A OF
54 THIS SUBDIVISION SHALL BE THE AMOUNT PAID BY THE EMPLOYER IN THE YEAR
55 TWO THOUSAND ELEVEN. THE EMPLOYER CONTRIBUTION CAP IMPOSED BY THIS

1 SUBDIVISION SHALL COMMENCE WITH EMPLOYER CONTRIBUTIONS MADE IN THE YEAR
2 TWO THOUSAND TWELVE.

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

5 S 4. This act shall take effect immediately and shall apply to employ-
6 er contributions made commencing January 1, 2012.