

2592--B

2013-2014 Regular Sessions

I N S E N A T E

January 22, 2013

Introduced by Sen. LATIMER -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Civil Service and Pensions in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

1 Section 1. Section 17 of the retirement and social security law, as
2 amended by chapter 33 of the laws of 1986, subdivision a as amended by
3 chapter 62 of the laws of 1989, subdivision c as amended by chapter 260
4 of the laws of 2004, is amended to read as follows:
5 S 17. Annual appropriation by participating employers. a. On or before
6 the fifteenth day of November, nineteen hundred eighty-nine and of each
7 succeeding calendar year, the comptroller shall determine the amount
8 which each participating employer is required to pay to the retirement
9 system to discharge its obligations thereto for the fiscal year of the
10 retirement system which ends on March thirty-first of nineteen hundred
11 ninety and of each succeeding calendar year on account of its employees
12 who are members of this system. The comptroller shall submit to the
13 fiscal officer of each such employer a statement of the amount so 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.

LBD03647-11-4

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 [arti-
4 cle] TITLE on such amount, as a reduction in the amount otherwise
5 required to be 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 ACTUARIAL REQUIRED CONTRIBUTION PLUS THE LESSER
35 OF: TWO PERCENT OR THE PERCENTAGE SET FORTH IN PARAGRAPH FOUR OF THIS
36 SUBDIVISION.

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

42 (3) THE AFOREMENTIONED APPROPRIATED MONEYS SHALL BE PAID BY THE STATE
43 ON OR BEFORE THE FIRST OF FEBRUARY. THE STATE SHALL NOT HAVE THE OPTION
44 TO AMORTIZE THE PAYMENT REQUIRED IN THIS SUBDIVISION AS PROVIDED IN
45 SECTION NINETEEN-A OF THIS TITLE.

46 (4) THE PERCENTAGE REFERRED TO IN PARAGRAPH ONE OF THIS SUBDIVISION
47 SHALL BE DETERMINED ANNUALLY BY REFERENCE TO THE CONSUMER PRICE INDEX
48 (ALL URBAN CONSUMERS, CPI-U, U.S. CITY AVERAGE, ALL ITEMS, 1982-84=100),
49 PUBLISHED BY THE UNITED STATES BUREAU OF LABOR STATISTICS, FOR EACH
50 APPLICABLE CALENDAR YEAR. SAID PERCENTAGE SHALL EQUAL THE ANNUAL
51 INFLATION, AS DETERMINED FROM THE INCREASE IN THE CONSUMER PRICE INDEX
52 IN THE ONE YEAR PERIOD ENDING THE THIRTY-FIRST OF MARCH OF THE CURRENT
53 YEAR'S ACTUARIAL, REQUIRED CONTRIBUTION. SAID PERCENTAGE SHALL THEN BE
54 ROUNDED UP TO THE NEXT HIGHER ONE-TENTH OF ONE PERCENT.

55 (5) FOR PURPOSES OF THIS SUBDIVISION, "ACTUARIAL REQUIRED CONTRIB-
56 UTION" MEANS THE AMOUNT COMPUTED BY THE COMPTROLLER PRIOR TO THE DETER-

MINATION OF THE AMOUNT ELIGIBLE FOR AMORTIZATION, IF ANY, AS SET FORTH IN SECTION NINETEEN-A OF THIS TITLE.

(6) FOR PURPOSES OF THIS SUBDIVISION, THE BASE YEAR FOR THE INITIAL CALCULATION OF LIMITED EMPLOYER CONTRIBUTIONS PURSUANT TO PARAGRAPH ONE OF THIS SUBDIVISION SHALL BE THE AMOUNT PAID BY THE EMPLOYER IN THE FISCAL YEAR ENDING THE THIRTY-FIRST OF MARCH, TWO THOUSAND FOURTEEN. THE EMPLOYER PARTICIPATION CAP IMPOSED BY THIS SUBDIVISION SHALL COMMENCE WITH EMPLOYER CONTRIBUTIONS MADE IN THE FISCAL YEAR ENDING THE THIRTY-FIRST OF MARCH, TWO THOUSAND FIFTEEN.

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

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

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

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

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

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

d. If payment of the [full amount] EMPLOYER'S PORTION of such obligations is not made by the date required by subdivision c of this section, interest at a rate determined in accordance with the provisions of section three hundred sixteen of this [article] TITLE shall commence

1 to run against the unpaid balance thereof on the first day after the
2 date required by said subdivision c.

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

9 F. (1) OF THE AMOUNT DETERMINED BY THE COMPTROLLER PURSUANT TO SUBDI-
10 VISION A OF THIS SECTION, AN EMPLOYER SHALL NOT BE REQUIRED TO PAY MORE
11 THAN THE PRIOR YEAR'S ACTUARIAL REQUIRED CONTRIBUTION PLUS THE LESSER
12 OF: TWO PERCENT OR THE PERCENTAGE SET FORTH IN PARAGRAPH FOUR OF THIS
13 SUBDIVISION.

14 (2) ANY DIFFERENCE BETWEEN THE AMOUNT COMPUTED BY THE COMPTROLLER
15 PURSUANT TO SUBDIVISION A OF THIS SECTION AND THE MAXIMUM AMOUNT
16 REQUIRED TO BE PAID BY THE EMPLOYER PURSUANT TO PARAGRAPH ONE OF THIS
17 SUBDIVISION SHALL BE APPROPRIATED TO THE RETIREMENT SYSTEM OUT OF MONEYS
18 IN THE GENERAL FUND OF THE STATE.

19 (3) THE AFOREMENTIONED APPROPRIATED MONEYS SHALL BE PAID BY THE STATE
20 ON OR BEFORE THE FIRST OF FEBRUARY. THE STATE SHALL NOT HAVE THE OPTION
21 TO AMORTIZE THE PAYMENT REQUIRED IN THIS SUBDIVISION AS PROVIDED IN
22 SECTION THREE HUNDRED NINETEEN-A OF THIS TITLE.

23 (4) THE PERCENTAGE REFERRED TO IN PARAGRAPH ONE OF THIS SUBDIVISION
24 SHALL BE DETERMINED ANNUALLY BY REFERENCE TO THE CONSUMER PRICE INDEX
25 (ALL URBAN CONSUMERS, CPI-U, U.S. CITY AVERAGE, ALL ITEMS, 1982-84=100),
26 PUBLISHED BY THE UNITED STATES BUREAU OF LABOR STATISTICS, FOR EACH
27 APPLICABLE CALENDAR YEAR. SAID PERCENTAGE SHALL EQUAL THE ANNUAL
28 INFLATION, AS DETERMINED FROM THE INCREASE IN THE CONSUMER PRICE INDEX
29 IN THE ONE YEAR PERIOD ENDING THE THIRTY-FIRST OF MARCH OF THE CURRENT
30 YEAR'S ACTUARIAL, REQUIRED CONTRIBUTION. SAID PERCENTAGE SHALL THEN BE
31 ROUNDED UP TO THE NEXT HIGHER ONE-TENTH OF ONE PERCENT.

32 (5) FOR THE PURPOSES OF THIS SUBDIVISION, "ACTUARIAL REQUIRED CONTRIB-
33 UTION" MEANS THE AMOUNT COMPUTED BY THE COMPTROLLER PRIOR TO THE DETER-
34 MINATION OF THE AMOUNT ELIGIBLE FOR AMORTIZATION, IF ANY, AS SET FORTH
35 IN SECTION THREE HUNDRED NINETEEN-A OF THIS TITLE.

36 (6) FOR PURPOSES OF THIS SUBDIVISION, THE BASE YEAR FOR THE INITIAL
37 CALCULATION OF LIMITED EMPLOYER CONTRIBUTIONS PURSUANT TO PARAGRAPH ONE
38 OF THIS SUBDIVISION SHALL BE THE AMOUNT PAID BY THE EMPLOYER IN THE
39 FISCAL YEAR ENDING THE THIRTY-FIRST OF MARCH, TWO THOUSAND FOURTEEN. THE
40 EMPLOYER PARTICIPATION CAP IMPOSED BY THIS SUBDIVISION SHALL COMMENCE
41 WITH EMPLOYER CONTRIBUTIONS MADE IN THE FISCAL YEAR ENDING THE
42 THIRTY-FIRST OF MARCH, TWO THOUSAND FIFTEEN.

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

45 S 3. Subdivision 2 of section 521 of the education law, paragraph a as
46 amended by chapter 553 of the laws of 1997, paragraph b as amended by
47 chapter 871 of the laws of 1963, paragraphs f and g as added by chapter
48 538 of the laws of 1984, paragraph h as amended by chapter 830 of the
49 laws of 1992, paragraphs i, j, k, l, and m as added by chapter 175 of
50 the laws of 1990, and paragraph n as added by chapter 482 of the laws of
51 1996, is amended and a new subdivision 4 is added to read as follows:

52 2. The collection of employers' contributions shall be made as
53 follows:

54 a. Upon the basis of each actuarial determination and appraisal
55 provided herein, the retirement board shall annually prepare and certify
56 to the commissioner [of education] a statement of the total amount

1 necessary to be paid by all employers for the ensuing fiscal year to the
2 pension accumulation and expense funds as provided under subdivision two
3 of section five hundred seventeen and under section five hundred nine-
4 teen of this article. Upon the basis of the rate of contribution for
5 supplemental retirement allowances, determined in accordance with
6 section five hundred thirty-two of this article, the retirement board
7 shall certify to the commissioner [of education] a statement of the
8 total amount necessary to be paid by all employers for the ensuing
9 fiscal year to the supplemental retirement allowance fund. Said certif-
10 ication shall include interest on amounts necessary to repay advances
11 made to the supplemental retirement allowance fund pursuant to subdivi-
12 sion f of section five hundred thirty-two of this article computed from
13 the date of such advances at the rate determined in accordance with
14 paragraph f of this subdivision.

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

21 The amount to be contributed by each employer except those who operate
22 local district pension systems, shall be such percentage of the total
23 compensation or salaries of all teachers in his employ who are members
24 of the retirement system as the aggregate amount of the normal and defi-
25 ciency contributions for the year shall bear to the total compensation
26 or salaries paid by all employers, except those who operate local
27 district pension systems, to all teachers who are members of the retire-
28 ment system; PROVIDED, HOWEVER, THAT THE AMOUNT REMITTED BY SUCH EMPLOY-
29 ER SHALL BE SUBJECT TO THE CONTRIBUTION LIMITS ESTABLISHED IN SUBDIVI-
30 SION FOUR OF THIS SECTION.

31 c. The comptroller shall issue his warrant to the custodian of such
32 fund directing such custodian to credit to the pension accumulation fund
33 and expense fund respectively, from the appropriation for the support of
34 common schools the amounts required to be made as contributions to such
35 funds by the employers as shown by the certificate of the commissioner
36 [of education] filed with him as directed in paragraph b of this subdivi-
37 sion, BUT SUBJECT TO THE CONTRIBUTION LIMIT ESTABLISHED PURSUANT TO
38 SUBDIVISION FOUR OF THIS SECTION.

39 d. The comptroller, in issuing his warrant to the custodian for
40 payment to each county treasurer of that portion of the moneys appor-
41 tioned for the support of common schools, shall deduct therefrom an
42 amount equal to the amount required to be contributed by employers of
43 such county, as shown by the certificate of the commissioner [of educa-
44 tion] of this state filed with the comptroller as required by paragraph
45 b of this subdivision, BUT SUBJECT TO THE CONTRIBUTION LIMIT ESTABLISHED
46 PURSUANT TO SUBDIVISION FOUR OF THIS SECTION.

47 e. In order to meet the financial requirements of this article,
48 employers who obtain funds directly by taxation are hereby authorized
49 and directed to levy annually such additional taxes as are required to
50 provide the [funds deducted from the amounts apportioned to such employ-
51 ers from the appropriation of the state for the support of the common
52 schools] EMPLOYER'S CONTRIBUTION AMOUNT AS DETERMINED PURSUANT TO SUBDI-
53 VISION FOUR OF THIS SECTION.

54 f. Employers whose payments from the moneys apportioned from the state
55 for the support of common schools are insufficient to pay the EMPLOYER'S
56 PORTION OF THE amount due and owing the system, or who do not receive

1 such payments, shall pay the system each year the amount of contrib-
2 utions due and owing from the employer, SUBJECT TO THE CONTRIBUTION
3 LIMIT ESTABLISHED PURSUANT TO SUBDIVISION FOUR OF THIS SECTION, pursuant
4 to this article within thirty days from the date a bill is mailed by the
5 system. Interest, at a rate equal to the average yield payable on
6 fifty-two week United States treasury bills on June thirtieth immediate-
7 ly preceding the day the bill is mailed by the system, shall accrue on
8 the EMPLOYER'S PORTION OF THE outstanding amount due and owing commenc-
9 ing with the thirty-first day after the bill is mailed.

10 g. Whenever the system determines the contributions made by an employ-
11 er are less than the percentage of total compensation or salaries of
12 members of the system in the employ of such employer, as required by
13 this article, such employer shall pay the system such deficiency within
14 thirty days from the date a bill is mailed by the system, PROVIDED SUCH
15 DEFICIENCY AMOUNT DOES NOT CAUSE THE EMPLOYER TO PAY MORE THAN THE MAXI-
16 MUM REQUIRED CONTRIBUTION AMOUNT CALCULATED PURSUANT TO SUBDIVISION FOUR
17 OF THIS SECTION. Interest, at a rate equal to the average yield payable
18 on fifty-two week United States treasury bills on June thirtieth imme-
19 diately preceding the day before the bill is mailed by the system, shall
20 accrue on the EMPLOYER'S PORTION OF THE outstanding amount due and owing
21 commencing with the thirty-first day after the bill is mailed.

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

50 i. Notwithstanding any provision of law to the contrary, the employer
51 and employee contributions due and payable in the nineteen hundred
52 eighty-nine--ninety fiscal year on account of compensation paid in the
53 nineteen hundred eighty-eight--eighty-nine fiscal year which were paid
54 prior to April first, nineteen hundred ninety shall be deemed (to the
55 extent such amount is sufficient) to have consisted of all the employee
56 contributions due and payable pursuant to this article and articles

1 fourteen and fifteen of the retirement and social security law in the
2 nineteen hundred eighty-nine--ninety fiscal year and those employer
3 contributions due and payable in such fiscal year pursuant to chapter
4 six hundred sixty-five of the laws of nineteen hundred eighty-four; and
5 the remaining employer contributions so paid shall be applied evenly to
6 the payments due and payable on September fifteenth, nineteen hundred
7 ninety, October fifteenth, nineteen hundred ninety and November
8 fifteenth, nineteen hundred ninety and the employer contributions
9 amounting to eight hundred seventy-three million seven hundred eleven
10 thousand six hundred fifteen dollars (\$873,711,615), due and payable
11 pursuant to the provisions of this section in the nineteen hundred
12 eighty-nine--ninety fiscal year on account of compensation paid in nine-
13 teen hundred eighty-eight--eighty-nine fiscal year, except those employ-
14 er contributions due and payable in such fiscal year pursuant to chapter
15 six hundred sixty-five of the laws of nineteen hundred eighty-four,
16 shall be deferred and payment shall be made to the retirement system in
17 fifteen equal annual payments of ninety-eight million five hundred thir-
18 ty-seven thousand five hundred seven dollars (\$98,537,507) on October
19 fifteenth, commencing on October fifteenth, nineteen hundred ninety.
20 Such payments are calculated at an interest rate of eight percent per
21 annum. Provided, however, the retirement board is directed to permit the
22 pre-payment of the amounts outstanding under this paragraph. The retire-
23 ment board shall: (1) On or before September first, nineteen hundred
24 ninety, in addition to the amount due for the current fiscal year bill-
25 ing and for the payment of the amortized annual installment, furnish the
26 total amount due and be authorized to accept pre-payment in full of said
27 amount by October fifteenth, nineteen hundred ninety. (2) On or before
28 each September first thereafter, in addition to the amount due for the
29 current fiscal year billing and for the payment of the annual amortized
30 installment, furnish the total amount still outstanding and be author-
31 ized to accept the pre-payment of any portion of the balance remaining
32 to be paid by October fifteenth of that year.

33 j. Prior to June first, nineteen hundred ninety, the valuation rate of
34 interest adopted by the retirement board on April twenty-seventh, nine-
35 teen hundred eighty-nine, may be retroactively revised to eight percent
36 by the retirement board, as recommended by the actuary, as if adopted at
37 the April twenty-seventh, nineteen hundred eighty-nine board meeting,
38 and the employer contribution rate, adopted by the retirement board at
39 the April twenty-seventh, nineteen hundred eighty-nine board meeting,
40 revised by the retirement board at the July twenty-seventh, nineteen
41 hundred eighty-nine board meeting, may be retroactively amended by the
42 retirement board as if adopted at the July twenty-seventh, nineteen
43 hundred eighty-nine board meeting and applied to contributions paid in
44 the nineteen hundred ninety--ninety-one fiscal year. Notwithstanding any
45 provision of law to the contrary, the actions of the retirement board
46 pursuant to the provisions of this paragraph shall be deemed reasonable,
47 prudent and proper. No member of the retirement board, officer, or
48 employee of the New York state teachers' retirement system shall incur
49 or suffer any liability whatsoever by reason of any actions pursuant to
50 this paragraph, and such system shall save harmless and indemnify all
51 members of the retirement board, its officers and employees from finan-
52 cial loss arising out of any claim, demand, suit, action or judgment as
53 a result of the actions taken pursuant to this paragraph provided that
54 such person shall, within five days after the date on which he is served
55 with any summons, complaint, process, notice, demand, claim or pleading,
56 deliver the original or a true copy thereof to the legal advisor of such

1 system. Upon such delivery, the legal advisor of such system may assume
2 control of the representation of such person in connection with such
3 claim, demand, suit, action or proceeding. Such person shall cooperate
4 fully with the legal advisor of the system or any other person desig-
5 nated to assume such defense in respect of such representation or
6 defense.

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

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

17 m. In addition to any other payment or collection procedure provided
18 by this article, if the amounts credited from the appropriation for the
19 support of common schools are insufficient to fully cover the amounts to
20 be contributed by the employers, SUBJECT TO THE EMPLOYER'S CONTRIBUTION
21 LIMIT ESTABLISHED PURSUANT TO SUBDIVISION FOUR OF THIS SECTION, the
22 retirement board is authorized to certify the unpaid amount OF THE
23 EMPLOYER'S CONTRIBUTION to the state comptroller, and the state comp-
24 troller shall, to the extent not otherwise prohibited by law, withhold
25 such amount from any succeeding payment from any other form of state aid
26 provided to the employer. If any employer fails to pay the amounts
27 required to be contributed pursuant to this section, the retirement
28 system shall be entitled to reasonable attorney fees and other expenses
29 incurred to collect such amounts due and owing. Fees shall be determined
30 pursuant to prevailing market rates for the kind and quality of the
31 services furnished.

32 n. Notwithstanding any other provision of law to the contrary, the
33 board of education or trustees of a school district which is a partic-
34 ipating employer, which has elected to make payments of the employer
35 contributions due and payable to the retirement system pursuant to para-
36 graph i of this subdivision in amortized annual installments, and which
37 has determined to make pre-payment of the total amount of such contrib-
38 utions outstanding in accordance with said paragraph i, may adopt a bond
39 resolution authorizing the refinancing of such debt by the issuance of
40 bonds in the amount of such pre-payment without conducting a vote on a
41 tax to be collected in installments, provided that such refinancing will
42 result in savings to the school district, as certified by the state
43 comptroller, and provided further that the issuance of such obligations
44 otherwise complies with the requirements of the local finance law and
45 this chapter.

46 4. A. NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, AN EMPLOYER
47 SHALL NOT BE REQUIRED TO CONTRIBUTE MORE THAN THE PRIOR PLAN YEAR'S
48 EMPLOYER CONTRIBUTION PLUS THE LESSER OF: TWO PERCENT OR THE PERCENTAGE
49 SET FORTH IN PARAGRAPH D OF THIS SUBDIVISION.

50 B. ANY DIFFERENCE BETWEEN THE AMOUNT CONTAINED IN THE WARRANT ISSUED
51 BY THE COMPTROLLER PURSUANT TO SUBDIVISION TWO OF THIS SECTION AND THE
52 MAXIMUM AMOUNT REQUIRED TO BE PAID BY THE EMPLOYER PURSUANT TO THIS
53 SUBDIVISION SHALL BE APPROPRIATED TO THE RETIREMENT SYSTEM OUT OF MONEYS
54 IN THE GENERAL FUND OF THE STATE.

55 C. THE MONEYS APPROPRIATED BY THE STATE FROM THE GENERAL FUND IN
56 ACCORDANCE WITH THIS SUBDIVISION SHALL BE PAID BY THE STATE TO THE

1 RETIREMENT SYSTEM ON OR BEFORE THE FIFTEENTH OF NOVEMBER IN THE FISCAL
2 YEAR IN WHICH THE MONEYS ARE DUE AND PAYABLE BY THE PARTICIPATING
3 EMPLOYER.

4 D. THE PERCENTAGE REFERRED TO IN PARAGRAPH A OF THIS SUBDIVISION
5 SHALL BE DETERMINED ANNUALLY BY REFERENCE TO THE CONSUMER PRICE INDEX
6 (ALL URBAN CONSUMERS, CPI-U, U.S. CITY AVERAGE, ALL ITEMS, 1982-84=100),
7 PUBLISHED BY THE UNITED STATES BUREAU OF LABOR STATISTICS, FOR EACH
8 APPLICABLE CALENDAR YEAR. SAID PERCENTAGE SHALL EQUAL THE ANNUAL
9 INFLATION, AS DETERMINED FROM THE INCREASE IN THE CONSUMER PRICE INDEX
10 IN THE ONE YEAR PERIOD ENDING THE THIRTIETH OF JUNE OF THE CURRENT
11 YEAR'S ACTUARIAL REQUIRED CONTRIBUTION. SAID PERCENTAGE SHALL THEN BE
12 ROUNDED UP TO THE NEXT HIGHER ONE-TENTH OF ONE PERCENT.

13 E. FOR PURPOSES OF THIS SUBDIVISION, "ACTUARIAL REQUIRED CONTRIBUTION"
14 MEANS THE AMOUNT COMPUTED BY THE ACTUARY, AS SET FORTH IN SECTION FIVE
15 HUNDRED SEVENTEEN OF THE EDUCATION LAW.

16 F. FOR PURPOSES OF THIS SUBDIVISION, THE BASE YEAR FOR THE INITIAL
17 CALCULATION OF LIMITED EMPLOYER CONTRIBUTIONS PURSUANT TO PARAGRAPH A OF
18 THIS SUBDIVISION SHALL BE THE AMOUNT PAID BY THE EMPLOYER IN THE PLAN
19 YEAR ENDING THE THIRTIETH OF JUNE, TWO THOUSAND FOURTEEN. THE EMPLOYER
20 CONTRIBUTION CAP IMPOSED BY THIS SUBDIVISION SHALL COMMENCE WITH EMPLOY-
21 ER CONTRIBUTIONS DUE IN THE PLAN YEAR ENDING THE THIRTIETH OF JUNE, TWO
22 THOUSAND FIFTEEN.

23 S 4. This act shall take effect immediately and shall apply to employ-
24 er contributions made commencing in the employer's fiscal year ending
25 2015.

FISCAL NOTE.-- This bill would amend Section 521 of the Education Law to limit the amount of year over year increase in employer contributions required to be made each year to the New York State Teachers' Retirement System (NYSTRS) by participating employers. Participating employers of NYSTRS would not be required to contribute more than the prior year's contribution amount increased by the lesser of two percent, or a percentage based upon the one year increase in the Consumer Price Index (CPI). Any difference in the actuarially required contribution and this limited contribution would be paid by the State of New York out of the General Fund of the state. The employer contribution cap imposed under this bill would commence with employer contributions made in the fiscal year ending June 30, 2015.

To the extent that the actuarially required employer contribution continues to be paid in full and on time to the Retirement System every year, there will be no cost to the employers of members of NYSTRS if this bill is enacted. This bill would make the State of New York into a contributing partner to NYSTRS.

The actuarially required contribution is based upon a number of actuarial assumptions, member demographic data, and investment returns. The rate of increase in this contribution can be expected to bear very little relationship to the rate of inflation. Therefore the required contribution due from the state could grow substantially in any given year.

The first year the employer contribution cap would be applied would be with respect to contributions due in the plan year ending June 30, 2015, which for NYSTRS corresponds to contributions collected in the fall of 2014. We estimate the State of New York would be required to make a payment of approximately \$640 million at that time for its share of the contribution. In the fall of 2015 we estimate the state would be required to make a payment of approximately \$170 million for its share of the contribution. The state's cost in future years would depend on

the actuarially required contribution and the rate of inflation in those years.

The source of this estimate is Fiscal Note 2014-20 dated February 27, 2014 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2014 Legislative Session. I, Richard A. Young, am the Actuary for the New York State Teachers' Retirement System. I am a member of the American Academy of Actuaries and I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

FISCAL NOTE.-- This bill would limit the year to year increase in the dollar amount of the annual employer contributions to be made by participating employers of the New York State and Local Employees' Retirement System (NYSLEERS), the New York State and Local Police and Fire Retirement System (NYSLPFRS) and the New York State Teachers' Retirement System. Such dollar increase in the actuarially determined contributions would be limited to the lesser of 2% and the increase in the Consumer Price Index (CPI-U), as determined by the United States Department of Labor. The difference between the actuarially determined contributions and the limited contributions would be paid by the State of New York on behalf of the participating employers. This change shall first apply to contributions made during the fiscal year ending in the year 2015.

If this bill is enacted, insofar as it would affect the NYSLEERS and the NYSLPFRS, it is unlikely that there would be an additional contribution payable by the State of New York on behalf of most of the participating employers for the fiscal year ending March 31, 2015. However, there could be costs on behalf of certain participating employers whose payroll increases were significantly greater than our salary increase assumptions or who adopted significant plan improvements. The costs for future years would depend on each year's actuarially determined contributions, increases in employer payroll, and CPI.

There would be no cost to the Systems.

Summary of relevant resources:

The membership data used in measuring the impact of the proposed change was the same as that used in the March 31, 2013 actuarial valuation. Distributions and other statistics can be found in the 2013 Report of the Actuary and the 2013 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2010, 2011, 2012 and 2013 Annual Report to the Comptroller on Actuarial Assumptions, and the Codes Rules and Regulations of the State of New York: Audit and Control.

The Market Assets and GASB Disclosures are found in the March 31, 2013 New York State and Local Retirement System Financial Statements and Supplementary Information.

I am a member of the American Academy of Actuaries and meet the Qualification Standards to render the statement of actuarial opinion contained herein.

This estimate, dated February 27, 2014, and intended for use only during the 2014 Legislative Session, is Fiscal Note No. 2014-73, 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.