

3991--A

2015-2016 Regular Sessions

I N S E N A T E

February 25, 2015

Introduced by Sen. LATIMER -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- 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

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

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1 as a result of the amount determined to be paid for any fiscal year, a
2 participating employer overpaid its actual obligation to the retirement
3 system for that year, the amount to be determined by the comptroller for
4 the next succeeding November fifteenth shall reflect the amount of the
5 overpayment, plus interest as defined in section sixteen of this [arti-
6 cle] TITLE on such amount, as a reduction in the amount otherwise
7 required to be paid by such participating employer.

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

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

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

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

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

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

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

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

(5) FOR PURPOSES OF THIS SUBDIVISION, "ACTUARIAL REQUIRED CONTRIBUTION" MEANS THE AMOUNT COMPUTED BY THE COMPTROLLER PRIOR TO THE DETERMINATION 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 SIXTEEN. 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 SEVENTEEN.

(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

1 section, interest at a rate determined in accordance with the provisions
2 of section three hundred sixteen of this [article] TITLE shall commence
3 to run against the unpaid balance thereof on the first day after the
4 date required by said subdivision c.

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

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

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

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

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

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

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

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

47 S 3. Subdivision 2 of section 521 of the education law, paragraph a as
48 amended by chapter 553 of the laws of 1997, paragraph b as amended by
49 chapter 871 of the laws of 1963, paragraphs f and g as added by chapter
50 538 of the laws of 1984, paragraph h as amended by chapter 830 of the
51 laws of 1992, paragraphs i, j, k, l, and m as added by chapter 175 of
52 the laws of 1990, and paragraph n as added by chapter 482 of the laws of
53 1996, is amended and a new subdivision 4 is added to read as follows:

54 2. The collection of employers' contributions shall be made as
55 follows:

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

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

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

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

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

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

1 f. Employers whose payments from the moneys apportioned from the state
2 for the support of common schools are insufficient to pay the EMPLOYER'S
3 PORTION OF THE amount due and owing the system, or who do not receive
4 such payments, shall pay the system each year the amount of contrib-
5 utions due and owing from the employer, SUBJECT TO THE CONTRIBUTION
6 LIMIT ESTABLISHED PURSUANT TO SUBDIVISION FOUR OF THIS SECTION, pursuant
7 to this article within thirty days from the date a bill is mailed by the
8 system. Interest, at a rate equal to the average yield payable on
9 fifty-two week United States treasury bills on June thirtieth immedi-
10 ly preceding the day the bill is mailed by the system, shall accrue on
11 the EMPLOYER'S PORTION OF THE outstanding amount due and owing commenc-
12 ing with the thirty-first day after the bill is mailed.

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

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

53 i. Notwithstanding any provision of law to the contrary, the employer
54 and employee contributions due and payable in the nineteen hundred
55 eighty-nine--ninety fiscal year on account of compensation paid in the
56 nineteen hundred eighty-eight--eighty-nine fiscal year which were paid

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

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

1 such person shall, within five days after the date on which he is served
2 with any summons, complaint, process, notice, demand, claim or pleading,
3 deliver the original or a true copy thereof to the legal advisor of such
4 system. Upon such delivery, the legal advisor of such system may assume
5 control of the representation of such person in connection with such
6 claim, demand, suit, action or proceeding. Such person shall cooperate
7 fully with the legal advisor of the system or any other person desig-
8 nated to assume such defense in respect of such representation or
9 defense.

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

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

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

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

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

53 B. ANY DIFFERENCE BETWEEN THE AMOUNT CONTAINED IN THE WARRANT ISSUED
54 BY THE COMPTROLLER PURSUANT TO SUBDIVISION TWO OF THIS SECTION AND THE
55 MAXIMUM AMOUNT REQUIRED TO BE PAID BY THE EMPLOYER PURSUANT TO THIS

1 SUBDIVISION SHALL BE APPROPRIATED TO THE RETIREMENT SYSTEM OUT OF MONEYS
2 IN THE GENERAL FUND OF THE STATE.

3 C. THE MONEYS APPROPRIATED BY THE STATE FROM THE GENERAL FUND IN
4 ACCORDANCE WITH THIS SUBDIVISION SHALL BE PAID BY THE STATE TO THE
5 RETIREMENT SYSTEM ON OR BEFORE THE FIFTEENTH OF NOVEMBER IN THE FISCAL
6 YEAR IN WHICH THE MONEYS ARE DUE AND PAYABLE BY THE PARTICIPATING
7 EMPLOYER.

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

17 E. FOR PURPOSES OF THIS SUBDIVISION, "ACTUARIAL REQUIRED CONTRIBUTION"
18 MEANS THE AMOUNT COMPUTED BY THE ACTUARY, AS SET FORTH IN SECTION FIVE
19 HUNDRED SEVENTEEN OF THIS ARTICLE.

20 F. FOR PURPOSES OF THIS SUBDIVISION, THE BASE YEAR FOR THE INITIAL
21 CALCULATION OF LIMITED EMPLOYER CONTRIBUTIONS PURSUANT TO PARAGRAPH A OF
22 THIS SUBDIVISION SHALL BE THE AMOUNT PAID BY THE EMPLOYER IN THE PLAN
23 YEAR ENDING THE THIRTIETH OF JUNE, TWO THOUSAND SIXTEEN. THE EMPLOYER
24 CONTRIBUTION CAP IMPOSED BY THIS SUBDIVISION SHALL COMMENCE WITH EMPLOY-
25 ER CONTRIBUTIONS DUE IN THE PLAN YEAR ENDING THE THIRTIETH OF JUNE, TWO
26 THOUSAND SEVENTEEN.

27 S 4. This act shall take effect immediately and shall apply to employ-
28 er contributions made commencing in the employer's fiscal year ending
29 2017.

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 (NYSLERS), 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 2017.

If this bill is enacted, insofar as it would affect the NYSLERS, 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, 2017. 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.

Insofar as this bill would affect the NYSLPFRS, it is estimated that there would be an additional contribution of approximately \$15 million payable by the State of New York on behalf of the participating employers for the fiscal year ending March 31, 2017. 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, 2015 actuarial valuation. Distributions and other statistics can be found in the 2015 Report of the Actuary and the 2015 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2015 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, 2015 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 December 17, 2015, and intended for use only during the 2016 Legislative Session, is Fiscal Note No. 2016-18, prepared by the Actuary for the New York State and Local Retirement System.