STATE OF NEW YORK

4759

2017-2018 Regular Sessions

IN SENATE

February 27, 2017

Introduced by Sen. GOLDEN -- (at request of the State Comptroller) -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to amend the retirement and social security law, in relation to the definition of graded contribution rate for the purposes of calculating an employer's contributions

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraphs 5, 7 and 10 of subdivision a of section 19-a of the retirement and social security law, as amended by section 2 of part BB of chapter 57 of the laws of 2013, are amended and a new paragraph 13 is added to read as follows:

(5) "Employer's average actuarial contribution rate" for a given fiscal year shall mean an employer's actuarial contribution for such fiscal year divided by the employer's [~~projected~~] payroll for the [~~same~~] **previous** fiscal year.

(7) "Employer's graded contribution" for a given fiscal year shall mean the amount determined by applying the [~~system~~] **employer's** graded contribution rate or the alternative system graded contribution rate for such fiscal year to an employer's [~~projected~~] payroll for the [~~same~~] **previous** fiscal year.

(10) "System average actuarial contribution rate" for a given fiscal year shall mean the sum of all employers' actuarial contributions for such fiscal year divided by the sum of all employers' [~~projected~~] payroll for the [~~same~~] **previous** fiscal year.

(13) "Employer's graded contribution rate" for a given fiscal year shall mean (i) the system graded contribution rate for such fiscal year, or (ii) in the case of an individual employer for which a graded contribution rate has been determined pursuant to paragraph three of subdivision c of this section, the graded contribution rate for the individual employer for such fiscal year.

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

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§ 2. Subdivision c of section 19-a of the retirement and social security law is amended by adding a new paragraph 3 to read as follows:

(3) The comptroller shall determine a graded contribution rate for individual employers as provided in this paragraph. The graded contribution rate for an individual employer is the product of the system's graded contribution rate with the ratio of the employer's average actuarial contribution rate to the system's average actuarial contribution rate, not to exceed one hundred percent of the system's graded contribution rate.

§ 3. Paragraph 1 and the opening paragraph of paragraph 2 of subdivision d of section 19-a of the retirement and social security law, paragraph 1 as amended by section 1 of part Z of chapter 54 of the laws of 2016 and the opening paragraph of paragraph 2 as amended by section 2 of part BB of chapter 57 of the laws of 2013, are amended to read as follows:

(1) For any given fiscal year for which an employer's average actuarial contribution rate exceeds the [~~system~~] **employer** graded contribution rate, the employer shall pay to the retirement system an amount equal to the employer's annual bill for such year or, in lieu of paying the entire annual bill, the employer may pay an amount equal to the employer's annual bill less all or a portion of the employer's amount eligible for amortization for the fiscal year. If in accordance with this paragraph the employer's payment to the retirement system is less than the entire amount of the employer's annual bill, then the difference between the employer's annual bill, and the amount actually paid by the employer to the retirement system exclusive of any amount from the employer contribution reserve fund applied to reduce the employer's payment, shall be the amount amortized for the fiscal year. The amount amortized for the fiscal year shall be paid to the retirement system in equal annual installments over a ten-year period, with interest on the unpaid balance at a rate determined by the comptroller which approximates a market rate of return on taxable fixed rate securities with similar terms issued by comparable issuers, and with the first installment due in the immediately succeeding fiscal year. Provided however that, notwithstanding any provision of law to the contrary and at the sole discretion of the director of the division of the budget, the state as an amortizing employer may prepay to the retirement system the total amount of principal due for any such annual installment or installments for a given fiscal year prior to the expiration of the ten-year amortization period. In the event the state elects to make such prepayment, the director of the division of budget must identify the fiscal year or years for which the total principal amount due for the annual installment is being prepaid. In any fiscal year for which the director of the division of the budget identifies such prepayment is being made, the state (i) shall not be required to make a payment of principal to the retirement system for such fiscal year, and (ii) shall pay to the retirement system annual interest on the remaining principal balance at the rate originally set by the comptroller when the state first elected to amortize in accordance with this paragraph. Nothing contained herein shall permit the state to extend the amortization period originally established in accordance with this paragraph beyond the original ten-year amortization period.

For any given fiscal year for which the [~~system~~] **employer** graded contribution rate equals or exceeds an amortizing employer's average actuarial contribution rate, the amortizing employer shall pay to the retirement system an amount equal to the employer's annual bill for such year plus the employer's graded payment for the fiscal year.

§ 4. Paragraphs 2 and 3 of subdivision e of section 19-a of the retirement and social security law, as amended by section 2 of part BB of chapter 57 of the laws of 2013, are amended to read as follows:

(2) For any given fiscal year for which (i) the system actuarial contribution rate exceeds nine and one-half percent of payroll **as of the end of the previous fiscal year**, and (ii) an employer's average actuarial contribution rate exceeds the system graded contribution rate or the alternative system graded contribution rate, the balance in the employer's account within such fund shall be applied to reduce the employer's payment to the retirement system for such fiscal year in an amount not to exceed the difference between the employer's actuarial contribution and the employer's graded contribution for the fiscal year.

(3) Notwithstanding the provisions of paragraph two of this subdivision, if at the close of any given fiscal year the balance of an employer's account within the fund exceeds one hundred percent of the employer's payroll for [~~such~~] **the previous** fiscal year, the excess shall be applied to reduce the employer's payment to the retirement system for the next succeeding fiscal year.

§ 5. Paragraphs 5, 7 and 11 of subdivision a of section 319-a of the retirement and social security law, as amended by section 3 of part BB of chapter 57 of the laws of 2013, are amended to read as follows:

(5) "Employer's average actuarial contribution rate" for a given fiscal year shall mean an employer's actuarial contribution for such fiscal year divided by the employer's [~~projected~~] payroll for the [~~same~~] **previous** fiscal year.

(7) "Employer's graded contribution" for a given fiscal year shall mean the amount determined by applying the employer's graded contribution rate or the alternative amortizing employer's graded contribution rate for such fiscal year to an employer's [~~projected~~] payroll for the [~~same~~] **previous** fiscal year.

(11) "System average actuarial contribution rate" for a given fiscal year shall mean the sum of all employers' actuarial contributions for such fiscal year, divided by the sum of all employers' [~~projected~~] payroll for the [~~same~~] **previous** fiscal year.

§ 6. Paragraph 3 of subdivision c of section 319-a of the retirement and social security law, as amended by section 3 of part BB of chapter 57 of the laws of 2013, is amended to read as follows:

(3) The comptroller shall determine a graded contribution rate for individual employers as provided in this paragraph**. The graded contribution rate for an individual employer is the product of the system's graded contribution rate with the ratio of the employer's average actuarial contribution rate to the system's average actuarial contribution rate, not to exceed one hundred percent of the system's graded contribution rate**.

[~~(i) If the actuarial contribution rate for an employer for a given fiscal year is equal to or greater than fifty percent of the system actuarial contribution rate for such year, and less than or equal to seventy-five percent of such system actuarial contribution rate, then the graded contribution rate for the employer for the fiscal year shall equal seventy-five percent of the system graded contribution rate for such year.~~

~~(ii) If the actuarial contribution rate for an employer for a given fiscal year is less than fifty percent of the system actuarial contribution rate for such year, then the graded contribution rate for the~~

~~employer for the fiscal year shall equal fifty percent of the system graded contribution rate for such year.~~]

§ 7. The opening paragraph of paragraph 2 of subdivision d of section 319-a of the retirement and social security law, as amended by section 3 of part BB of chapter 57 of the laws of 2013, is amended to read as follows:

For any given fiscal year for which the [~~system~~] **<u>employer</u>** graded contribution rate equals or exceeds an amortizing employer's average actuarial contribution rate, the amortizing employer shall pay to the retirement system an amount equal to the employer's annual bill for such year plus the employer's graded payment for the fiscal year.

§ 8. Paragraphs 2 and 3 of subdivision e of section 319-a of the retirement and social security law, as amended by section 3 of part BB of chapter 57 of the laws of 2013, are amended to read as follows:

(2) For any given fiscal year for which (i) the system actuarial contribution rate exceeds seventeen and one-half percent of payroll **<u>as of the end of the previous fiscal year</u>**, and (ii) for which an employer's average actuarial contribution rate exceeds the graded contribution rate or the alternative system graded contribution rate, the balance in the employer's account within such fund shall be applied to reduce the employer's payment to the retirement system for such fiscal year in an amount not to exceed the difference between the employer's actuarial contribution and the employer's graded contribution for the fiscal year.

(3) Notwithstanding the provisions of paragraph two of this subdivision, if at the close of any given fiscal year the balance of an employer's account within the fund exceeds one hundred percent of the employer's payroll for [~~such~~] **<u>the previous</u>** fiscal year, the excess shall be applied to reduce the employer's payment to the retirement system for the next succeeding fiscal year.

§ 9. This act shall take effect immediately.

FISCAL NOTE. This bill would amend Section 19-a and Section 319-a of the Retirement and Social Security Law as it pertains to employer bills of the New York State and Local Police and Fire Retirement System (PFRS).

This bill modifies the calculation of the graded rate for those ERS and PFRS employers who participate in the program which allows them to amortize a portion of their bill with their respective Retirement System when employer contribution rates rise above the employer's graded rate. If they do this, then when rates are falling below the employer's graded rate and they have paid off all outstanding amortizations, the employer will be required to pay additional monies into a reserve fund that will be used when employer contribution rates begin to rise in the future.

Currently the graded rate which is used for each employer in the ERS is the system graded rate. In PFRS the graded rate is either 50%, 75% or 100% of the system grade rate. This bill will modify the graded rate to be the product of the system's graded contribution rate with the ratio of the employer's average contribution rate to the system's average contribution rate, but to never exceed the system's graded contribution rate.

In addition, this bill makes the necessary technical corrections to accommodate the changed due to Chapter 94 of the Laws of 2015, which requires billing rates to be applied to salaries as of the end of the previous fiscal year instead of the year in which contributions are made.

If this bill is enacted, we estimate that there would be a small administrative cost to the system to revise the current billing and business communication processes.

The membership data used in measuring the impact of the proposed change was the same as that used in the March 31, 2016 actuarial valuation. Distributions and other statistics can be found in the 2016 Report of the Actuary and the 2016 Comprehensive Annual Financial Report.

The actuarial assumptions and methods used are described in the 2015 and 2016 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, 2016 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 actuarial opinion contained herein.

This estimate, dated January 9, 2017 and intended for use only during the 2017 Legislative Session, is Fiscal Note No. 2017-10, prepared by the Actuary for the New York State and Local Retirement System.