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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

OSC No. 27

MEMORANDUM
RE
AN ACT

to amend the retirement and social security law, in relation to the calculation of employers' contributions to the New York state and local employees' retirement system and the New York state and local police and fire retirement system

<u>PURPOSE</u>: The purpose of this legislation is to provide for the calculation of the employer contributions to the funding of the New York state and local employees' retirement system and the New York state and local police and fire retirement system (the Retirement System or System) on the basis of rates established at the beginning of a fiscal year to be applied to the employees' annual compensation earned in the same fiscal year as the establishment of the rates for the payment of contributions due for the next succeeding fiscal year.

<u>SUMMARY OF PROVISIONS</u>: Section 1 of the bill amends the opening subparagraph of paragraph 1 of subdivision b of section 23 of the retirement and social security law in relation to the applicability of the rate of contribution for the Employees' Retirement System.

Section 2 of the bill amends paragraph 1 of subdivision b of section 23-a of the retirement and social security law in relation to the revision of the schedule pertaining to the valuation, billing and payment of contributions by the state and participating employers under which the valuation of the assets and liabilities of the retirement system undertaken on the first day of a fiscal year shall be used to determine the contribution rates to be applied to the pensionable salaries of the state and participating employers by adding language allowing the use of such salaries earned during such fiscal year for the payment of contributions due for the next succeeding fiscal year for the Employees' Retirement System.

Section 3 of the bill amends the opening subparagraph of paragraph 1 of subdivision b of section 323 of the retirement and social security law in relation to the applicability of the rate of contribution for the Police and Fire Retirement System.

Section 4 of the bill amends paragraph 1 of subdivision b of section 323-a of the retirement and social security law in relation to the revision of the schedule pertaining to the valuation, billing and payment of contributions by the state and participating employers under which the valuation of the assets and liabilities of the retirement system undertaken on the first day of a fiscal year shall be used to determine the contribution rates to be applied to the pensionable salaries of the state and participating employers by adding language allowing the use of such salaries earned during such fiscal year for the payment of contributions due for the next succeeding fiscal year for the for the Police and Fire Retirement System.

Section 5 of the bill sets forth an immediate effective date.

PRIOR LEGISLATIVE HISTORY: New bill.

JUSTIFICATION: Current law requires that the calculation of the payment of employer contributions to the funding of the New York state and local employees' retirement system and the New York state and local police and fire retirement system be based on an employees' compensation as of the end of the same fiscal year (March 31). However, contributions must be paid by local participating employers no later than February 1 (Retirement and Social Security Law § 17) and by the State no later than March 1 of the fiscal year (Retirement and Social Security Law § 23-a). As a result, the actual fiscal year end amount of an employer's compensation base is not known when the bill becomes due or, more importantly, when the Retirement System issues the bill in the preceding November. Instead, from the partial information then available, the Retirement System must project the employer salary base in order to calculate the bill. Once the fiscal year is closed, it is then necessary for the Retirement System to reconcile the amount paid with the amount actually owed by each employer, including the State. The reconciliation may result in a credit due to the employer. However, the more likely result is an additional amount that must be paid, with statutory interest at 7.5%, to the Retirement System as part of the bill for the next year. When the reconciliation results in an additional payment to the System, it is largely unanticipated to the employer and not included in their budget for that year.

Because of the current reconciliation process, any large change in salaries has a three-year impact on the invoice, even though the actual salaries, regular pension contribution and Group Term Life Insurance may only change for one year. It unduly complicates the employer's budgeting process. Smaller employers in particular, are placed in the position of having to make a payment without having the funds budgeted to accommodate that payment, unless they have placed funds in reserve.

The proposed amendment would permit the Retirement System to calculate the employers' obligations on actual, known salaries. This approach would eliminate the need for time-consuming reconciliations and, for the State and participating employers, it would provide them with the clarity of a known obligation when preparing budgets. There would be no need for them to budget for a reserve based on the possibility of owing more after a reconciliation. This change should also result in a slight downward movement of rates. Although the current contribution stream is delayed by one year, there is an additional contribution for each active member in the valuation cohort that stays active for at least one more year. The increase in the present value of future billable salary due to that additional contribution is larger than the decrease due to the one-year delay in the current contribution stream and should result in a slight reduction of rates.

By the enactment of Chapter 49 of the Laws of 2003, the Legislature recognized the opportunity for a comprehensive structural reform program to strengthen the long-term fiscal health of the Retirement System, reduce the volatility of contribution rates, and provide some budget certainty for participating employers (Retirement and Social Security Law§ 23-a). Relevant to the current proposal, the timing of the billing process required the State to pay its contribution based on estimates, subject to adjustment plus interest, on the basis of subsequent calculations. Similarly, participating employers were forced to adopt budgets based on estimates. The Legislature authorized the Comptroller, in his or her discretion, to implement revisions of the schedule pertaining to the valuation, billing and payment of employer contributions to provide budget certainty. Unfortunately, the changes implemented at that time did not address the issues of budgeting for payments based on estimates and the need for subsequent reconciliations. By amending Retirement and Social Security Law §§ 23, 23-a, 323 and 323-a to provide for the calculation based on rates applied to the salary base earned in the same fiscal year for the payment of contributions due for the next succeeding fiscal year, these issues can be resolved and provide for even greater budgeting certainty for employers.

<u>FISCAL IMPLICATIONS FOR STATE</u>: This bill has no significant State fiscal impact.

<u>EFFECTIVE DATE</u>: This act shall take effect immediately.