

40A:4-45.43a

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2009 **CHAPTER:** 19
NJSA: 40A:4-45.43a (Adjusts required local employer contributions to PERS and PFRS for State fiscal year 2009)
BILL NO: S21 (Substituted for A3868)
SPONSOR(S): Codey and others
DATE INTRODUCED: March 10, 2009
COMMITTEE: **ASSEMBLY:**
SENATE:
AMENDED DURING PASSAGE: No
DATE OF PASSAGE: **ASSEMBLY:** March 16, 2009
SENATE: March 16, 2009
DATE OF APPROVAL: March 17, 2009
FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Original version of bill enacted)

S21

SPONSOR'S STATEMENT: (Begins on page 20 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL NOTE: Yes

A3868

SPONSOR'S STATEMENT: (Begins on page 20 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL NOTE: Yes

(continued)

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LAW

P.L. 2009, CHAPTER 19, *approved March 17, 2009*
Senate, No. 21

1 AN ACT concerning employer contributions to the Public Employees'
2 Retirement System and the Police and Firemen's Retirement
3 System, amending various parts of the statutory law and
4 supplementing P.L.1976, c.68 (C.40A:4-45.1 et seq.).
5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:
8

9 1. Section 24 of P.L.1954, c.84 (C.43:15A-24) is amended to
10 read as follows:

11 24. The contingent reserve fund shall be the fund in which shall
12 be credited contributions made by the State and other employers.

13 a. Upon the basis of the tables recommended by the actuary
14 which the board adopts and regular interest, the actuary shall
15 compute annually, beginning as of March 31, 1992, the amount of
16 contribution which shall be the normal cost as computed under the
17 projected unit credit method attributable to service rendered under
18 the retirement system for the year beginning on July 1 immediately
19 succeeding the date of the computation. This shall be known as the
20 "normal contribution."

21 b. With respect to employers other than the State, upon the
22 basis of the tables recommended by the actuary which the board
23 adopts and regular interest, the actuary shall compute the amount of
24 the accrued liability of the retirement system as of March 31, 1992
25 under the projected unit credit method, excluding the liability for
26 pension adjustment benefits for active employees funded pursuant
27 to section 2 of P.L.1990, c.6 (C.43:15A-24.1), which is not already
28 covered by the assets of the retirement system, valued in accordance
29 with the asset valuation method established in this section. Using
30 the total amount of this unfunded accrued liability, the actuary shall
31 compute the initial amount of contribution which, if the
32 contribution is increased at a specific rate and paid annually for a
33 specific period of time, will amortize this liability. The State
34 Treasurer shall determine, upon the advice of the Director of the
35 Division of Pensions and Benefits, the board of trustees and the
36 actuary, the rate of increase for the contribution and the time period
37 for full funding of this liability, which shall not exceed 40 years on
38 initial application of this section as amended by this act, P.L.1994,
39 c.62. This shall be known as the "accrued liability contribution."

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 Any increase or decrease in the unfunded accrued liability as a
2 result of actuarial losses or gains for the 10 valuation years
3 following valuation year 1992 shall serve to increase or decrease,
4 respectively, the unfunded accrued liability contribution.
5 Thereafter, any increase or decrease in the unfunded accrued
6 liability as a result of actuarial losses or gains for subsequent
7 valuation years shall serve to increase or decrease, respectively, the
8 amortization period for the unfunded accrued liability, unless an
9 increase in the amortization period will cause it to exceed 30 years.
10 If an increase in the amortization period as a result of actuarial
11 losses for a valuation year would exceed 30 years, the accrued
12 liability contribution shall be computed for the valuation year in the
13 same manner provided for the computation of the initial accrued
14 liability contribution under this section.

15 With respect to the State, upon the basis of the tables
16 recommended by the actuary which the commission adopts and
17 regular interest, the actuary shall annually determine if there is an
18 amount of the accrued liability of the retirement system, computed
19 under the projected unit credit method, which is not already covered
20 by the assets of the retirement system, valued in accordance with
21 the asset valuation method established in this section. This shall be
22 known as the "unfunded accrued liability." If there was no
23 unfunded accrued liability for the valuation period immediately
24 preceding the current valuation period, the actuary, using the total
25 amount of this unfunded accrued liability, shall compute the initial
26 amount of contribution which, if the contribution is increased at a
27 specific rate and paid annually for a specific period of time, will
28 amortize this liability. The State Treasurer shall determine, upon
29 the advice of the Director of the Division of Pensions and Benefits,
30 the commission and the actuary, the rate of increase for the
31 contribution and the time period for full funding of this liability,
32 which shall not exceed 30 years. This shall be known as the
33 "accrued liability contribution." Thereafter, any increase or
34 decrease in the unfunded accrued liability as a result of actuarial
35 losses or gains for subsequent valuation years shall serve to increase
36 or decrease, respectively, the amortization period for the unfunded
37 accrued liability, unless an increase in the amortization period will
38 cause it to exceed 30 years. If an increase in the amortization
39 period as a result of actuarial losses for a valuation year would
40 exceed 30 years, the accrued liability contribution shall be
41 computed for the valuation year in the same manner provided for
42 the computation of the initial accrued liability contribution under
43 this section. The State may pay all or any portion of its unfunded
44 accrued liability under the retirement system from any source of
45 funds legally available for the purpose, including, without
46 limitation, the proceeds of bonds authorized by law for this purpose.

47 The value of the assets to be used in the computation of the
48 contributions provided for under this section for valuation periods

1 shall be the value of the assets for the preceding valuation period
2 increased by the regular interest rate, plus the net cash flow for the
3 valuation period (the difference between the benefits and expenses
4 paid by the system and the contributions to the system) increased by
5 one half of the regular interest rate, plus 20% of the difference
6 between this expected value and the full market value of the assets
7 as of the end of the valuation period. This shall be known as the
8 "valuation assets." Notwithstanding the first sentence of this
9 paragraph, the valuation assets for the valuation period ending
10 March 31, 1996 shall be the full market value of the assets as of that
11 date and, with respect to the valuation assets allocated to the State,
12 shall include the proceeds from the bonds issued pursuant to the
13 "Pension Bond Financing Act of 1997," P.L.1997, c.114 (C.34:1B-
14 7.45 et seq.), paid to the system by the New Jersey Economic
15 Development Authority to fund the unfunded accrued liability of
16 the system. Notwithstanding the first sentence of this paragraph,
17 the valuation assets for the valuation period ending June 30, 1999
18 shall be the full market value of the assets as of that date.

19 "Excess valuation assets" for a valuation period means, with
20 respect to the valuation assets allocated to the State:

- 21 (1) the valuation assets allocated to the State; less
- 22 (2) the actuarial accrued liability of the State for basic benefits
23 and pension adjustment benefits under the retirement system; less
- 24 (3) the contributory group insurance premium fund, created by
25 section 4 of P.L.1955, c.214 (C.43:15A-91), as amended by section
26 4 of P.L.1960, c.79; less
- 27 (4) the post retirement medical premium fund, created pursuant
28 to section 2 of P.L.1990, c.6 (C.43:15A-24.1), as amended by
29 section 8 of P.L.1994, c.62; less
- 30 (5) the present value of the projected total normal cost for
31 pension adjustment benefits in excess of the projected total phased-
32 in normal cost for pension adjustment benefits for the State
33 authorized by section 2 of P.L.1990, c.6 (C.43:15A-24.1) over the
34 full phase-in period, determined in the manner prescribed for the
35 determination and amortization of the unfunded accrued liability of
36 the system, if the sum of the foregoing items is greater than zero.

37 "Excess valuation assets" for a valuation period means, with
38 respect to the valuation assets allocated to other employers:

- 39 (1) the valuation assets allocated to the other employers; less
- 40 (2) the actuarial accrued liability of the other employers for
41 basic benefits and pension adjustment benefits under the retirement
42 system, excluding the unfunded accrued liability for early
43 retirement incentive benefits pursuant to P.L.1991, c.229, P.L.1991,
44 c.230, P.L.1993, c.138, and P.L.1993, c.181, for employers other
45 than the State; less
- 46 (3) the contributory group insurance premium fund, created by
47 section 4 of P.L.1955, c.214 (C.43:15A-91), as amended by section
48 4 of P.L.1960, c.79; less

1 (4) the present value of the projected total normal cost for
2 pension adjustment benefits in excess of the projected total phased-
3 in normal cost for pension adjustment benefits for the other
4 employers authorized by section 2 of P.L.1990, c.6 (C.43:15A-24.1)
5 over the full phase-in period, determined in the manner prescribed
6 for the determination and amortization of the unfunded accrued
7 liability of the system, if the sum of the foregoing items is greater
8 than zero.

9 If there are excess valuation assets allocated to the State or to the
10 other employers for the valuation period ending March 31, 1996,
11 the normal contributions payable by the State or by the other
12 employers for the valuation periods ending March 31, 1996 and
13 March 31, 1997 which have not yet been paid to the retirement
14 system shall be reduced to the extent possible by the excess
15 valuation assets allocated to the State or to the other employers,
16 respectively, provided that with respect to the excess valuation
17 assets allocated to the State, the General Fund balances that would
18 have been paid to the retirement system except for this provision
19 shall first be allocated as State aid to public schools to the extent
20 that additional sums are required to comply with the May 14, 1997
21 decision of the New Jersey Supreme Court in *Abbott v. Burke*. If
22 there are excess valuation assets allocated to the State or to the
23 other employers for a valuation period ending after March 31, 1996,
24 the State Treasurer may reduce the normal contribution payable by
25 the State or by the other employers for the next valuation period as
26 follows:

27 (1) for valuation periods ending March 31, 1997 through March
28 31, 2001, to the extent possible by up to 100% of the excess
29 valuation assets allocated to the State or to the other employers,
30 respectively;

31 (2) for the valuation period ending March 31, 2002, to the extent
32 possible by up to 84% of the excess valuation assets allocated to the
33 State or to the other employers, respectively;

34 (3) for the valuation period ending March 31, 2003, to the extent
35 possible by up to 68% of the excess valuation assets allocated to the
36 State or to the other employers, respectively; and

37 (4) for valuation periods ending March 31, 2004 through June
38 30, 2007, to the extent possible by up to 50% of the excess
39 valuation assets allocated to the State or to the other employers,
40 respectively.

41 For calendar years 1998 and 1999, the rate of contribution of
42 members of the retirement system under section 25 of P.L.1954,
43 c.84 (C.43:15A-25) shall be reduced by 1/2 of 1% from excess
44 valuation assets and for calendar years 2000 and 2001, the rate of
45 contribution shall be reduced by 2% from excess valuation assets.
46 Thereafter, through calendar year 2007, the rate of contribution of
47 members of the retirement system under that section for a calendar
48 year shall be reduced equally with normal contributions to the

1 extent possible, but not by more than 2%, from excess valuation
2 assets if the State Treasurer determines that excess valuation assets
3 shall be used to reduce normal contributions by the State and local
4 employers for the fiscal year beginning immediately prior to the
5 calendar year, or for the calendar year for local employers whose
6 fiscal year is the calendar year, and excess valuation assets above
7 the amount necessary to fund the reduction for that calendar year in
8 the member contribution rate plus an equal reduction in the normal
9 contribution shall be available for the further reduction of normal
10 contributions, subject to the limitations prescribed by this
11 subsection.

12 If there are excess valuation assets after reductions in normal
13 contributions and member contributions as authorized in the
14 preceding paragraphs for a valuation period beginning with the
15 valuation period ending June 30, 1999, an amount of excess
16 valuation assets not to exceed the amount of the member
17 contributions for the fiscal year in which the normal contributions
18 are payable shall be credited to the benefit enhancement fund. The
19 amount of excess valuation assets credited to the benefit
20 enhancement fund shall not exceed the present value of the
21 expected additional normal contributions attributable to the
22 provisions of P.L.2001, c.133 payable on behalf of the active
23 members over the expected working lives of the active members in
24 accordance with the tables of actuarial assumptions for the
25 valuation period. No additional excess valuation assets shall be
26 credited to the benefit enhancement fund after the maximum
27 amount is attained. Interest shall be credited to the benefit
28 enhancement fund as provided under section 33 of P.L.1954, c.84
29 (C.43:15A-33).

30 The normal contribution for the increased benefits for active
31 employees under P.L.2001, c.133 shall be paid from the benefit
32 enhancement fund. If assets in the benefit enhancement fund are
33 insufficient to pay the normal contribution for the increased benefits
34 for a valuation period, the State shall pay the amount of normal
35 contribution for the increased benefits not covered by assets from
36 the benefit enhancement fund.

37 c. The retirement system shall certify annually the aggregate
38 amount payable to the contingent reserve fund in the ensuing year,
39 which amount shall be equal to the sum of the amounts described in
40 this section.

41 The State Treasurer shall reduce the normal and accrued liability
42 contributions payable by employers other than the State, excluding
43 the contribution payable from the benefit enhancement fund, to a
44 percentage of the amount certified annually by the retirement
45 system, which percentage shall be: for payments due in the State
46 fiscal year ending June 30, 2005, 20%; for payments due in the
47 State fiscal year ending June 30, 2006, not more than 40%; for
48 payments due in the State fiscal year ending June 30, 2007, not

1 more than 60%; and for payments due in the State fiscal year ending
2 June 30, 2008, not more than 80%.

3 The State Treasurer shall reduce the normal and accrued liability
4 contributions payable by employers other than the State, excluding
5 the contribution payable from the benefit enhancement fund, to 50
6 percent of the amount certified annually by the retirement system,
7 for payments due in the State fiscal year ending June 30, 2009. An
8 employer that elects to pay the reduced normal and accrued liability
9 contribution shall adopt a resolution, separate and apart from other
10 budget resolutions, stating that the employer needs to pay the
11 reduced contribution and providing an explanation of that need
12 which shall include (1) a description of its inability to meet the levy
13 cap without jeopardizing public safety, health, and welfare or
14 without jeopardizing the fiscal stability of the employer, or (2) a
15 description of another condition that offsets the long term fiscal
16 impact of the payment of the reduced contribution. An employer
17 also shall document those actions it has taken to reduce its
18 operating costs, or provide a description of relevant anticipated
19 circumstances that could have an impact on revenues or
20 expenditures. This resolution shall be submitted to and approved by
21 the Local Finance Board after making a finding that these fiscal
22 conditions are valid and affirming the findings contained in the
23 employer resolution.

24 An employer that elects to pay 100 percent of the amount
25 certified by the retirement system for State fiscal year ending June
26 30, 2009 shall be credited with such payment and any such amounts
27 shall not be included in the employer's unfunded liability.

28 The actuaries for the retirement system shall determine the
29 unfunded liability of the retirement system, by employer, for the
30 reduced normal and accrued liability contributions provided under
31 P.L. , c. (pending before the Legislature as this bill). This
32 unfunded liability shall be paid by the employer in level annual
33 payments over a period of 15 years beginning with the payments
34 due in the State fiscal year ending June 30, 2012 and shall be
35 adjusted by the rate of return on the actuarial value of assets.

36 The retirement system shall annually certify to each employer the
37 contributions due to the contingent reserve fund for the liability
38 under P.L. , c. (pending before the Legislature as this bill). The
39 contributions certified by the retirement system shall be paid by the
40 employer to the retirement system on or before the date prescribed
41 by law for payment of employer contributions for basic retirement
42 benefits. If payment of the full amount of the contribution certified
43 is not made within 30 days after the last date for payment of
44 employer contributions for basic retirement benefits, interest at the
45 rate of 10% per year shall be assessed against the unpaid balance on
46 the first day after the thirtieth day.

47 The State shall pay into the contingent reserve fund during the
48 ensuing year the amount so determined. The death benefits,

1 payable as a result of contribution by the State under the provisions
2 of this chapter upon the death of an active or retired member, shall
3 be paid from the contingent reserve fund.

4 d. The disbursements for benefits not covered by reserves in
5 the system on account of veterans shall be met by direct
6 contributions of the State and other employers.

7 (cf: P.L.2007, c.92, s.26)

8

9 2. Section 15 of P.L.1944, c.255 (C.43:16A-15) is amended to
10 read as follows:

11 15. (1) The contributions required for the support of the
12 retirement system shall be made by members and their employers.

13 (2) The uniform percentage contribution rate for members shall
14 be 8.5% of compensation.

15 (3) (Deleted by amendment, P.L.1989, c.204).

16 (4) Upon the basis of the tables recommended by the actuary
17 which the board adopts and regular interest, the actuary shall
18 compute annually, beginning as of June 30, 1991, the amount of
19 contribution which shall be the normal cost as computed under the
20 projected unit credit method attributable to service rendered under
21 the retirement system for the year beginning on July 1 immediately
22 succeeding the date of the computation. This shall be known as the
23 "normal contribution."

24 (5) (Deleted by amendment, P.L.1989, c.204).

25 (6) (Deleted by amendment, P.L.1994, c.62.)

26 (7) Each employer shall cause to be deducted from the salary of
27 each member the percentage of earnable compensation prescribed in
28 subsection (2) of this section. To facilitate the making of
29 deductions, the retirement system may modify the amount of
30 deduction required of any member by an amount not to exceed 1/10
31 of 1% of the compensation upon which the deduction is based.

32 (8) The deductions provided for herein shall be made
33 notwithstanding that the minimum salary provided for by law for
34 any member shall be reduced thereby. Every member shall be
35 deemed to consent and agree to the deductions made and provided
36 for herein, and payment of salary or compensation less said
37 deduction shall be a full and complete discharge and acquittance of
38 all claims and demands whatsoever for the service rendered by such
39 person during the period covered by such payment, except as to the
40 benefits provided under this act. The chief fiscal officer of each
41 employer shall certify to the retirement system in such manner as
42 the retirement system may prescribe, the amounts deducted; and
43 when deducted shall be paid into said annuity savings fund, and
44 shall be credited to the individual account of the member from
45 whose salary said deduction was made.

46 (9) With respect to employers other than the State, upon the
47 basis of the tables recommended by the actuary which the board
48 adopts and regular interest, the actuary shall compute the amount of

1 the accrued liability as of June 30, 1991 under the projected unit
2 credit method, which is not already covered by the assets of the
3 retirement system, valued in accordance with the asset valuation
4 method established in this section. Using the total amount of this
5 unfunded accrued liability, the actuary shall compute the initial
6 amount of contribution which, if the contribution is increased at a
7 specific rate and paid annually for a specific period of time, will
8 amortize this liability. The State Treasurer shall determine, upon
9 the advice of the Director of the Division of Pensions and Benefits,
10 the board of trustees and the actuary, the rate of increase for the
11 contribution and the time period for full funding of this liability,
12 which shall not exceed 40 years on initial application of this section
13 as amended by this act, P.L.1994, c.62. This shall be known as the
14 "accrued liability contribution." Any increase or decrease in the
15 unfunded accrued liability as a result of actuarial losses or gains for
16 the 10 valuation years following valuation year 1991 shall serve to
17 increase or decrease, respectively, the unfunded accrued liability
18 contribution. Thereafter, any increase or decrease in the unfunded
19 accrued liability as a result of actuarial losses or gains for
20 subsequent valuation years shall serve to increase or decrease,
21 respectively, the amortization period for the unfunded accrued
22 liability, unless an increase in the amortization period will cause it
23 to exceed 30 years. If an increase in the amortization period as a
24 result of actuarial losses for a valuation year would exceed 30 years,
25 the accrued liability contribution shall be computed for the
26 valuation year in the same manner provided for the computation of
27 the initial accrued liability contribution under this section.

28 With respect to the State, upon the basis of the tables
29 recommended by the actuary which the board adopts and regular
30 interest, the actuary shall annually determine if there is an amount
31 of the accrued liability, computed under the projected unit credit
32 method, which is not already covered by the assets of the retirement
33 system, valued in accordance with the asset valuation method
34 established in this section. This shall be known as the "unfunded
35 accrued liability." If there was no unfunded accrued liability for the
36 valuation period immediately preceding the current valuation
37 period, the actuary, using the total amount of this unfunded accrued
38 liability, shall compute the initial amount of contribution which, if
39 the contribution is increased at a specific rate and paid annually for
40 a specific period of time, will amortize this liability. The State
41 Treasurer shall determine, upon the advice of the Director of the
42 Division of Pensions and Benefits, the board of trustees and the
43 actuary, the rate of increase for the contribution and the time period
44 for full funding of this liability, which shall not exceed 30 years.
45 This shall be known as the "accrued liability contribution."
46 Thereafter, any increase or decrease in the unfunded accrued
47 liability as a result of actuarial losses or gains for subsequent
48 valuation years shall serve to increase or decrease, respectively, the

1 amortization period for the unfunded accrued liability, unless an
2 increase in the amortization period will cause it to exceed 30 years.
3 If an increase in the amortization period as a result of actuarial
4 losses for a valuation year would exceed 30 years, the accrued
5 liability contribution shall be computed for the valuation year in the
6 same manner provided for the computation of the initial accrued
7 liability contribution under this section. The State may pay all or
8 any portion of its unfunded accrued liability under the retirement
9 system from any source of funds legally available for the purpose,
10 including, without limitation, the proceeds of bonds authorized by
11 law for this purpose.

12 The value of the assets to be used in the computation of the
13 contributions provided for under this section for valuation periods
14 shall be the value of the assets for the preceding valuation period
15 increased by the regular interest rate, plus the net cash flow for the
16 valuation period (the difference between the benefits and expenses
17 paid by the system and the contributions to the system) increased by
18 one half of the regular interest rate, plus 20% of the difference
19 between this expected value and the full market value of the assets
20 as of the end of the valuation period. This shall be known as the
21 "valuation assets." Notwithstanding the first sentence of this
22 paragraph, the valuation assets for the valuation period ending June
23 30, 1995 shall be the full market value of the assets as of that date
24 and, with respect to the valuation assets allocated to the State, shall
25 include the proceeds from the bonds issued pursuant to the "Pension
26 Bond Financing Act of 1997," P.L.1997, c.114 (C.34:1B-7.45 et
27 seq.), paid to the system by the New Jersey Economic Development
28 Authority to fund the unfunded accrued liability of the system.
29 Notwithstanding the first sentence of this paragraph, the percentage
30 of the difference between the expected value and the full market
31 value of the assets to be added to the expected value of the assets
32 for the valuation period ending June 30, 1998 for the State shall be
33 100% and for other employers shall be 57% plus such additional
34 percentage as is equivalent to \$150,000,000. Notwithstanding the
35 first sentence of this paragraph, the amount of the difference
36 between the expected value and the full market value of the assets
37 to be added to the expected value of the assets for the valuation
38 period ending June 30, 1999 shall include an additional amount of
39 the market value of the assets sufficient to fund (1) the unfunded
40 accrued liability for the supplementary "special retirement"
41 allowances provided under subsection b. of section 16 of P.L.1964,
42 c.241 (C.43:16A-11.1) and (2) the unfunded accrued liability for the
43 full credit toward benefits under the retirement system for service
44 credited in the Public Employees' Retirement System and
45 transferred pursuant to section 1 of P.L.1993, c.247 (C.43:16A-3.8)
46 and the reimbursement of the cost of any credit purchase pursuant
47 to section 3 of P.L.1993, c.247 (C.43:16A-3.10) provided under
48 section 1 of P.L.2001, c.201 (C.43:16A-3.14).

1 "Excess valuation assets" means, with respect to the valuation
2 assets allocated to the State, the valuation assets allocated to the
3 State for a valuation period less the actuarial accrued liability of the
4 State for the valuation period, and beginning with the valuation
5 period ending June 30, 1998, less the present value of the expected
6 additional normal cost contributions attributable to the provisions of
7 P.L.1999, c.428 (C.43:16A-15.8 et al.) payable on behalf of the
8 active members employed by the State as of the valuation period
9 over the expected working lives of the active members in
10 accordance with the tables of actuarial assumptions applicable to
11 the valuation period, and less the present value of the expected
12 additional normal cost contributions attributable to the provisions of
13 P.L.2003, c.108 as amending section 16 of P.L.1964, c.241
14 (C.43:16A-11.1) payable on behalf of the active members employed
15 by the State as of the valuation period over the expected working
16 lives of the active members in accordance with the tables of
17 actuarial assumptions applicable to the valuation period, if the sum
18 is greater than zero. "Excess valuation assets" means, with respect
19 to the valuation assets allocated to other employers, the valuation
20 assets allocated to the other employers for a valuation period less
21 the actuarial accrued liability of the other employers for the
22 valuation period, excluding the unfunded accrued liability for early
23 retirement incentive benefits pursuant to P.L.1993, c.99 for the
24 other employers, and beginning with the valuation period ending
25 June 30, 1998, less the present value of the expected additional
26 normal cost contributions attributable to the provisions of P.L.1999,
27 c.428 (C.43:16A-15.8 et al.) payable on behalf of the active
28 members employed by other employers as of the valuation period
29 over the expected working lives of the active members in
30 accordance with the tables of actuarial assumptions applicable to
31 the valuation period, and less the present value of the expected
32 additional normal cost contributions attributable to the provisions of
33 P.L.2003, c.108 as amending section 16 of P.L.1964, c.241
34 (C.43:16A-11.1) payable on behalf of the active members employed
35 by other employers as of the valuation period over the expected
36 working lives of the active members in accordance with the tables
37 of actuarial assumptions applicable to the valuation period, if the
38 sum is greater than zero.

39 If there are excess valuation assets allocated to the State or to
40 the other employers for the valuation period ending June 30, 1995,
41 the normal contributions payable by the State or by the other
42 employers for the valuation periods ending June 30, 1995, and June
43 30, 1996 which have not yet been paid to the retirement system
44 shall be reduced to the extent possible by the excess valuation
45 assets allocated to the State or to the other employers, respectively,
46 provided that with respect to the excess valuation assets allocated to
47 the State, the General Fund balances that would have been paid to
48 the retirement system except for this provision shall first be

1 allocated as State aid to public schools to the extent that additional
2 sums are required to comply with the May 14, 1997 decision of the
3 New Jersey Supreme Court in *Abbott v. Burke*.

4 If there are excess valuation assets allocated to the other
5 employers for the valuation period ending June 30, 1998, the
6 accrued liability contributions payable by the other employers for
7 the valuation period ending June 30, 1997 shall be reduced to the
8 extent possible by the excess valuation assets allocated to the other
9 employers.

10 If there are excess valuation assets allocated to the State or to the
11 other employers for a valuation period ending after June 30, 1998,
12 the State Treasurer may reduce the normal contribution payable by
13 the State or by other employers for the next valuation period as
14 follows:

15 (1) for valuation periods ending June 30, 1996 through June 30,
16 2000, to the extent possible by up to 100% of the excess valuation
17 assets allocated to the State or to the other employers, respectively;

18 (2) for the valuation period ending June 30, 2001, to the extent
19 possible by up to 84% of the excess valuation assets allocated to the
20 State or to the other employers, respectively;

21 (3) for the valuation period ending June 30, 2002, to the extent
22 possible by up to 68% of the excess valuation assets allocated to the
23 State or to the other employers, respectively; and

24 (4) for valuation periods ending June 30, 2003 through June 30,
25 2007, to the extent possible by up to 50% of the excess valuation
26 assets allocated to the State or to the other employers, respectively.

27 Notwithstanding the discretion provided to the State Treasurer in
28 the previous paragraph to reduce the amount of the normal
29 contribution payable by employers other than the State, the State
30 Treasurer shall reduce the amount of the normal contribution
31 payable by employers other than the State by \$150,000,000 in the
32 aggregate for the valuation period ending June 30, 1998, and then
33 the State Treasurer may reduce further pursuant to the provisions of
34 the previous paragraph the normal contribution payable by such
35 employers for that valuation period.

36 As of the valuation report in which the funded level is in excess
37 of 104%, an amount equal to the present value of the future normal
38 contributions for the benefits provided by P.L.2003, c.108 as
39 amending section 16 of P.L.1964, c.241 (C.43:16A-11.1), shall be
40 credited to the benefit enhancement fund. If there are excess
41 valuation assets after reductions in normal contributions as
42 authorized in the preceding paragraphs, for a valuation period
43 beginning with the valuation period in which the benefits provided
44 by section 16 of P.L.1964, c.241 (C.43:16A-11.1), as amended by
45 P.L.2003, c.108 apply, an amount of excess valuation assets not to
46 exceed the amount of the member contributions for the fiscal year
47 in which the normal contributions are payable shall be credited to
48 the benefit enhancement fund. The amount of excess valuation

1 assets credited to the benefit enhancement fund shall not exceed the
2 present value of the expected additional normal and accrued
3 liability contributions attributable to the provisions of section 16 of
4 P.L.1964, c.241 (C.43:16A-11.1), as amended by P.L.2003, c.108,
5 payable on behalf of the active members over the expected working
6 lives of the active members in accordance with the tables of
7 actuarial assumptions for the valuation period. No additional
8 excess valuation assets shall be credited to the benefit enhancement
9 fund after the maximum amount is attained. Interest shall be
10 credited to the benefit enhancement fund.

11 The normal and accrued liability contributions for the increased
12 benefits for active employees under section 16 of P.L.1964, c.241
13 (C.43:16A-11.1), as amended by P.L.2003, c.108, shall be paid
14 from the benefit enhancement fund. If assets in the benefit
15 enhancement fund are insufficient to pay the normal and accrued
16 liability contributions for the increased benefits for a valuation
17 period, the retirement system shall pay the amount of normal and
18 accrued liability contributions for the increased benefits not covered
19 by assets from the benefit enhancement fund.

20 The normal and accrued liability contributions shall be certified
21 annually by the retirement system and shall be included in the
22 budget of the employer and levied and collected in the same manner
23 as any other taxes are levied and collected for the payment of the
24 salaries of members.

25 Notwithstanding the preceding sentence, the normal and accrued
26 liability contributions to be included in the budget of and paid by
27 the employer other than the State shall be as follows: for the
28 payment due in the State fiscal year ending on June 30, 2004, 20%
29 of the amount certified by the retirement system; for the payment
30 due in the State fiscal year ending on June 30, 2005, a percentage of
31 the amount certified by the retirement system as the State Treasurer
32 shall determine but not more than 40%; for the payment due in the
33 State fiscal year ending on June 30, 2006, a percentage of the
34 amount certified by the retirement system as the State Treasurer
35 shall determine but not more than 60%; and for the payment due in
36 the State fiscal year ending on June 30, 2007, a percentage of the
37 amount certified by the retirement system as the State Treasurer
38 shall determine but not more than 80%.

39 The State Treasurer shall reduce the normal and accrued liability
40 contributions payable by employers other than the State to 50
41 percent of the amount certified annually by the retirement system
42 for payments due in the State fiscal year ending June 30, 2009. An
43 employer that elects to pay the reduced normal and accrued liability
44 contribution shall adopt a resolution, separate and apart from other
45 budget resolutions, stating that the employer needs to pay the
46 reduced contribution and providing an explanation of that need
47 which shall include (1) a description of its inability to meet the levy
48 cap without jeopardizing public safety, health, and welfare or

1 without jeopardizing the fiscal stability of the employer, or (2) a
2 description of another condition that offsets the long term fiscal
3 impact of the payment of the reduced contribution. An employer
4 also shall document those actions it has taken to reduce its
5 operating costs, or provide a description of relevant anticipated
6 circumstances that could have an impact on revenues or
7 expenditures. This resolution shall be submitted to and approved by
8 the Local Finance Board after making a finding that these fiscal
9 conditions are valid and affirming the findings contained in the
10 employer resolution.

11 An employer that elects to pay 100 percent of the amount
12 certified by the retirement system for State fiscal year ending June
13 30, 2009 shall be credited with such payment and any such amounts
14 shall not be included in the employer's unfunded liability.

15 The actuaries for the retirement system shall determine the
16 unfunded liability of the retirement system, by employer, for the
17 reduced normal and accrued liability contributions provided under
18 P.L. , c. (pending before the Legislature as this bill). This
19 unfunded liability shall be paid by the employer in level annual
20 payments over a period of 15 years beginning with the payments
21 due in the State fiscal year ending June 30, 2012 and shall be
22 adjusted by the rate of return on the actuarial value of assets.

23 The retirement system shall annually certify to each employer the
24 contributions due to the contingent reserve fund for the liability
25 under P.L. , c. (pending before the Legislature as this bill). The
26 contributions certified by the retirement system shall be paid by the
27 employer to the retirement system on or before the date prescribed
28 by law for payment of employer contributions for basic retirement
29 benefits. If payment of the full amount of the contribution certified
30 is not made within 30 days after the last date for payment of
31 employer contributions for basic retirement benefits, interest at the
32 rate of 10% per year shall be assessed against the unpaid balance on
33 the first day after the thirtieth day.

34 (10) The treasurer or corresponding officer of the employer shall
35 pay to the State Treasurer no later than April 1 of the State's fiscal
36 year in which payment is due the amount so certified as payable by
37 the employer, and shall pay monthly to the State Treasurer the
38 amount of the deductions from the salary of the members in the
39 employ of the employer, and the State Treasurer shall credit such
40 amount to the appropriate fund or funds, of the retirement system.

41 If payment of the full amount of the employer's obligation is not
42 made within 30 days of the due date established by this act, interest
43 at the rate of 10% per annum shall commence to run against the
44 unpaid balance thereof on the first day after such 30th day.

45 If payment in full, representing the monthly transmittal and
46 report of salary deductions, is not made within 15 days of the due
47 date established by the retirement system, interest at the rate of 10%

1 per annum shall commence to run against the total transmittal of
2 salary deductions for the period on the first day after such 15th day.

3 (11) The expenses of administration of the retirement system
4 shall be paid by the State of New Jersey. Each employer shall
5 reimburse the State for a proportionate share of the amount paid by
6 the State for administrative expense. This proportion shall be
7 computed as the number of members under the jurisdiction of such
8 employer bears to the total number of members in the system. The
9 pro rata share of the cost of administrative expense shall be
10 included with the certification by the retirement system of the
11 employer's contribution to the system.

12 (12) Notwithstanding anything to the contrary, the retirement
13 system shall not be liable for the payment of any pension or other
14 benefits on account of the employees or beneficiaries of any
15 employer participating in the retirement system, for which reserves
16 have not been previously created from funds, contributed by such
17 employer or its employees for such benefits.

18 (13) (Deleted by amendment, P.L.1992, c.125.)

19 (14) Commencing with valuation year 1991, with payment to be
20 made in Fiscal Year 1994, the Legislature shall annually
21 appropriate and the State Treasurer shall pay into the pension
22 accumulation fund of the retirement system an amount equal to
23 1.1% of the compensation of the members of the system for the
24 valuation year to fund the benefits provided by section 16 of
25 P.L.1964, c.241 (C.43:16A-11.1), as amended by P.L.1979, c.109.

26 (15) If the valuation assets are insufficient to fund the normal
27 and accrued liability costs attributable to P.L.1999, c.428
28 (C.43:16A-15.8 et al.) as provided hereinabove, the normal and
29 unfunded accrued liability contributions required to fund these costs
30 for the State and other employers shall be paid by the State.

31 (16) The savings realized as a result of the amendments to this
32 section by P.L.2001, c.44 in the payment of normal contributions
33 computed by the actuary for the valuation periods ending June 30,
34 1998 for employers other than the State shall be used solely and
35 exclusively by a county or municipality for the purpose of reducing
36 the amount that is required to be raised by the local property tax
37 levy by the county for county purposes or by the municipality for
38 municipal purposes, as appropriate. The Director of the Division of
39 Local Government Services in the Department of Community
40 Affairs shall certify for each year that each county or municipality
41 has complied with the requirements set forth herein. If the director
42 finds that a county or municipality has not used the savings solely
43 and exclusively for the purpose of reducing the amount that is
44 required to be raised by the local property tax levy by the county for
45 county purposes or by the municipality for municipal purposes, as
46 appropriate, the director shall direct the county or municipal
47 governing body, as appropriate, to make corrections to its budget.

48 (cf: P.L.2007, c.92, s.23)

1 3. Section 3 of P.L.2007, c.62 (C.18A:7F-38) is amended to
2 read as follows:

3 3. a. (1) Notwithstanding the provisions of any other law to the
4 contrary, a school district shall not adopt a budget pursuant to
5 sections 5 and 6 of P.L.1996, c.138 (C.18A:7F-5 and 18A:7F-6)
6 with an increase in its adjusted tax levy that exceeds the tax levy
7 growth limitation calculated as follows: the sum of the prebudget
8 year adjusted tax levy and the adjustment for increases in
9 enrollment multiplied by four percent, and adjustments for a
10 reduction in total unrestricted State aid from the prebudget year, an
11 increase in health care costs, **[and]** beginning in the 2008-2009
12 school year, amounts approved by a waiver granted by the
13 commissioner pursuant to section 4 of P.L.2007, c.62 (C.18A:7F-
14 39), and, for the 2010-2011 school year, increases in amounts for
15 certain normal and accrued liability pension contributions set forth
16 in sections 1 and 2 of P.L. , c. (pending before the Legislature as
17 this bill) amending section 24 of P.L.1954, c.84 (C.43:15A-24) and
18 section 15 of P.L.1944, c.255 (C.43:16A-15) for the year set forth
19 in those sections.

20 (2) Notwithstanding any provision of paragraph (1) of this
21 subsection to the contrary, beginning in the 2008-2009 school year
22 the tax levy growth limitation for a district which is spending above
23 adequacy as determined pursuant to subsection d. of section 5 of
24 P.L.2007, c.260 (C.18A:7F-47) and has a prebudget year general
25 fund tax levy greater than its local share as calculated pursuant to
26 section 10 of that act and which receives an increase in State aid
27 between the prebudget and budget years that is greater than 2% or
28 the CPI, whichever is greater, shall be reduced by the amount of the
29 State aid increase that exceeds 2% or the CPI, whichever is greater.
30 For the purposes of this paragraph, the CPI shall not exceed 4%.
31 The reduction shall be made following the calculation of any
32 adjustments for increases in enrollment, a reduction in total
33 unrestricted State aid, **[and]** an increase in health care costs, and an
34 increase in the amount of the normal and accrued liability pension
35 contributions calculated pursuant to subsections b., c., and d. of this
36 section and prior to the request or approval of waivers pursuant to
37 section 4 of P.L.2007, c.62 (C.18A:7F-39). In the event that the
38 reduction would bring the district's spending below adequacy,
39 notwithstanding the requirements of this paragraph to the contrary
40 the amount of the reduction made to the district's tax levy growth
41 limitation shall not be greater than the amount that brings the
42 district's spending to adequacy.

43 b. (1) The allowable adjustment for increases in enrollment
44 authorized pursuant to subsection a. of this section shall equal the
45 per pupil prebudget year adjusted tax levy multiplied by EP, where
46 EP equals the sum of:

1 (a) 0.50 for each unit of weighted resident enrollment that
2 constitutes an increase from the prebudget year over 1%, but not
3 more than 2.5%;

4 (b) 0.75 for each unit of weighted resident enrollment that
5 constitutes an increase from the prebudget year over 2.5%, but not
6 more than 4%; and

7 (c) 1.00 for each unit of weighted resident enrollment that
8 constitutes an increase from the prebudget year over 4%.

9 (2) A school district may request approval from the
10 commissioner to calculate EP equal to 1.00 for any increase in
11 weighted resident enrollment if it can demonstrate that the
12 calculation pursuant to paragraph (1) of this subsection would result
13 in an average class size that exceeds 10% above the facilities
14 efficiency standards established pursuant to P.L.2000, c.72
15 (C.18A:7G-1 et al.).

16 c. The allowable adjustment for a reduction in total
17 unrestricted State aid authorized pursuant to subsection a. of this
18 section shall equal any reduction in total unrestricted State aid from
19 the prebudget to the budget year.

20 d. (1) The allowable adjustment for increases in health care
21 costs authorized pursuant to subsection a. of this section shall equal
22 that portion of the actual increase in total health care costs for the
23 budget year, less any withdrawals from the current expense
24 emergency reserve account for increases in total health care costs,
25 that exceeds four percent of the total health care costs in the
26 prebudget year, but that is not in excess of the product of the total
27 health care costs in the prebudget year multiplied by the average
28 percentage increase of the State Health Benefits Program, P.L.1961,
29 c.49 (C.52:14-17.25 et seq.), as annually determined by the
30 Division of Pensions and Benefits in the Department of the
31 Treasury.

32 (2) The allowable adjustment for increases in the amount of
33 normal and accrued liability pension contributions authorized
34 pursuant to subsection a. of this section shall equal that portion of
35 the actual increase in total normal and accrued liability pension
36 contributions for the budget year that exceeds four percent of the
37 total normal and accrued liability pension contributions in the
38 prebudget year.

39 e. In addition to the adjustments authorized pursuant to
40 subsection a. of this section, for the purpose of determining a school
41 district's allowable tax levy growth limitation for the 2007-2008
42 school year, a school district may apply to the commissioner for an
43 adjustment for increases in special education costs over \$40,000 per
44 pupil, increases in tuition, capital outlay increases, and incremental
45 increases in costs for opening a new school facility in the budget
46 year.

47 (1) The allowable adjustment for increases in special education
48 costs over \$40,000 per pupil shall equal any increase in the sum of

1 per pupil amounts in excess of \$40,000 for the budget year less the
2 sum of per pupil amounts in excess of \$40,000 for the prebudget
3 year indexed by four percent.

4 (2) The allowable adjustment for increases in tuition shall equal
5 any increase in the tuition for the budget year charged to a sending
6 district by the receiving district pursuant to the provisions of
7 N.J.S.18A:38-19 or charged by a county vocational school district
8 pursuant to the provisions of section 71 of P.L.1990, c.52
9 (C.18A:54-20.1) less 104 percent of the tuition for the prebudget
10 year charged to a sending district by the receiving district pursuant
11 to the provisions of N.J.S.18A:38-19 or charged by a county
12 vocational school district pursuant to the provisions of section 71 of
13 P.L.1990, c.52 (C.18A:54-20.1).

14 (3) The allowable adjustment for increases in capital outlay
15 shall equal any increase in capital outlay, less any withdrawals from
16 the capital reserve account, over the prebudget year in excess of
17 four percent.

18 f. The adjusted tax levy shall be increased or decreased
19 accordingly whenever the responsibility and associated cost of a
20 school district activity is transferred to another school district or
21 governmental entity.

22 (cf: P.L.2007, c.260, s.37)

23

24 4. Section 10 of P.L.2007, c.62 (C.40A:4-45.45) is amended to
25 read as follows:

26 10. a. In the preparation of its budget the amount to be raised by
27 taxation by a local unit shall not exceed the sum of new ratables, the
28 adjusted tax levy, and the total of waivers approved pursuant to
29 section 11 of P.L.2007, c.62 (C.40A:4-45.46); provided, however,
30 that in the case of a county, the amount to be raised by taxation
31 shall not exceed the amount permitted by section 4 of P.L.1976,
32 c.68 (C.40A:4-45.4).

33 b. The following exclusions shall be added to the calculation of
34 the adjusted tax levy:

35 (1) increases in amounts required to be raised for (a) all debt
36 service and (b) lease payments with county improvement authorities
37 pursuant to leases in effect on the effective date of P.L.2007, c.62
38 (C.18A:7F-37 et al.);

39 (2) increases in amounts required to be raised to replace State
40 formula aid due to a reduction in State formula aid from the
41 previous local budget year;

42 (3) increases in amounts for certain pension contributions set
43 forth in section 5 of P.L.2003, c.108 (C.40A:4-45.43) for the years
44 set forth in that section;

45 (4) with respect to municipalities, any increase, greater than four
46 percent, in the reserve for uncollected taxes that is required by law;

47 (5) increases in health care costs equal to that portion of the
48 actual increase in total health care costs for the budget year that is

1 in excess of four percent of the total health care costs in the prior
2 year, but is not in excess of the product of the total health care costs
3 in the prior year and the average percentage increase of the State
4 Health Benefits Program, P.L.1961, c.49 (C.52:14-17.25 et seq.), as
5 annually determined by the Division of Pensions and Benefits in the
6 Department of the Treasury;

7 (6) increases in amounts for certain normal and accrued liability
8 pension contributions set forth in sections 1 and 2 of P.L. ,
9 c. (pending before the Legislature as this bill) amending section 24
10 of P.L.1954, c.84 (C.43:15A-24) and section 15 of P.L.1944, c.255
11 (C.43:16A-15) equal to that portion of the actual increase in normal
12 and accrued liability pension contributions for the budget year that
13 is in excess of four percent of the normal and accrued liability
14 pension contributions in the prior year.

15 **[(6)]** Notwithstanding the other provisions of this subsection,
16 when the appropriation for all debt service is less than the amount
17 appropriated for all debt service in the prior fiscal year, the amount
18 of the difference shall be deducted from the sum of the exclusions
19 listed in paragraphs (1) through **[(5)] (6)** of this subsection. If
20 there are no exclusions, then the amount of the difference shall
21 reduce the adjusted tax levy by that amount. Any cancelled or
22 unexpended appropriation for any exclusion pursuant to this
23 subsection or waiver pursuant to section 11 of P.L.2007, c.62
24 (C.40A:4-45.46), also shall be deducted from the sum of the
25 exclusions listed in paragraphs (1) through **[(5)] (6)** or directly
26 reduce the adjusted tax levy if there are no exclusions.

27 (cf: P.L.2007, c.62, s.10)

28

29 5. (New section) In addition to the exceptions to the limits on
30 increases to municipal appropriations set forth in section 3 of
31 P.L.1976, c.68 (C.40A:4-45.3) and to the county tax levy set forth
32 in section 4 of P.L.1976, c.68 (C.40A:4-45.4), appropriations that
33 represent expenditures made by a municipality or county for the
34 purpose of funding certain normal and accrued liability
35 contributions set forth in sections 1 and 2 of P.L. , c. (pending
36 before the Legislature as this bill) amending section 24 of P.L.1954,
37 c.84 (C.43:15A-24) and section 15 of P.L.1944, c.255 (C.43:16A-
38 15) due in the State fiscal year 2009-2010 shall be exempt from the
39 limits on increases to municipal appropriations and from the limits
40 on increases to the county tax levy in county budgets, respectively,
41 for the local budget year in which those contributions are due,
42 except that for local fiscal year 2009 the full normal and accrued
43 liability contributions to the Public Employees' Retirement System
44 shall be added to the allowable operating appropriations before
45 exceptions.

46

47 6. Within 180 days after the effective date of P.L. ,
48 c. (pending before the Legislature as this bill), the Director of the

1 Division of Pensions and Benefits in the Department of the
2 Treasury shall report to the Governor and, pursuant to section 2 of
3 P.L.1991, c.164 (C.52:14-19.1), to the Legislature on the feasibility
4 and consequences of creating individual employer accounts within
5 the State-administered retirement systems.

6

7 7. This act shall take effect immediately.

8

9

10

STATEMENT

11

12 This bill provides for an adjustment in the contributions that
13 local employers must make to the Public Employees' Retirement
14 System (PERS) and the Police and Firemen's Retirement System
15 (PFRS) during State fiscal year 2009.

16 The PERS and PFRS, like the other State-administered
17 retirement systems, are funded on an actuarial reserve basis. An
18 actuary for each system annually projects that system's overall
19 liability for benefits to members, retirees and their beneficiaries.
20 The actuary then sets off against this projected liability the system's
21 assets on hand, and its anticipated income from such sources such
22 as return on investments and member contributions. The difference
23 constitutes the system's liability, which must be met through
24 employer contributions; these consist of a "normal contribution,"
25 covering the system's liability attributable to the service rendered by
26 covered employees during the year for which the contribution is
27 determined, and an "accrued liability contribution," covering the
28 system's unfunded liability for previous service. The two
29 contribution requirements are computed and certified to employers
30 as a percentage of total compensation.

31 In recognition of the enormous financial burden that full
32 payments of the PERS and PFRS contributions in State fiscal year
33 2009 will place on local property taxpayers and local budgets
34 during this historically difficult economic period for the State, this
35 bill provides that the State Treasurer will reduce for local employers
36 the normal and accrued liability contributions to 50 percent of the
37 amount certified annually by the PERS and PFRS for payments due
38 in State fiscal year 2009.

39 An employer that elects to pay the reduced normal and accrued
40 liability contribution must adopt a resolution, separate and apart
41 from other budget resolutions, stating that the employer needs to
42 pay the reduced contribution and providing an explanation of that
43 need which must include (1) a description of its inability to meet the
44 levy cap without jeopardizing public safety, health, and welfare or
45 without jeopardizing the fiscal stability of the employer, or (2) a
46 description of another condition that offsets the long term fiscal
47 impact of the payment of the reduced contribution. An employer
48 also must document those actions it has taken to reduce its

1 operating costs, or provide a description of relevant anticipated
2 circumstances that could have an impact on revenues or
3 expenditures. This resolution must be submitted to and approved
4 by the Local Finance Board after making a finding that these fiscal
5 conditions are valid and affirming the findings contained in the
6 employer resolution.

7 The bill provides that a local employer may pay 100 percent of
8 the required contribution. Such an employer will be credited with
9 the full payment and any such amounts will not be included in their
10 unfunded liability.

11 The actuaries for PERS and PFRS will determine the unfunded
12 liability of those retirement systems, by employer, for the reduced
13 normal and accrued liability contributions provided under the bill.
14 This unfunded liability will be paid by the employer in level annual
15 payments over a period of 15 years beginning with the payments
16 due in the State fiscal year ending June 30, 2012 and will be
17 adjusted by the rate of return on the actuarial value of assets.

18 The bill provides that for the respective fiscal year during which
19 a local public employers' pension contributions to the PERS and
20 PFRS is reduced, and for the year thereafter when the employers
21 would again be subject to the full contribution requirement, the
22 affected contribution payments will be exempt from the limits
23 imposed on increases to municipal appropriations set forth in
24 N.J.S.A.40A:4-45.3, the local budget "cap" law, and to the county
25 tax levy set forth in N.J.S.A.40A:4-45.4. The bill also amends
26 current law concerning the calculation of the tax levy growth
27 limitation for the purpose of an increase in the adjusted tax levy for
28 a school district, and the exclusions added to the calculation for the
29 adjusted tax levy for a local unit of government, to account for
30 certain normal and accrued liability pension contribution increases.

31 Finally, the bill requires the Director of the Division of Pensions
32 and Benefits in the Department of the Treasury to report to the
33 Governor and Legislature, within 180 days after its effective date,
34 on the feasibility and consequences of creating individual employer
35 accounts within the State-administered retirement systems.

36

37

38

39

40 Adjusts required local employer contributions to PERS and
41 PFRS for State fiscal year 2009.

SENATE, No. 21

STATE OF NEW JERSEY

213th LEGISLATURE

INTRODUCED MARCH 10, 2009

Sponsored by:

Senator RICHARD J. CODEY

District 27 (Essex)

Assemblyman JOSEPH J. ROBERTS, JR.

District 5 (Camden and Gloucester)

Assemblyman JOSEPH CRYAN

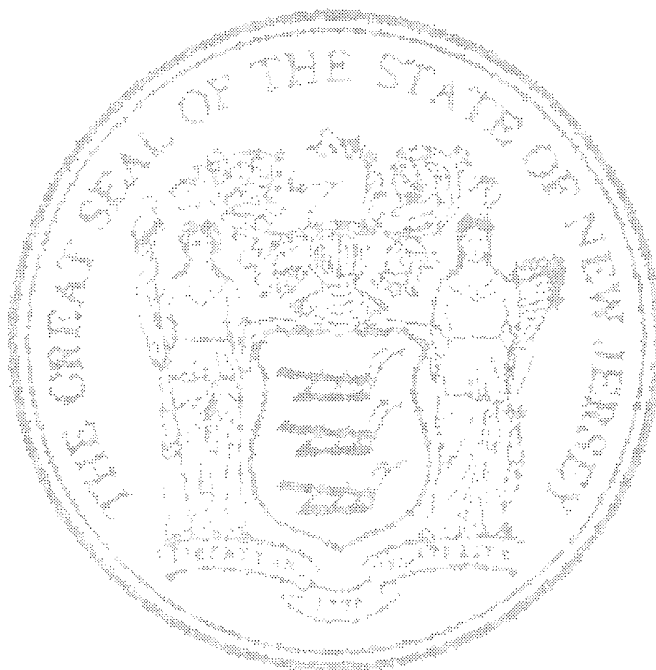
District 20 (Union)

SYNOPSIS

Adjusts required local employer contributions to PERS and PFRS for State fiscal year 2009.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/17/2009)

S21 CODEY

2

1 AN ACT concerning employer contributions to the Public Employees'
2 Retirement System and the Police and Firemen's Retirement
3 System, amending various parts of the statutory law and
4 supplementing P.L.1976, c.68 (C.40A:4-45.1 et seq.).
5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:
8

9 1. Section 24 of P.L.1954, c.84 (C.43:15A-24) is amended to
10 read as follows:

11 24. The contingent reserve fund shall be the fund in which shall
12 be credited contributions made by the State and other employers.

13 a. Upon the basis of the tables recommended by the actuary
14 which the board adopts and regular interest, the actuary shall
15 compute annually, beginning as of March 31, 1992, the amount of
16 contribution which shall be the normal cost as computed under the
17 projected unit credit method attributable to service rendered under
18 the retirement system for the year beginning on July 1 immediately
19 succeeding the date of the computation. This shall be known as the
20 "normal contribution."

21 b. With respect to employers other than the State, upon the
22 basis of the tables recommended by the actuary which the board
23 adopts and regular interest, the actuary shall compute the amount of
24 the accrued liability of the retirement system as of March 31, 1992
25 under the projected unit credit method, excluding the liability for
26 pension adjustment benefits for active employees funded pursuant
27 to section 2 of P.L.1990, c.6 (C.43:15A-24.1), which is not already
28 covered by the assets of the retirement system, valued in accordance
29 with the asset valuation method established in this section. Using
30 the total amount of this unfunded accrued liability, the actuary shall
31 compute the initial amount of contribution which, if the
32 contribution is increased at a specific rate and paid annually for a
33 specific period of time, will amortize this liability. The State
34 Treasurer shall determine, upon the advice of the Director of the
35 Division of Pensions and Benefits, the board of trustees and the
36 actuary, the rate of increase for the contribution and the time period
37 for full funding of this liability, which shall not exceed 40 years on
38 initial application of this section as amended by this act, P.L.1994,
39 c.62. This shall be known as the "accrued liability contribution."
40 Any increase or decrease in the unfunded accrued liability as a
41 result of actuarial losses or gains for the 10 valuation years
42 following valuation year 1992 shall serve to increase or decrease,
43 respectively, the unfunded accrued liability contribution.
44 Thereafter, any increase or decrease in the unfunded accrued
45 liability as a result of actuarial losses or gains for subsequent

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

S21 CODEY

1 valuation years shall serve to increase or decrease, respectively, the
2 amortization period for the unfunded accrued liability, unless an
3 increase in the amortization period will cause it to exceed 30 years.
4 If an increase in the amortization period as a result of actuarial
5 losses for a valuation year would exceed 30 years, the accrued
6 liability contribution shall be computed for the valuation year in the
7 same manner provided for the computation of the initial accrued
8 liability contribution under this section.

9 With respect to the State, upon the basis of the tables
10 recommended by the actuary which the commission adopts and
11 regular interest, the actuary shall annually determine if there is an
12 amount of the accrued liability of the retirement system, computed
13 under the projected unit credit method, which is not already covered
14 by the assets of the retirement system, valued in accordance with
15 the asset valuation method established in this section. This shall be
16 known as the "unfunded accrued liability." If there was no
17 unfunded accrued liability for the valuation period immediately
18 preceding the current valuation period, the actuary, using the total
19 amount of this unfunded accrued liability, shall compute the initial
20 amount of contribution which, if the contribution is increased at a
21 specific rate and paid annually for a specific period of time, will
22 amortize this liability. The State Treasurer shall determine, upon
23 the advice of the Director of the Division of Pensions and Benefits,
24 the commission and the actuary, the rate of increase for the
25 contribution and the time period for full funding of this liability,
26 which shall not exceed 30 years. This shall be known as the
27 "accrued liability contribution." Thereafter, any increase or
28 decrease in the unfunded accrued liability as a result of actuarial
29 losses or gains for subsequent valuation years shall serve to increase
30 or decrease, respectively, the amortization period for the unfunded
31 accrued liability, unless an increase in the amortization period will
32 cause it to exceed 30 years. If an increase in the amortization
33 period as a result of actuarial losses for a valuation year would
34 exceed 30 years, the accrued liability contribution shall be
35 computed for the valuation year in the same manner provided for
36 the computation of the initial accrued liability contribution under
37 this section. The State may pay all or any portion of its unfunded
38 accrued liability under the retirement system from any source of
39 funds legally available for the purpose, including, without
40 limitation, the proceeds of bonds authorized by law for this purpose.

41 The value of the assets to be used in the computation of the
42 contributions provided for under this section for valuation periods
43 shall be the value of the assets for the preceding valuation period
44 increased by the regular interest rate, plus the net cash flow for the
45 valuation period (the difference between the benefits and expenses
46 paid by the system and the contributions to the system) increased by
47 one half of the regular interest rate, plus 20% of the difference
48 between this expected value and the full market value of the assets

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1 as of the end of the valuation period. This shall be known as the
2 "valuation assets." Notwithstanding the first sentence of this
3 paragraph, the valuation assets for the valuation period ending
4 March 31, 1996 shall be the full market value of the assets as of that
5 date and, with respect to the valuation assets allocated to the State,
6 shall include the proceeds from the bonds issued pursuant to the
7 "Pension Bond Financing Act of 1997," P.L.1997, c.114 (C.34:1B-
8 7.45 et seq.), paid to the system by the New Jersey Economic
9 Development Authority to fund the unfunded accrued liability of
10 the system. Notwithstanding the first sentence of this paragraph,
11 the valuation assets for the valuation period ending June 30, 1999
12 shall be the full market value of the assets as of that date.

13 "Excess valuation assets" for a valuation period means, with
14 respect to the valuation assets allocated to the State:

- 15 (1) the valuation assets allocated to the State; less
- 16 (2) the actuarial accrued liability of the State for basic benefits
17 and pension adjustment benefits under the retirement system; less
- 18 (3) the contributory group insurance premium fund, created by
19 section 4 of P.L.1955, c.214 (C.43:15A-91), as amended by section
20 4 of P.L.1960, c.79; less
- 21 (4) the post retirement medical premium fund, created pursuant
22 to section 2 of P.L.1990, c.6 (C.43:15A-24.1), as amended by
23 section 8 of P.L.1994, c.62; less
- 24 (5) the present value of the projected total normal cost for
25 pension adjustment benefits in excess of the projected total phased-
26 in normal cost for pension adjustment benefits for the State
27 authorized by section 2 of P.L.1990, c.6 (C.43:15A-24.1) over the
28 full phase-in period, determined in the manner prescribed for the
29 determination and amortization of the unfunded accrued liability of
30 the system, if the sum of the foregoing items is greater than zero.

31 "Excess valuation assets" for a valuation period means, with
32 respect to the valuation assets allocated to other employers:

- 33 (1) the valuation assets allocated to the other employers; less
- 34 (2) the actuarial accrued liability of the other employers for
35 basic benefits and pension adjustment benefits under the retirement
36 system, excluding the unfunded accrued liability for early
37 retirement incentive benefits pursuant to P.L.1991, c.229, P.L.1991,
38 c.230, P.L.1993, c.138, and P.L.1993, c.181, for employers other
39 than the State; less
- 40 (3) the contributory group insurance premium fund, created by
41 section 4 of P.L.1955, c.214 (C.43:15A-91), as amended by section
42 4 of P.L.1960, c.79; less
- 43 (4) the present value of the projected total normal cost for
44 pension adjustment benefits in excess of the projected total phased-
45 in normal cost for pension adjustment benefits for the other
46 employers authorized by section 2 of P.L.1990, c.6 (C.43:15A-24.1)
47 over the full phase-in period, determined in the manner prescribed
48 for the determination and amortization of the unfunded accrued

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1 liability of the system, if the sum of the foregoing items is greater
2 than zero.

3 If there are excess valuation assets allocated to the State or to the
4 other employers for the valuation period ending March 31, 1996,
5 the normal contributions payable by the State or by the other
6 employers for the valuation periods ending March 31, 1996 and
7 March 31, 1997 which have not yet been paid to the retirement
8 system shall be reduced to the extent possible by the excess
9 valuation assets allocated to the State or to the other employers,
10 respectively, provided that with respect to the excess valuation
11 assets allocated to the State, the General Fund balances that would
12 have been paid to the retirement system except for this provision
13 shall first be allocated as State aid to public schools to the extent
14 that additional sums are required to comply with the May 14, 1997
15 decision of the New Jersey Supreme Court in *Abbott v. Burke*. If
16 there are excess valuation assets allocated to the State or to the
17 other employers for a valuation period ending after March 31, 1996,
18 the State Treasurer may reduce the normal contribution payable by
19 the State or by the other employers for the next valuation period as
20 follows:

21 (1) for valuation periods ending March 31, 1997 through March
22 31, 2001, to the extent possible by up to 100% of the excess
23 valuation assets allocated to the State or to the other employers,
24 respectively;

25 (2) for the valuation period ending March 31, 2002, to the extent
26 possible by up to 84% of the excess valuation assets allocated to the
27 State or to the other employers, respectively;

28 (3) for the valuation period ending March 31, 2003, to the extent
29 possible by up to 68% of the excess valuation assets allocated to the
30 State or to the other employers, respectively; and

31 (4) for valuation periods ending March 31, 2004 through June
32 30, 2007, to the extent possible by up to 50% of the excess
33 valuation assets allocated to the State or to the other employers,
34 respectively.

35 For calendar years 1998 and 1999, the rate of contribution of
36 members of the retirement system under section 25 of P.L.1954,
37 c.84 (C.43:15A-25) shall be reduced by 1/2 of 1% from excess
38 valuation assets and for calendar years 2000 and 2001, the rate of
39 contribution shall be reduced by 2% from excess valuation assets.
40 Thereafter, through calendar year 2007, the rate of contribution of
41 members of the retirement system under that section for a calendar
42 year shall be reduced equally with normal contributions to the
43 extent possible, but not by more than 2%, from excess valuation
44 assets if the State Treasurer determines that excess valuation assets
45 shall be used to reduce normal contributions by the State and local
46 employers for the fiscal year beginning immediately prior to the
47 calendar year, or for the calendar year for local employers whose
48 fiscal year is the calendar year, and excess valuation assets above

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1 the amount necessary to fund the reduction for that calendar year in
2 the member contribution rate plus an equal reduction in the normal
3 contribution shall be available for the further reduction of normal
4 contributions, subject to the limitations prescribed by this
5 subsection.

6 If there are excess valuation assets after reductions in normal
7 contributions and member contributions as authorized in the
8 preceding paragraphs for a valuation period beginning with the
9 valuation period ending June 30, 1999, an amount of excess
10 valuation assets not to exceed the amount of the member
11 contributions for the fiscal year in which the normal contributions
12 are payable shall be credited to the benefit enhancement fund. The
13 amount of excess valuation assets credited to the benefit
14 enhancement fund shall not exceed the present value of the
15 expected additional normal contributions attributable to the
16 provisions of P.L.2001, c.133 payable on behalf of the active
17 members over the expected working lives of the active members in
18 accordance with the tables of actuarial assumptions for the
19 valuation period. No additional excess valuation assets shall be
20 credited to the benefit enhancement fund after the maximum
21 amount is attained. Interest shall be credited to the benefit
22 enhancement fund as provided under section 33 of P.L.1954, c.84
23 (C.43:15A-33).

24 The normal contribution for the increased benefits for active
25 employees under P.L.2001, c.133 shall be paid from the benefit
26 enhancement fund. If assets in the benefit enhancement fund are
27 insufficient to pay the normal contribution for the increased benefits
28 for a valuation period, the State shall pay the amount of normal
29 contribution for the increased benefits not covered by assets from
30 the benefit enhancement fund.

31 c. The retirement system shall certify annually the aggregate
32 amount payable to the contingent reserve fund in the ensuing year,
33 which amount shall be equal to the sum of the amounts described in
34 this section.

35 The State Treasurer shall reduce the normal and accrued liability
36 contributions payable by employers other than the State, excluding
37 the contribution payable from the benefit enhancement fund, to a
38 percentage of the amount certified annually by the retirement
39 system, which percentage shall be: for payments due in the State
40 fiscal year ending June 30, 2005, 20%; for payments due in the
41 State fiscal year ending June 30, 2006, not more than 40%; for
42 payments due in the State fiscal year ending June 30, 2007, not
43 more than 60%; and for payments due in the State fiscal year ending
44 June 30, 2008, not more than 80%.

45 The State Treasurer shall reduce the normal and accrued liability
46 contributions payable by employers other than the State, excluding
47 the contribution payable from the benefit enhancement fund, to 50
48 percent of the amount certified annually by the retirement system.

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1 for payments due in the State fiscal year ending June 30, 2009. An
2 employer that elects to pay the reduced normal and accrued liability
3 contribution shall adopt a resolution, separate and apart from other
4 budget resolutions, stating that the employer needs to pay the
5 reduced contribution and providing an explanation of that need
6 which shall include (1) a description of its inability to meet the levy
7 cap without jeopardizing public safety, health, and welfare or
8 without jeopardizing the fiscal stability of the employer, or (2) a
9 description of another condition that offsets the long term fiscal
10 impact of the payment of the reduced contribution. An employer
11 also shall document those actions it has taken to reduce its
12 operating costs, or provide a description of relevant anticipated
13 circumstances that could have an impact on revenues or
14 expenditures. This resolution shall be submitted to and approved by
15 the Local Finance Board after making a finding that these fiscal
16 conditions are valid and affirming the findings contained in the
17 employer resolution.

18 An employer that elects to pay 100 percent of the amount
19 certified by the retirement system for State fiscal year ending June
20 30, 2009 shall be credited with such payment and any such amounts
21 shall not be included in the employer's unfunded liability.

22 The actuaries for the retirement system shall determine the
23 unfunded liability of the retirement system, by employer, for the
24 reduced normal and accrued liability contributions provided under
25 P.L. , c. (pending before the Legislature as this bill). This
26 unfunded liability shall be paid by the employer in level annual
27 payments over a period of 15 years beginning with the payments
28 due in the State fiscal year ending June 30, 2012 and shall be
29 adjusted by the rate of return on the actuarial value of assets.

30 The retirement system shall annually certify to each employer the
31 contributions due to the contingent reserve fund for the liability
32 under P.L. , c. (pending before the Legislature as this bill). The
33 contributions certified by the retirement system shall be paid by the
34 employer to the retirement system on or before the date prescribed
35 by law for payment of employer contributions for basic retirement
36 benefits. If payment of the full amount of the contribution certified
37 is not made within 30 days after the last date for payment of
38 employer contributions for basic retirement benefits, interest at the
39 rate of 10% per year shall be assessed against the unpaid balance on
40 the first day after the thirtieth day.

41 The State shall pay into the contingent reserve fund during the
42 ensuing year the amount so determined. The death benefits,
43 payable as a result of contribution by the State under the provisions
44 of this chapter upon the death of an active or retired member, shall
45 be paid from the contingent reserve fund.

46 d. The disbursements for benefits not covered by reserves in
47 the system on account of veterans shall be met by direct

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1 contributions of the State and other employers.

2 (cf: P.L.2007, c.92, s.26)

3

4 2. Section 15 of P.L.1944, c.255 (C.43:16A-15) is amended to
5 read as follows:

6 15. (1) The contributions required for the support of the
7 retirement system shall be made by members and their employers.

8 (2) The uniform percentage contribution rate for members shall
9 be 8.5% of compensation.

10 (3) (Deleted by amendment, P.L.1989, c.204).

11 (4) Upon the basis of the tables recommended by the actuary
12 which the board adopts and regular interest, the actuary shall
13 compute annually, beginning as of June 30, 1991, the amount of
14 contribution which shall be the normal cost as computed under the
15 projected unit credit method attributable to service rendered under
16 the retirement system for the year beginning on July 1 immediately
17 succeeding the date of the computation. This shall be known as the
18 "normal contribution."

19 (5) (Deleted by amendment, P.L.1989, c.204).

20 (6) (Deleted by amendment, P.L.1994, c.62.)

21 (7) Each employer shall cause to be deducted from the salary of
22 each member the percentage of earnable compensation prescribed in
23 subsection (2) of this section. To facilitate the making of
24 deductions, the retirement system may modify the amount of
25 deduction required of any member by an amount not to exceed 1/10
26 of 1% of the compensation upon which the deduction is based.

27 (8) The deductions provided for herein shall be made
28 notwithstanding that the minimum salary provided for by law for
29 any member shall be reduced thereby. Every member shall be
30 deemed to consent and agree to the deductions made and provided
31 for herein, and payment of salary or compensation less said
32 deduction shall be a full and complete discharge and acquittance of
33 all claims and demands whatsoever for the service rendered by such
34 person during the period covered by such payment, except as to the
35 benefits provided under this act. The chief fiscal officer of each
36 employer shall certify to the retirement system in such manner as
37 the retirement system may prescribe, the amounts deducted; and
38 when deducted shall be paid into said annuity savings fund, and
39 shall be credited to the individual account of the member from
40 whose salary said deduction was made.

41 (9) With respect to employers other than the State, upon the
42 basis of the tables recommended by the actuary which the board
43 adopts and regular interest, the actuary shall compute the amount of
44 the accrued liability as of June 30, 1991 under the projected unit
45 credit method, which is not already covered by the assets of the
46 retirement system, valued in accordance with the asset valuation
47 method established in this section. Using the total amount of this
48 unfunded accrued liability, the actuary shall compute the initial

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1 amount of contribution which, if the contribution is increased at a
2 specific rate and paid annually for a specific period of time, will
3 amortize this liability. The State Treasurer shall determine, upon
4 the advice of the Director of the Division of Pensions and Benefits,
5 the board of trustees and the actuary, the rate of increase for the
6 contribution and the time period for full funding of this liability,
7 which shall not exceed 40 years on initial application of this section
8 as amended by this act, P.L.1994, c.62. This shall be known as the
9 "accrued liability contribution." Any increase or decrease in the
10 unfunded accrued liability as a result of actuarial losses or gains for
11 the 10 valuation years following valuation year 1991 shall serve to
12 increase or decrease, respectively, the unfunded accrued liability
13 contribution. Thereafter, any increase or decrease in the unfunded
14 accrued liability as a result of actuarial losses or gains for
15 subsequent valuation years shall serve to increase or decrease,
16 respectively, the amortization period for the unfunded accrued
17 liability, unless an increase in the amortization period will cause it
18 to exceed 30 years. If an increase in the amortization period as a
19 result of actuarial losses for a valuation year would exceed 30 years,
20 the accrued liability contribution shall be computed for the
21 valuation year in the same manner provided for the computation of
22 the initial accrued liability contribution under this section.

23 With respect to the State, upon the basis of the tables
24 recommended by the actuary which the board adopts and regular
25 interest, the actuary shall annually determine if there is an amount
26 of the accrued liability, computed under the projected unit credit
27 method, which is not already covered by the assets of the retirement
28 system, valued in accordance with the asset valuation method
29 established in this section. This shall be known as the "unfunded
30 accrued liability." If there was no unfunded accrued liability for the
31 valuation period immediately preceding the current valuation
32 period, the actuary, using the total amount of this unfunded accrued
33 liability, shall compute the initial amount of contribution which, if
34 the contribution is increased at a specific rate and paid annually for
35 a specific period of time, will amortize this liability. The State
36 Treasurer shall determine, upon the advice of the Director of the
37 Division of Pensions and Benefits, the board of trustees and the
38 actuary, the rate of increase for the contribution and the time period
39 for full funding of this liability, which shall not exceed 30 years.
40 This shall be known as the "accrued liability contribution."
41 Thereafter, any increase or decrease in the unfunded accrued
42 liability as a result of actuarial losses or gains for subsequent
43 valuation years shall serve to increase or decrease, respectively, the
44 amortization period for the unfunded accrued liability, unless an
45 increase in the amortization period will cause it to exceed 30 years.
46 If an increase in the amortization period as a result of actuarial
47 losses for a valuation year would exceed 30 years, the accrued
48 liability contribution shall be computed for the valuation year in the

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1 same manner provided for the computation of the initial accrued
2 liability contribution under this section. The State may pay all or
3 any portion of its unfunded accrued liability under the retirement
4 system from any source of funds legally available for the purpose,
5 including, without limitation, the proceeds of bonds authorized by
6 law for this purpose.

7 The value of the assets to be used in the computation of the
8 contributions provided for under this section for valuation periods
9 shall be the value of the assets for the preceding valuation period
10 increased by the regular interest rate, plus the net cash flow for the
11 valuation period (the difference between the benefits and expenses
12 paid by the system and the contributions to the system) increased by
13 one half of the regular interest rate, plus 20% of the difference
14 between this expected value and the full market value of the assets
15 as of the end of the valuation period. This shall be known as the
16 "valuation assets." Notwithstanding the first sentence of this
17 paragraph, the valuation assets for the valuation period ending June
18 30, 1995 shall be the full market value of the assets as of that date
19 and, with respect to the valuation assets allocated to the State, shall
20 include the proceeds from the bonds issued pursuant to the "Pension
21 Bond Financing Act of 1997," P.L.1997, c.114 (C.34:1B-7.45 et
22 seq.), paid to the system by the New Jersey Economic Development
23 Authority to fund the unfunded accrued liability of the system.
24 Notwithstanding the first sentence of this paragraph, the percentage
25 of the difference between the expected value and the full market
26 value of the assets to be added to the expected value of the assets
27 for the valuation period ending June 30, 1998 for the State shall be
28 100% and for other employers shall be 57% plus such additional
29 percentage as is equivalent to \$150,000,000. Notwithstanding the
30 first sentence of this paragraph, the amount of the difference
31 between the expected value and the full market value of the assets
32 to be added to the expected value of the assets for the valuation
33 period ending June 30, 1999 shall include an additional amount of
34 the market value of the assets sufficient to fund (1) the unfunded
35 accrued liability for the supplementary "special retirement"
36 allowances provided under subsection b. of section 16 of P.L.1964,
37 c.241 (C.43:16A-11.1) and (2) the unfunded accrued liability for the
38 full credit toward benefits under the retirement system for service
39 credited in the Public Employees' Retirement System and
40 transferred pursuant to section 1 of P.L.1993, c.247 (C.43:16A-3.8)
41 and the reimbursement of the cost of any credit purchase pursuant
42 to section 3 of P.L.1993, c.247 (C.43:16A-3.10) provided under
43 section 1 of P.L.2001, c.201 (C.43:16A-3.14).

44 "Excess valuation assets" means, with respect to the valuation
45 assets allocated to the State, the valuation assets allocated to the
46 State for a valuation period less the actuarial accrued liability of the
47 State for the valuation period, and beginning with the valuation
48 period ending June 30, 1998, less the present value of the expected

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1 additional normal cost contributions attributable to the provisions of
2 P.L.1999, c.428 (C.43:16A-15.8 et al.) payable on behalf of the
3 active members employed by the State as of the valuation period
4 over the expected working lives of the active members in
5 accordance with the tables of actuarial assumptions applicable to
6 the valuation period, and less the present value of the expected
7 additional normal cost contributions attributable to the provisions of
8 P.L.2003, c.108 as amending section 16 of P.L.1964, c.241
9 (C.43:16A-11.1) payable on behalf of the active members employed
10 by the State as of the valuation period over the expected working
11 lives of the active members in accordance with the tables of
12 actuarial assumptions applicable to the valuation period, if the sum
13 is greater than zero. "Excess valuation assets" means, with respect
14 to the valuation assets allocated to other employers, the valuation
15 assets allocated to the other employers for a valuation period less
16 the actuarial accrued liability of the other employers for the
17 valuation period, excluding the unfunded accrued liability for early
18 retirement incentive benefits pursuant to P.L.1993, c.99 for the
19 other employers, and beginning with the valuation period ending
20 June 30, 1998, less the present value of the expected additional
21 normal cost contributions attributable to the provisions of P.L.1999,
22 c.428 (C.43:16A-15.8 et al.) payable on behalf of the active
23 members employed by other employers as of the valuation period
24 over the expected working lives of the active members in
25 accordance with the tables of actuarial assumptions applicable to
26 the valuation period, and less the present value of the expected
27 additional normal cost contributions attributable to the provisions of
28 P.L.2003, c.108 as amending section 16 of P.L.1964, c.241
29 (C.43:16A-11.1) payable on behalf of the active members employed
30 by other employers as of the valuation period over the expected
31 working lives of the active members in accordance with the tables
32 of actuarial assumptions applicable to the valuation period, if the
33 sum is greater than zero.

34 If there are excess valuation assets allocated to the State or to
35 the other employers for the valuation period ending June 30, 1995,
36 the normal contributions payable by the State or by the other
37 employers for the valuation periods ending June 30, 1995, and June
38 30, 1996 which have not yet been paid to the retirement system
39 shall be reduced to the extent possible by the excess valuation
40 assets allocated to the State or to the other employers, respectively,
41 provided that with respect to the excess valuation assets allocated to
42 the State, the General Fund balances that would have been paid to
43 the retirement system except for this provision shall first be
44 allocated as State aid to public schools to the extent that additional
45 sums are required to comply with the May 14, 1997 decision of the
46 New Jersey Supreme Court in *Abbott v. Burke*.

47 If there are excess valuation assets allocated to the other
48 employers for the valuation period ending June 30, 1998, the

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1 accrued liability contributions payable by the other employers for
2 the valuation period ending June 30, 1997 shall be reduced to the
3 extent possible by the excess valuation assets allocated to the other
4 employers.

5 If there are excess valuation assets allocated to the State or to the
6 other employers for a valuation period ending after June 30, 1998,
7 the State Treasurer may reduce the normal contribution payable by
8 the State or by other employers for the next valuation period as
9 follows:

10 (1) for valuation periods ending June 30, 1996 through June 30,
11 2000, to the extent possible by up to 100% of the excess valuation
12 assets allocated to the State or to the other employers, respectively;

13 (2) for the valuation period ending June 30, 2001, to the extent
14 possible by up to 84% of the excess valuation assets allocated to the
15 State or to the other employers, respectively;

16 (3) for the valuation period ending June 30, 2002, to the extent
17 possible by up to 68% of the excess valuation assets allocated to the
18 State or to the other employers, respectively; and

19 (4) for valuation periods ending June 30, 2003 through June 30,
20 2007, to the extent possible by up to 50% of the excess valuation
21 assets allocated to the State or to the other employers, respectively.

22 Notwithstanding the discretion provided to the State Treasurer in
23 the previous paragraph to reduce the amount of the normal
24 contribution payable by employers other than the State, the State
25 Treasurer shall reduce the amount of the normal contribution
26 payable by employers other than the State by \$150,000,000 in the
27 aggregate for the valuation period ending June 30, 1998, and then
28 the State Treasurer may reduce further pursuant to the provisions of
29 the previous paragraph the normal contribution payable by such
30 employers for that valuation period.

31 As of the valuation report in which the funded level is in excess
32 of 104%, an amount equal to the present value of the future normal
33 contributions for the benefits provided by P.L.2003, c.108 as
34 amending section 16 of P.L.1964, c.241 (C.43:16A-11.1), shall be
35 credited to the benefit enhancement fund. If there are excess
36 valuation assets after reductions in normal contributions as
37 authorized in the preceding paragraphs, for a valuation period
38 beginning with the valuation period in which the benefits provided
39 by section 16 of P.L.1964, c.241 (C.43:16A-11.1), as amended by
40 P.L.2003, c.108 apply, an amount of excess valuation assets not to
41 exceed the amount of the member contributions for the fiscal year
42 in which the normal contributions are payable shall be credited to
43 the benefit enhancement fund. The amount of excess valuation
44 assets credited to the benefit enhancement fund shall not exceed the
45 present value of the expected additional normal and accrued
46 liability contributions attributable to the provisions of section 16 of
47 P.L.1964, c.241 (C.43:16A-11.1), as amended by P.L.2003, c.108,
48 payable on behalf of the active members over the expected working

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1 lives of the active members in accordance with the tables of
2 actuarial assumptions for the valuation period. No additional
3 excess valuation assets shall be credited to the benefit enhancement
4 fund after the maximum amount is attained. Interest shall be
5 credited to the benefit enhancement fund.

6 The normal and accrued liability contributions for the increased
7 benefits for active employees under section 16 of P.L.1964, c.241
8 (C.43:16A-11.1), as amended by P.L.2003, c.108, shall be paid
9 from the benefit enhancement fund. If assets in the benefit
10 enhancement fund are insufficient to pay the normal and accrued
11 liability contributions for the increased benefits for a valuation
12 period, the retirement system shall pay the amount of normal and
13 accrued liability contributions for the increased benefits not covered
14 by assets from the benefit enhancement fund.

15 The normal and accrued liability contributions shall be certified
16 annually by the retirement system and shall be included in the
17 budget of the employer and levied and collected in the same manner
18 as any other taxes are levied and collected for the payment of the
19 salaries of members.

20 Notwithstanding the preceding sentence, the normal and accrued
21 liability contributions to be included in the budget of and paid by
22 the employer other than the State shall be as follows: for the
23 payment due in the State fiscal year ending on June 30, 2004, 20%
24 of the amount certified by the retirement system; for the payment
25 due in the State fiscal year ending on June 30, 2005, a percentage of
26 the amount certified by the retirement system as the State Treasurer
27 shall determine but not more than 40%; for the payment due in the
28 State fiscal year ending on June 30, 2006, a percentage of the
29 amount certified by the retirement system as the State Treasurer
30 shall determine but not more than 60%; and for the payment due in
31 the State fiscal year ending on June 30, 2007, a percentage of the
32 amount certified by the retirement system as the State Treasurer
33 shall determine but not more than 80%.

34 The State Treasurer shall reduce the normal and accrued liability
35 contributions payable by employers other than the State to 50
36 percent of the amount certified annually by the retirement system
37 for payments due in the State fiscal year ending June 30, 2009. An
38 employer that elects to pay the reduced normal and accrued liability
39 contribution shall adopt a resolution, separate and apart from other
40 budget resolutions, stating that the employer needs to pay the
41 reduced contribution and providing an explanation of that need
42 which shall include (1) a description of its inability to meet the levy
43 cap without jeopardizing public safety, health, and welfare or
44 without jeopardizing the fiscal stability of the employer, or (2) a
45 description of another condition that offsets the long term fiscal
46 impact of the payment of the reduced contribution. An employer
47 also shall document those actions it has taken to reduce its
48 operating costs, or provide a description of relevant anticipated

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1 circumstances that could have an impact on revenues or
2 expenditures. This resolution shall be submitted to and approved by
3 the Local Finance Board after making a finding that these fiscal
4 conditions are valid and affirming the findings contained in the
5 employer resolution.

6 An employer that elects to pay 100 percent of the amount
7 certified by the retirement system for State fiscal year ending June
8 30, 2009 shall be credited with such payment and any such amounts
9 shall not be included in the employer's unfunded liability.

10 The actuaries for the retirement system shall determine the
11 unfunded liability of the retirement system, by employer, for the
12 reduced normal and accrued liability contributions provided under
13 P.L. , c. (pending before the Legislature as this bill). This
14 unfunded liability shall be paid by the employer in level annual
15 payments over a period of 15 years beginning with the payments
16 due in the State fiscal year ending June 30, 2012 and shall be
17 adjusted by the rate of return on the actuarial value of assets.

18 The retirement system shall annually certify to each employer the
19 contributions due to the contingent reserve fund for the liability
20 under P.L. , c. (pending before the Legislature as this bill). The
21 contributions certified by the retirement system shall be paid by the
22 employer to the retirement system on or before the date prescribed
23 by law for payment of employer contributions for basic retirement
24 benefits. If payment of the full amount of the contribution certified
25 is not made within 30 days after the last date for payment of
26 employer contributions for basic retirement benefits, interest at the
27 rate of 10% per year shall be assessed against the unpaid balance on
28 the first day after the thirtieth day.

29 (10) The treasurer or corresponding officer of the employer shall
30 pay to the State Treasurer no later than April 1 of the State's fiscal
31 year in which payment is due the amount so certified as payable by
32 the employer, and shall pay monthly to the State Treasurer the
33 amount of the deductions from the salary of the members in the
34 employ of the employer, and the State Treasurer shall credit such
35 amount to the appropriate fund or funds, of the retirement system.

36 If payment of the full amount of the employer's obligation is not
37 made within 30 days of the due date established by this act, interest
38 at the rate of 10% per annum shall commence to run against the
39 unpaid balance thereof on the first day after such 30th day.

40 If payment in full, representing the monthly transmittal and
41 report of salary deductions, is not made within 15 days of the due
42 date established by the retirement system, interest at the rate of 10%
43 per annum shall commence to run against the total transmittal of
44 salary deductions for the period on the first day after such 15th day.

45 (11) The expenses of administration of the retirement system
46 shall be paid by the State of New Jersey. Each employer shall
47 reimburse the State for a proportionate share of the amount paid by
48 the State for administrative expense. This proportion shall be

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1 computed as the number of members under the jurisdiction of such
2 employer bears to the total number of members in the system. The
3 pro rata share of the cost of administrative expense shall be
4 included with the certification by the retirement system of the
5 employer's contribution to the system.

6 (12) Notwithstanding anything to the contrary, the retirement
7 system shall not be liable for the payment of any pension or other
8 benefits on account of the employees or beneficiaries of any
9 employer participating in the retirement system, for which reserves
10 have not been previously created from funds, contributed by such
11 employer or its employees for such benefits.

12 (13) (Deleted by amendment, P.L.1992, c.125.)

13 (14) Commencing with valuation year 1991, with payment to be
14 made in Fiscal Year 1994, the Legislature shall annually
15 appropriate and the State Treasurer shall pay into the pension
16 accumulation fund of the retirement system an amount equal to
17 1.1% of the compensation of the members of the system for the
18 valuation year to fund the benefits provided by section 16 of
19 P.L.1964, c.241 (C.43:16A-11.1), as amended by P.L.1979, c.109.

20 (15) If the valuation assets are insufficient to fund the normal
21 and accrued liability costs attributable to P.L.1999, c.428
22 (C.43:16A-15.8 et al.) as provided hereinabove, the normal and
23 unfunded accrued liability contributions required to fund these costs
24 for the State and other employers shall be paid by the State.

25 (16) The savings realized as a result of the amendments to this
26 section by P.L.2001, c.44 in the payment of normal contributions
27 computed by the actuary for the valuation periods ending June 30,
28 1998 for employers other than the State shall be used solely and
29 exclusively by a county or municipality for the purpose of reducing
30 the amount that is required to be raised by the local property tax
31 levy by the county for county purposes or by the municipality for
32 municipal purposes, as appropriate. The Director of the Division of
33 Local Government Services in the Department of Community
34 Affairs shall certify for each year that each county or municipality
35 has complied with the requirements set forth herein. If the director
36 finds that a county or municipality has not used the savings solely
37 and exclusively for the purpose of reducing the amount that is
38 required to be raised by the local property tax levy by the county for
39 county purposes or by the municipality for municipal purposes, as
40 appropriate, the director shall direct the county or municipal
41 governing body, as appropriate, to make corrections to its budget.

42 (cf: P.L.2007, c.92, s.23)

43

44 3. Section 3 of P.L.2007, c.62 (C.18A:7F-38) is amended to
45 read as follows:

46 3. a. (1) Notwithstanding the provisions of any other law to the
47 contrary, a school district shall not adopt a budget pursuant to
48 sections 5 and 6 of P.L.1996, c.138 (C.18A:7F-5 and 18A:7F-6)

1 with an increase in its adjusted tax levy that exceeds the tax levy
2 growth limitation calculated as follows: the sum of the prebudget
3 year adjusted tax levy and the adjustment for increases in
4 enrollment multiplied by four percent, and adjustments for a
5 reduction in total unrestricted State aid from the prebudget year, an
6 increase in health care costs, [and] beginning in the 2008-2009
7 school year, amounts approved by a waiver granted by the
8 commissioner pursuant to section 4 of P.L.2007, c.62 (C.18A:7F-
9 39), and, for the 2010-2011 school year, increases in amounts for
10 certain normal and accrued liability pension contributions set forth
11 in sections 1 and 2 of P.L. , c. (pending before the Legislature as
12 this bill) amending section 24 of P.L.1954, c.84 (C.43:15A-24) and
13 section 15 of P.L.1944, c.255 (C.43:16A-15) for the year set forth
14 in those sections.

15 (2) Notwithstanding any provision of paragraph (1) of this
16 subsection to the contrary, beginning in the 2008-2009 school year
17 the tax levy growth limitation for a district which is spending above
18 adequacy as determined pursuant to subsection d. of section 5 of
19 P.L.2007, c.260 (C.18A:7F-47) and has a prebudget year general
20 fund tax levy greater than its local share as calculated pursuant to
21 section 10 of that act and which receives an increase in State aid
22 between the prebudget and budget years that is greater than 2% or
23 the CPI, whichever is greater, shall be reduced by the amount of the
24 State aid increase that exceeds 2% or the CPI, whichever is greater.
25 For the purposes of this paragraph, the CPI shall not exceed 4%.
26 The reduction shall be made following the calculation of any
27 adjustments for increases in enrollment, a reduction in total
28 unrestricted State aid, [and] an increase in health care costs, and an
29 increase in the amount of the normal and accrued liability pension
30 contributions calculated pursuant to subsections b., c., and d. of this
31 section and prior to the request or approval of waivers pursuant to
32 section 4 of P.L.2007, c.62 (C.18A:7F-39). In the event that the
33 reduction would bring the district's spending below adequacy,
34 notwithstanding the requirements of this paragraph to the contrary
35 the amount of the reduction made to the district's tax levy growth
36 limitation shall not be greater than the amount that brings the
37 district's spending to adequacy.

38 b. (1) The allowable adjustment for increases in enrollment
39 authorized pursuant to subsection a. of this section shall equal the
40 per pupil prebudget year adjusted tax levy multiplied by EP, where
41 EP equals the sum of:

42 (a) 0.50 for each unit of weighted resident enrollment that
43 constitutes an increase from the prebudget year over 1%, but not
44 more than 2.5%;

45 (b) 0.75 for each unit of weighted resident enrollment that
46 constitutes an increase from the prebudget year over 2.5%, but not
47 more than 4%; and

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1 (c) 1.00 for each unit of weighted resident enrollment that
2 constitutes an increase from the prebudget year over 4%.

3 (2) A school district may request approval from the
4 commissioner to calculate EP equal to 1.00 for any increase in
5 weighted resident enrollment if it can demonstrate that the
6 calculation pursuant to paragraph (1) of this subsection would result
7 in an average class size that exceeds 10% above the facilities
8 efficiency standards established pursuant to P.L.2000, c.72
9 (C.18A:7G-1 et al.).

10 c. The allowable adjustment for a reduction in total
11 unrestricted State aid authorized pursuant to subsection a. of this
12 section shall equal any reduction in total unrestricted State aid from
13 the prebudget to the budget year.

14 d. (1) The allowable adjustment for increases in health care
15 costs authorized pursuant to subsection a. of this section shall equal
16 that portion of the actual increase in total health care costs for the
17 budget year, less any withdrawals from the current expense
18 emergency reserve account for increases in total health care costs,
19 that exceeds four percent of the total health care costs in the
20 prebudget year, but that is not in excess of the product of the total
21 health care costs in the prebudget year multiplied by the average
22 percentage increase of the State Health Benefits Program, P.L.1961,
23 c.49 (C.52:14-17.25 et seq.), as annually determined by the
24 Division of Pensions and Benefits in the Department of the
25 Treasury.

26 (2) The allowable adjustment for increases in the amount of
27 normal and accrued liability pension contributions authorized
28 pursuant to subsection a. of this section shall equal that portion of
29 the actual increase in total normal and accrued liability pension
30 contributions for the budget year that exceeds four percent of the
31 total normal and accrued liability pension contributions in the
32 prebudget year.

33 e. In addition to the adjustments authorized pursuant to
34 subsection a. of this section, for the purpose of determining a school
35 district's allowable tax levy growth limitation for the 2007-2008
36 school year, a school district may apply to the commissioner for an
37 adjustment for increases in special education costs over \$40,000 per
38 pupil, increases in tuition, capital outlay increases, and incremental
39 increases in costs for opening a new school facility in the budget
40 year.

41 (1) The allowable adjustment for increases in special education
42 costs over \$40,000 per pupil shall equal any increase in the sum of
43 per pupil amounts in excess of \$40,000 for the budget year less the
44 sum of per pupil amounts in excess of \$40,000 for the prebudget
45 year indexed by four percent.

46 (2) The allowable adjustment for increases in tuition shall equal
47 any increase in the tuition for the budget year charged to a sending
48 district by the receiving district pursuant to the provisions of

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1 N.J.S.18A:38-19 or charged by a county vocational school district
2 pursuant to the provisions of section 71 of P.L.1990, c.52
3 (C.18A:54-20.1) less 104 percent of the tuition for the prebudget
4 year charged to a sending district by the receiving district pursuant
5 to the provisions of N.J.S.18A:38-19 or charged by a county
6 vocational school district pursuant to the provisions of section 71 of
7 P.L.1990, c.52 (C.18A:54-20.1).

8 (3) The allowable adjustment for increases in capital outlay
9 shall equal any increase in capital outlay, less any withdrawals from
10 the capital reserve account, over the prebudget year in excess of
11 four percent.

12 f. The adjusted tax levy shall be increased or decreased
13 accordingly whenever the responsibility and associated cost of a
14 school district activity is transferred to another school district or
15 governmental entity.

16 (cf: P.L.2007, c.260, s.37)

17

18 4. Section 10 of P.L.2007, c.62 (C.40A:4-45.45) is amended to
19 read as follows:

20 10. a. In the preparation of its budget the amount to be raised by
21 taxation by a local unit shall not exceed the sum of new ratables, the
22 adjusted tax levy, and the total of waivers approved pursuant to
23 section 11 of P.L.2007, c.62 (C.40A:4-45.46); provided, however,
24 that in the case of a county, the amount to be raised by taxation
25 shall not exceed the amount permitted by section 4 of P.L.1976,
26 c.68 (C.40A:4-45.4).

27 b. The following exclusions shall be added to the calculation of
28 the adjusted tax levy:

29 (1) increases in amounts required to be raised for (a) all debt
30 service and (b) lease payments with county improvement authorities
31 pursuant to leases in effect on the effective date of P.L.2007, c.62
32 (C.18A:7F-37 et al.);

33 (2) increases in amounts required to be raised to replace State
34 formula aid due to a reduction in State formula aid from the
35 previous local budget year;

36 (3) increases in amounts for certain pension contributions set
37 forth in section 5 of P.L.2003, c.108 (C.40A:4-45.43) for the years
38 set forth in that section;

39 (4) with respect to municipalities, any increase, greater than four
40 percent, in the reserve for uncollected taxes that is required by law;

41 (5) increases in health care costs equal to that portion of the
42 actual increase in total health care costs for the budget year that is
43 in excess of four percent of the total health care costs in the prior
44 year, but is not in excess of the product of the total health care costs
45 in the prior year and the average percentage increase of the State
46 Health Benefits Program, P.L.1961, c.49 (C.52:14-17.25 et seq.), as
47 annually determined by the Division of Pensions and Benefits in the
48 Department of the Treasury;

1 (6) increases in amounts for certain normal and accrued liability
2 pension contributions set forth in sections 1 and 2 of P.L. _____,
3 c. (pending before the Legislature as this bill) amending section 24
4 of P.L.1954, c.84 (C.43:15A-24) and section 15 of P.L.1944, c.255
5 (C.43:16A-15) equal to that portion of the actual increase in normal
6 and accrued liability pension contributions for the budget year that
7 is in excess of four percent of the normal and accrued liability
8 pension contributions in the prior year.

9 **[(6)]** Notwithstanding the other provisions of this subsection,
10 when the appropriation for all debt service is less than the amount
11 appropriated for all debt service in the prior fiscal year, the amount
12 of the difference shall be deducted from the sum of the exclusions
13 listed in paragraphs (1) through **[(5)]** (6) of this subsection. If
14 there are no exclusions, then the amount of the difference shall
15 reduce the adjusted tax levy by that amount. Any cancelled or
16 unexpended appropriation for any exclusion pursuant to this
17 subsection or waiver pursuant to section 11 of P.L.2007, c.62
18 (C.40A:4-45.46), also shall be deducted from the sum of the
19 exclusions listed in paragraphs (1) through **[(5)]** (6) or directly
20 reduce the adjusted tax levy if there are no exclusions.
21 (cf: P.L.2007, c.62, s.10)

22
23 5. (New section) In addition to the exceptions to the limits on
24 increases to municipal appropriations set forth in section 3 of
25 P.L.1976, c.68 (C.40A:4-45.3) and to the county tax levy set forth
26 in section 4 of P.L.1976, c.68 (C.40A:4-45.4), appropriations that
27 represent expenditures made by a municipality or county for the
28 purpose of funding certain normal and accrued liability
29 contributions set forth in sections 1 and 2 of P.L. _____, c. (pending
30 before the Legislature as this bill) amending section 24 of P.L.1954,
31 c.84 (C.43:15A-24) and section 15 of P.L.1944, c.255 (C.43:16A-
32 15) due in the State fiscal year 2009-2010 shall be exempt from the
33 limits on increases to municipal appropriations and from the limits
34 on increases to the county tax levy in county budgets, respectively,
35 for the local budget year in which those contributions are due,
36 except that for local fiscal year 2009 the full normal and accrued
37 liability contributions to the Public Employees' Retirement System
38 shall be added to the allowable operating appropriations before
39 exceptions.

40
41 6. Within 180 days after the effective date of P.L. _____,
42 c. (pending before the Legislature as this bill), the Director of the
43 Division of Pensions and Benefits in the Department of the
44 Treasury shall report to the Governor and, pursuant to section 2 of
45 P.L.1991, c.164 (C.52:14-19.1), to the Legislature on the feasibility
46 and consequences of creating individual employer accounts within
47 the State-administered retirement systems.

1 7. This act shall take effect immediately.

2
3
4 SPONSOR'S STATEMENT
5

6 This bill provides for an adjustment in the contributions that
7 local employers must make to the Public Employees' Retirement
8 System (PERS) and the Police and Firemen's Retirement System
9 (PFRS) during State fiscal year 2009.

10 The PERS and PFRS, like the other State-administered
11 retirement systems, are funded on an actuarial reserve basis. An
12 actuary for each system annually projects that system's overall
13 liability for benefits to members, retirees and their beneficiaries.
14 The actuary then sets off against this projected liability the system's
15 assets on hand, and its anticipated income from such sources such
16 as return on investments and member contributions. The difference
17 constitutes the system's liability, which must be met through
18 employer contributions; these consist of a "normal contribution,"
19 covering the system's liability attributable to the service rendered by
20 covered employees during the year for which the contribution is
21 determined, and an "accrued liability contribution," covering the
22 system's unfunded liability for previous service. The two
23 contribution requirements are computed and certified to employers
24 as a percentage of total compensation.

25 In recognition of the enormous financial burden that full
26 payments of the PERS and PFRS contributions in State fiscal year
27 2009 will place on local property taxpayers and local budgets
28 during this historically difficult economic period for the State, this
29 bill provides that the State Treasurer will reduce for local employers
30 the normal and accrued liability contributions to 50 percent of the
31 amount certified annually by the PERS and PFRS for payments due
32 in State fiscal year 2009.

33 An employer that elects to pay the reduced normal and accrued
34 liability contribution must adopt a resolution, separate and apart
35 from other budget resolutions, stating that the employer needs to
36 pay the reduced contribution and providing an explanation of that
37 need which must include (1) a description of its inability to meet the
38 levy cap without jeopardizing public safety, health, and welfare or
39 without jeopardizing the fiscal stability of the employer, or (2) a
40 description of another condition that offsets the long term fiscal
41 impact of the payment of the reduced contribution. An employer
42 also must document those actions it has taken to reduce its
43 operating costs, or provide a description of relevant anticipated
44 circumstances that could have an impact on revenues or
45 expenditures. This resolution must be submitted to and approved
46 by the Local Finance Board after making a finding that these fiscal
47 conditions are valid and affirming the findings contained in the
48 employer resolution.

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1 The bill provides that a local employer may pay 100 percent of
2 the required contribution. Such an employer will be credited with
3 the full payment and any such amounts will not be included in their
4 unfunded liability.

5 The actuaries for PERS and PFRS will determine the unfunded
6 liability of those retirement systems, by employer, for the reduced
7 normal and accrued liability contributions provided under the bill.
8 This unfunded liability will be paid by the employer in level annual
9 payments over a period of 15 years beginning with the payments
10 due in the State fiscal year ending June 30, 2012 and will be
11 adjusted by the rate of return on the actuarial value of assets.

12 The bill provides that for the respective fiscal year during which
13 a local public employers' pension contributions to the PERS and
14 PFRS is reduced, and for the year thereafter when the employers
15 would again be subject to the full contribution requirement, the
16 affected contribution payments will be exempt from the limits
17 imposed on increases to municipal appropriations set forth in
18 N.J.S.A.40A:4-45.3, the local budget "cap" law, and to the county
19 tax levy set forth in N.J.S.A.40A:4-45.4. The bill also amends
20 current law concerning the calculation of the tax levy growth
21 limitation for the purpose of an increase in the adjusted tax levy for
22 a school district, and the exclusions added to the calculation for the
23 adjusted tax levy for a local unit of government, to account for
24 certain normal and accrued liability pension contribution increases.

25 Finally, the bill requires the Director of the Division of Pensions
26 and Benefits in the Department of the Treasury to report to the
27 Governor and Legislature, within 180 days after its effective date,
28 on the feasibility and consequences of creating individual employer
29 accounts within the State-administered retirement systems.

FISCAL NOTE
SENATE, No. 21
STATE OF NEW JERSEY
213th LEGISLATURE

DATED: MARCH 30, 2009

SUMMARY

Synopsis: Adjusts required local employer contributions to PERS and PFRS for State fiscal year 2009.

Type of Impact: Decrease in local government costs in State FY 2009. Increase in local government costs from State FY 2012 to FY 2026.

Agencies Affected: Department of the Treasury, Division of Pensions and Benefits; local government entities.

Executive Estimate

Fiscal Impact	FY 2009	FY 2012	FY 2013
Local Cost	-0-	up to \$56,491,255	up to \$54,450,847
Local Savings	up to \$584,347,865	-0-	-0-

- The Office of Legislative Services (OLS) **concurs** with the Executive Branch fiscal estimate.
- This bill provides for reductions in the contributions that local employers must make to the Public Employees' Retirement system (PERS) and the Police and Firemen's Retirement System (PFRS) during State fiscal year 2009 and requires those entities to pay the deferred amounts, with interest, over a 15-year period.
- If all local employers elect to defer 50 percent of the pension contributions to the PERS and PFRS in FY 2009, then the total reduction in contributions in PERS and PFRS will be \$584.3 million.
- The Division of Pensions and Benefits indicates that the estimate for the additional near term interest costs to pay for the reduction in contributions will be \$56.4 million beginning in FY 2012, \$54.4 million in FY 2013, and \$52.2 million in FY 2014.
- The OLS notes that repayment of the deferred contribution amounts will cost local governments \$0.65 in interest (present value) for every dollar in pension contributions deferred.

BILL DESCRIPTION

Senate Bill No. 21 of 2009 provides for an adjustment in the contributions that local employers must make to the PERS and the PFRS during State fiscal year 2009.

This bill provides that the State Treasurer will reduce for local employers the normal and accrued liability contributions to 50 percent of the amount certified annually by the PERS and PFRS for payments due in State fiscal year 2009.

An employer that elects to pay the reduced normal and accrued liability contribution must adopt a resolution, separate and apart from other budget resolutions, stating that the employer needs to pay the reduced contribution and providing an explanation of that need which must include (1) a description of its inability to meet the levy cap without jeopardizing public safety, health, and welfare or without jeopardizing the fiscal stability of the employer, or (2) a description of another condition that offsets the long term fiscal impact of the payment of the reduced contribution. An employer also must document those actions it has taken to reduce its operating costs, or provide a description of relevant anticipated circumstances that could have an impact on revenues or expenditures. This resolution must be submitted to and approved by the Local Finance Board after making a finding that these fiscal conditions are valid and affirming the findings contained in the employer resolution.

The bill provides that a local employer may pay 100 percent of the required contribution. Such an employer will be credited with the full payment and any such amounts will not be included in their unfunded liability.

The actuaries for PERS and PFRS will determine the unfunded liability of those retirement systems, by employer, for the reduced normal and accrued liability contributions provided under the bill. This unfunded liability will be paid by the employer in level annual payments over a period of 15 years beginning with the payments due in the State fiscal year ending June 30, 2012 and will be adjusted by the rate of return on the actuarial value of assets.

The bill provides that for the respective fiscal year during which a local public employers' pension contributions to the PERS and PFRS is reduced, and for the year thereafter when the employers would again be subject to the full contribution requirement, the affected contribution payments will be exempt from the limits imposed on increases to municipal appropriations set forth in N.J.S.A.40A:4-45.3, the local budget "cap" law, and to the county tax levy set forth in N.J.S.A.40A:4-45.4. The bill also amends current law concerning the calculation of the tax levy growth limitation for the purpose of an increase in the adjusted tax levy for a school district, and the exclusions added to the calculation for the adjusted tax levy for a local unit of government, to account for certain normal and accrued liability pension contribution increases.

FISCAL ANALYSIS

EXECUTIVE BRANCH

According to the Division of Pensions and Benefits, in the Department of the Treasury, this bill will reduce local employers' contributions to the PERS and the PFRS by a total of \$584.4 million in State FY 2009, assuming that all local employers choose to defer their FY 2009 payments, due April 1, 2009. All local employers who choose to participate are required to begin to payback the deferred FY 2009 principal amounts plus interest to PERS and PFRS beginning in FY 2012 with level payments at an assumed 8.25 percent interest rate over a 15 year period. The annual principal and interest repayment amount, beginning in FY 2012, if all local governments choose to participate, would be a combined \$81.2 million for a total

repayment amount of \$1.2 billion by FY 2026. The interest portion of the annual combined repayment amount, for all local employers, beginning in FY 2012 would be \$56.5 million, \$54.4 million in FY 2013, and \$52.2 million in FY 2014.

OFFICE OF LEGISLATIVE SERVICES

The OLS concurs with the Executive Branch fiscal estimate. The OLS notes that the maximum amount that can be deferred in State FY 2009 is \$584.4 million. While we do not know at this time how many local governments will choose to defer their FY 2009 pension contributions, for every dollar that is deferred, the local governments will have to pay an additional 65 cents (present value) in interest over 15 years. This bill requires that any local government that elects to defer their FY 2009 pension contributions must adopt a separate resolution justifying the fiscal necessity of deferring their payment, as specified. If a local employer chooses to pay 100 percent of the required contribution in FY 2009, that local employer will be credited with the full payment and any such amounts will not be included in their individual unfunded liability.

Section: State Government

*Analyst: Kimberly Anne McCord
Associate Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-1 et seq.).

ASSEMBLY, No. 3868

STATE OF NEW JERSEY

213th LEGISLATURE

INTRODUCED MARCH 12, 2009

Sponsored by:

Assemblyman JOSEPH J. ROBERTS, JR.

District 5 (Camden and Gloucester)

Assemblyman JOSEPH CRYAN

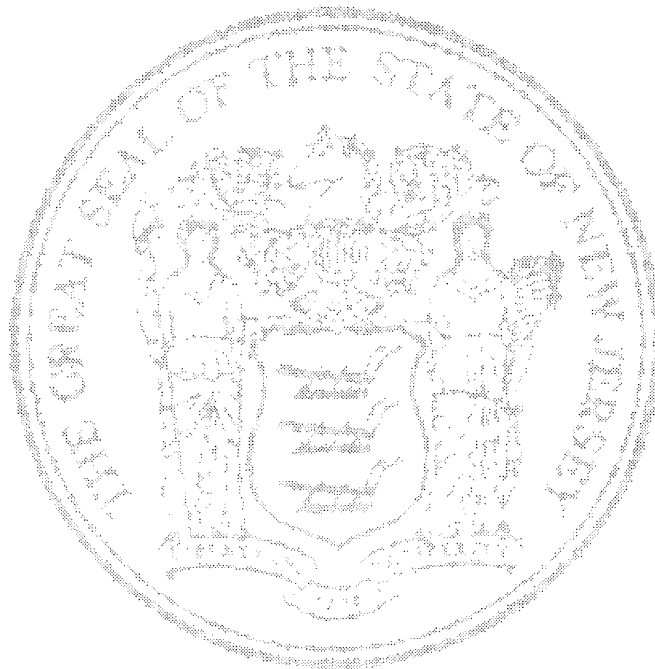
District 20 (Union)

SYNOPSIS

Adjusts required local employer contributions to PERS and PFRS for State fiscal year 2009.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/13/2009)

1 AN ACT concerning employer contributions to the Public Employees'
2 Retirement System and the Police and Firemen's Retirement
3 System, amending various parts of the statutory law and
4 supplementing P.L.1976, c.68 (C.40A:4-45.1 et seq.).
5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:
8

9 1. Section 24 of P.L.1954, c.84 (C.43:15A-24) is amended to
10 read as follows:

11 24. The contingent reserve fund shall be the fund in which shall
12 be credited contributions made by the State and other employers.

13 a. Upon the basis of the tables recommended by the actuary
14 which the board adopts and regular interest, the actuary shall
15 compute annually, beginning as of March 31, 1992, the amount of
16 contribution which shall be the normal cost as computed under the
17 projected unit credit method attributable to service rendered under
18 the retirement system for the year beginning on July 1 immediately
19 succeeding the date of the computation. This shall be known as the
20 "normal contribution."

21 b. With respect to employers other than the State, upon the
22 basis of the tables recommended by the actuary which the board
23 adopts and regular interest, the actuary shall compute the amount of
24 the accrued liability of the retirement system as of March 31, 1992
25 under the projected unit credit method, excluding the liability for
26 pension adjustment benefits for active employees funded pursuant
27 to section 2 of P.L.1990, c.6 (C.43:15A-24.1), which is not already
28 covered by the assets of the retirement system, valued in accordance
29 with the asset valuation method established in this section. Using
30 the total amount of this unfunded accrued liability, the actuary shall
31 compute the initial amount of contribution which, if the
32 contribution is increased at a specific rate and paid annually for a
33 specific period of time, will amortize this liability. The State
34 Treasurer shall determine, upon the advice of the Director of the
35 Division of Pensions and Benefits, the board of trustees and the
36 actuary, the rate of increase for the contribution and the time period
37 for full funding of this liability, which shall not exceed 40 years on
38 initial application of this section as amended by this act, P.L.1994,
39 c.62. This shall be known as the "accrued liability contribution."
40 Any increase or decrease in the unfunded accrued liability as a
41 result of actuarial losses or gains for the 10 valuation years
42 following valuation year 1992 shall serve to increase or decrease,
43 respectively, the unfunded accrued liability contribution.
44 Thereafter, any increase or decrease in the unfunded accrued
45 liability as a result of actuarial losses or gains for subsequent

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 valuation years shall serve to increase or decrease, respectively, the
2 amortization period for the unfunded accrued liability, unless an
3 increase in the amortization period will cause it to exceed 30 years.
4 If an increase in the amortization period as a result of actuarial
5 losses for a valuation year would exceed 30 years, the accrued
6 liability contribution shall be computed for the valuation year in the
7 same manner provided for the computation of the initial accrued
8 liability contribution under this section.

9 With respect to the State, upon the basis of the tables
10 recommended by the actuary which the commission adopts and
11 regular interest, the actuary shall annually determine if there is an
12 amount of the accrued liability of the retirement system, computed
13 under the projected unit credit method, which is not already covered
14 by the assets of the retirement system, valued in accordance with
15 the asset valuation method established in this section. This shall be
16 known as the "unfunded accrued liability." If there was no
17 unfunded accrued liability for the valuation period immediately
18 preceding the current valuation period, the actuary, using the total
19 amount of this unfunded accrued liability, shall compute the initial
20 amount of contribution which, if the contribution is increased at a
21 specific rate and paid annually for a specific period of time, will
22 amortize this liability. The State Treasurer shall determine, upon
23 the advice of the Director of the Division of Pensions and Benefits,
24 the commission and the actuary, the rate of increase for the
25 contribution and the time period for full funding of this liability,
26 which shall not exceed 30 years. This shall be known as the
27 "accrued liability contribution." Thereafter, any increase or
28 decrease in the unfunded accrued liability as a result of actuarial
29 losses or gains for subsequent valuation years shall serve to increase
30 or decrease, respectively, the amortization period for the unfunded
31 accrued liability, unless an increase in the amortization period will
32 cause it to exceed 30 years. If an increase in the amortization
33 period as a result of actuarial losses for a valuation year would
34 exceed 30 years, the accrued liability contribution shall be
35 computed for the valuation year in the same manner provided for
36 the computation of the initial accrued liability contribution under
37 this section. The State may pay all or any portion of its unfunded
38 accrued liability under the retirement system from any source of
39 funds legally available for the purpose, including, without
40 limitation, the proceeds of bonds authorized by law for this purpose.

41 The value of the assets to be used in the computation of the
42 contributions provided for under this section for valuation periods
43 shall be the value of the assets for the preceding valuation period
44 increased by the regular interest rate, plus the net cash flow for the
45 valuation period (the difference between the benefits and expenses
46 paid by the system and the contributions to the system) increased by
47 one half of the regular interest rate, plus 20% of the difference
48 between this expected value and the full market value of the assets

1 as of the end of the valuation period. This shall be known as the
2 "valuation assets." Notwithstanding the first sentence of this
3 paragraph, the valuation assets for the valuation period ending
4 March 31, 1996 shall be the full market value of the assets as of that
5 date and, with respect to the valuation assets allocated to the State,
6 shall include the proceeds from the bonds issued pursuant to the
7 "Pension Bond Financing Act of 1997," P.L.1997, c.114 (C.34:1B-
8 7.45 et seq.), paid to the system by the New Jersey Economic
9 Development Authority to fund the unfunded accrued liability of
10 the system. Notwithstanding the first sentence of this paragraph,
11 the valuation assets for the valuation period ending June 30, 1999
12 shall be the full market value of the assets as of that date.

13 "Excess valuation assets" for a valuation period means, with
14 respect to the valuation assets allocated to the State:

- 15 (1) the valuation assets allocated to the State; less
- 16 (2) the actuarial accrued liability of the State for basic benefits
17 and pension adjustment benefits under the retirement system; less
- 18 (3) the contributory group insurance premium fund, created by
19 section 4 of P.L.1955, c.214 (C.43:15A-91), as amended by section
20 4 of P.L.1960, c.79; less
- 21 (4) the post retirement medical premium fund, created pursuant
22 to section 2 of P.L.1990, c.6 (C.43:15A-24.1), as amended by
23 section 8 of P.L.1994, c.62; less
- 24 (5) the present value of the projected total normal cost for
25 pension adjustment benefits in excess of the projected total phased-
26 in normal cost for pension adjustment benefits for the State
27 authorized by section 2 of P.L.1990, c.6 (C.43:15A-24.1) over the
28 full phase-in period, determined in the manner prescribed for the
29 determination and amortization of the unfunded accrued liability of
30 the system, if the sum of the foregoing items is greater than zero.

31 "Excess valuation assets" for a valuation period means, with
32 respect to the valuation assets allocated to other employers:

- 33 (1) the valuation assets allocated to the other employers; less
- 34 (2) the actuarial accrued liability of the other employers for
35 basic benefits and pension adjustment benefits under the retirement
36 system, excluding the unfunded accrued liability for early
37 retirement incentive benefits pursuant to P.L.1991, c.229, P.L.1991,
38 c.230, P.L.1993, c.138, and P.L.1993, c.181, for employers other
39 than the State; less
- 40 (3) the contributory group insurance premium fund, created by
41 section 4 of P.L.1955, c.214 (C.43:15A-91), as amended by section
42 4 of P.L.1960, c.79; less
- 43 (4) the present value of the projected total normal cost for
44 pension adjustment benefits in excess of the projected total phased-
45 in normal cost for pension adjustment benefits for the other
46 employers authorized by section 2 of P.L.1990, c.6 (C.43:15A-24.1)
47 over the full phase-in period, determined in the manner prescribed
48 for the determination and amortization of the unfunded accrued

1 liability of the system, if the sum of the foregoing items is greater
2 than zero.

3 If there are excess valuation assets allocated to the State or to the
4 other employers for the valuation period ending March 31, 1996,
5 the normal contributions payable by the State or by the other
6 employers for the valuation periods ending March 31, 1996 and
7 March 31, 1997 which have not yet been paid to the retirement
8 system shall be reduced to the extent possible by the excess
9 valuation assets allocated to the State or to the other employers,
10 respectively, provided that with respect to the excess valuation
11 assets allocated to the State, the General Fund balances that would
12 have been paid to the retirement system except for this provision
13 shall first be allocated as State aid to public schools to the extent
14 that additional sums are required to comply with the May 14, 1997
15 decision of the New Jersey Supreme Court in *Abbott v. Burke*. If
16 there are excess valuation assets allocated to the State or to the
17 other employers for a valuation period ending after March 31, 1996,
18 the State Treasurer may reduce the normal contribution payable by
19 the State or by the other employers for the next valuation period as
20 follows:

21 (1) for valuation periods ending March 31, 1997 through March
22 31, 2001, to the extent possible by up to 100% of the excess
23 valuation assets allocated to the State or to the other employers,
24 respectively;

25 (2) for the valuation period ending March 31, 2002, to the extent
26 possible by up to 84% of the excess valuation assets allocated to the
27 State or to the other employers, respectively;

28 (3) for the valuation period ending March 31, 2003, to the extent
29 possible by up to 68% of the excess valuation assets allocated to the
30 State or to the other employers, respectively; and

31 (4) for valuation periods ending March 31, 2004 through June
32 30, 2007, to the extent possible by up to 50% of the excess
33 valuation assets allocated to the State or to the other employers,
34 respectively.

35 For calendar years 1998 and 1999, the rate of contribution of
36 members of the retirement system under section 25 of P.L.1954,
37 c.84 (C.43:15A-25) shall be reduced by 1/2 of 1% from excess
38 valuation assets and for calendar years 2000 and 2001, the rate of
39 contribution shall be reduced by 2% from excess valuation assets.
40 Thereafter, through calendar year 2007, the rate of contribution of
41 members of the retirement system under that section for a calendar
42 year shall be reduced equally with normal contributions to the
43 extent possible, but not by more than 2%, from excess valuation
44 assets if the State Treasurer determines that excess valuation assets
45 shall be used to reduce normal contributions by the State and local
46 employers for the fiscal year beginning immediately prior to the
47 calendar year, or for the calendar year for local employers whose
48 fiscal year is the calendar year, and excess valuation assets above

1 the amount necessary to fund the reduction for that calendar year in
2 the member contribution rate plus an equal reduction in the normal
3 contribution shall be available for the further reduction of normal
4 contributions, subject to the limitations prescribed by this
5 subsection.

6 If there are excess valuation assets after reductions in normal
7 contributions and member contributions as authorized in the
8 preceding paragraphs for a valuation period beginning with the
9 valuation period ending June 30, 1999, an amount of excess
10 valuation assets not to exceed the amount of the member
11 contributions for the fiscal year in which the normal contributions
12 are payable shall be credited to the benefit enhancement fund. The
13 amount of excess valuation assets credited to the benefit
14 enhancement fund shall not exceed the present value of the
15 expected additional normal contributions attributable to the
16 provisions of P.L.2001, c.133 payable on behalf of the active
17 members over the expected working lives of the active members in
18 accordance with the tables of actuarial assumptions for the
19 valuation period. No additional excess valuation assets shall be
20 credited to the benefit enhancement fund after the maximum
21 amount is attained. Interest shall be credited to the benefit
22 enhancement fund as provided under section 33 of P.L.1954, c.84
23 (C.43:15A-33).

24 The normal contribution for the increased benefits for active
25 employees under P.L.2001, c.133 shall be paid from the benefit
26 enhancement fund. If assets in the benefit enhancement fund are
27 insufficient to pay the normal contribution for the increased benefits
28 for a valuation period, the State shall pay the amount of normal
29 contribution for the increased benefits not covered by assets from
30 the benefit enhancement fund.

31 c. The retirement system shall certify annually the aggregate
32 amount payable to the contingent reserve fund in the ensuing year,
33 which amount shall be equal to the sum of the amounts described in
34 this section.

35 The State Treasurer shall reduce the normal and accrued liability
36 contributions payable by employers other than the State, excluding
37 the contribution payable from the benefit enhancement fund, to a
38 percentage of the amount certified annually by the retirement
39 system, which percentage shall be: for payments due in the State
40 fiscal year ending June 30, 2005, 20%; for payments due in the
41 State fiscal year ending June 30, 2006, not more than 40%; for
42 payments due in the State fiscal year ending June 30, 2007, not
43 more than 60%; and for payments due in the State fiscal year ending
44 June 30, 2008, not more than 80%.

45 The State Treasurer shall reduce the normal and accrued liability
46 contributions payable by employers other than the State, excluding
47 the contribution payable from the benefit enhancement fund, to 50
48 percent of the amount certified annually by the retirement system.

1 for payments due in the State fiscal year ending June 30, 2009. An
2 employer that elects to pay the reduced normal and accrued liability
3 contribution shall adopt a resolution, separate and apart from other
4 budget resolutions, stating that the employer needs to pay the
5 reduced contribution and providing an explanation of that need
6 which shall include (1) a description of its inability to meet the levy
7 cap without jeopardizing public safety, health, and welfare or
8 without jeopardizing the fiscal stability of the employer, or (2) a
9 description of another condition that offsets the long term fiscal
10 impact of the payment of the reduced contribution. An employer
11 also shall document those actions it has taken to reduce its
12 operating costs, or provide a description of relevant anticipated
13 circumstances that could have an impact on revenues or
14 expenditures. This resolution shall be submitted to and approved by
15 the Local Finance Board after making a finding that these fiscal
16 conditions are valid and affirming the findings contained in the
17 employer resolution.

18 An employer that elects to pay 100 percent of the amount
19 certified by the retirement system for State fiscal year ending June
20 30, 2009 shall be credited with such payment and any such amounts
21 shall not be included in the employer's unfunded liability.

22 The actuaries for the retirement system shall determine the
23 unfunded liability of the retirement system, by employer, for the
24 reduced normal and accrued liability contributions provided under
25 P.L. , c. (pending before the Legislature as this bill). This
26 unfunded liability shall be paid by the employer in level annual
27 payments over a period of 15 years beginning with the payments
28 due in the State fiscal year ending June 30, 2012 and shall be
29 adjusted by the rate of return on the actuarial value of assets.

30 The retirement system shall annually certify to each employer the
31 contributions due to the contingent reserve fund for the liability
32 under P.L. , c. (pending before the Legislature as this bill). The
33 contributions certified by the retirement system shall be paid by the
34 employer to the retirement system on or before the date prescribed
35 by law for payment of employer contributions for basic retirement
36 benefits. If payment of the full amount of the contribution certified
37 is not made within 30 days after the last date for payment of
38 employer contributions for basic retirement benefits, interest at the
39 rate of 10% per year shall be assessed against the unpaid balance on
40 the first day after the thirtieth day.

41 The State shall pay into the contingent reserve fund during the
42 ensuing year the amount so determined. The death benefits,
43 payable as a result of contribution by the State under the provisions
44 of this chapter upon the death of an active or retired member, shall
45 be paid from the contingent reserve fund.

46 d. The disbursements for benefits not covered by reserves in
47 the system on account of veterans shall be met by direct

1 contributions of the State and other employers.

2 (cf: P.L.2007, c.92, s.26)

3

4 2. Section 15 of P.L.1944, c.255 (C.43:16A-15) is amended to
5 read as follows:

6 15. (1) The contributions required for the support of the
7 retirement system shall be made by members and their employers.

8 (2) The uniform percentage contribution rate for members shall
9 be 8.5% of compensation.

10 (3) (Deleted by amendment, P.L.1989, c.204).

11 (4) Upon the basis of the tables recommended by the actuary
12 which the board adopts and regular interest, the actuary shall
13 compute annually, beginning as of June 30, 1991, the amount of
14 contribution which shall be the normal cost as computed under the
15 projected unit credit method attributable to service rendered under
16 the retirement system for the year beginning on July 1 immediately
17 succeeding the date of the computation. This shall be known as the
18 "normal contribution."

19 (5) (Deleted by amendment, P.L.1989, c.204).

20 (6) (Deleted by amendment, P.L.1994, c.62.)

21 (7) Each employer shall cause to be deducted from the salary of
22 each member the percentage of earnable compensation prescribed in
23 subsection (2) of this section. To facilitate the making of
24 deductions, the retirement system may modify the amount of
25 deduction required of any member by an amount not to exceed 1/10
26 of 1% of the compensation upon which the deduction is based.

27 (8) The deductions provided for herein shall be made
28 notwithstanding that the minimum salary provided for by law for
29 any member shall be reduced thereby. Every member shall be
30 deemed to consent and agree to the deductions made and provided
31 for herein, and payment of salary or compensation less said
32 deduction shall be a full and complete discharge and acquittance of
33 all claims and demands whatsoever for the service rendered by such
34 person during the period covered by such payment, except as to the
35 benefits provided under this act. The chief fiscal officer of each
36 employer shall certify to the retirement system in such manner as
37 the retirement system may prescribe, the amounts deducted; and
38 when deducted shall be paid into said annuity savings fund, and
39 shall be credited to the individual account of the member from
40 whose salary said deduction was made.

41 (9) With respect to employers other than the State, upon the
42 basis of the tables recommended by the actuary which the board
43 adopts and regular interest, the actuary shall compute the amount of
44 the accrued liability as of June 30, 1991 under the projected unit
45 credit method, which is not already covered by the assets of the
46 retirement system, valued in accordance with the asset valuation
47 method established in this section. Using the total amount of this
48 unfunded accrued liability, the actuary shall compute the initial

1 amount of contribution which, if the contribution is increased at a
2 specific rate and paid annually for a specific period of time, will
3 amortize this liability. The State Treasurer shall determine, upon
4 the advice of the Director of the Division of Pensions and Benefits,
5 the board of trustees and the actuary, the rate of increase for the
6 contribution and the time period for full funding of this liability,
7 which shall not exceed 40 years on initial application of this section
8 as amended by this act, P.L.1994, c.62. This shall be known as the
9 "accrued liability contribution." Any increase or decrease in the
10 unfunded accrued liability as a result of actuarial losses or gains for
11 the 10 valuation years following valuation year 1991 shall serve to
12 increase or decrease, respectively, the unfunded accrued liability
13 contribution. Thereafter, any increase or decrease in the unfunded
14 accrued liability as a result of actuarial losses or gains for
15 subsequent valuation years shall serve to increase or decrease,
16 respectively, the amortization period for the unfunded accrued
17 liability, unless an increase in the amortization period will cause it
18 to exceed 30 years. If an increase in the amortization period as a
19 result of actuarial losses for a valuation year would exceed 30 years,
20 the accrued liability contribution shall be computed for the
21 valuation year in the same manner provided for the computation of
22 the initial accrued liability contribution under this section.

23 With respect to the State, upon the basis of the tables
24 recommended by the actuary which the board adopts and regular
25 interest, the actuary shall annually determine if there is an amount
26 of the accrued liability, computed under the projected unit credit
27 method, which is not already covered by the assets of the retirement
28 system, valued in accordance with the asset valuation method
29 established in this section. This shall be known as the "unfunded
30 accrued liability." If there was no unfunded accrued liability for the
31 valuation period immediately preceding the current valuation
32 period, the actuary, using the total amount of this unfunded accrued
33 liability, shall compute the initial amount of contribution which, if
34 the contribution is increased at a specific rate and paid annually for
35 a specific period of time, will amortize this liability. The State
36 Treasurer shall determine, upon the advice of the Director of the
37 Division of Pensions and Benefits, the board of trustees and the
38 actuary, the rate of increase for the contribution and the time period
39 for full funding of this liability, which shall not exceed 30 years.
40 This shall be known as the "accrued liability contribution."
41 Thereafter, any increase or decrease in the unfunded accrued
42 liability as a result of actuarial losses or gains for subsequent
43 valuation years shall serve to increase or decrease, respectively, the
44 amortization period for the unfunded accrued liability, unless an
45 increase in the amortization period will cause it to exceed 30 years.
46 If an increase in the amortization period as a result of actuarial
47 losses for a valuation year would exceed 30 years, the accrued
48 liability contribution shall be computed for the valuation year in the

1 same manner provided for the computation of the initial accrued
2 liability contribution under this section. The State may pay all or
3 any portion of its unfunded accrued liability under the retirement
4 system from any source of funds legally available for the purpose,
5 including, without limitation, the proceeds of bonds authorized by
6 law for this purpose.

7 The value of the assets to be used in the computation of the
8 contributions provided for under this section for valuation periods
9 shall be the value of the assets for the preceding valuation period
10 increased by the regular interest rate, plus the net cash flow for the
11 valuation period (the difference between the benefits and expenses
12 paid by the system and the contributions to the system) increased by
13 one half of the regular interest rate, plus 20% of the difference
14 between this expected value and the full market value of the assets
15 as of the end of the valuation period. This shall be known as the
16 "valuation assets." Notwithstanding the first sentence of this
17 paragraph, the valuation assets for the valuation period ending June
18 30, 1995 shall be the full market value of the assets as of that date
19 and, with respect to the valuation assets allocated to the State, shall
20 include the proceeds from the bonds issued pursuant to the "Pension
21 Bond Financing Act of 1997," P.L.1997, c.114 (C.34:1B-7.45 et
22 seq.), paid to the system by the New Jersey Economic Development
23 Authority to fund the unfunded accrued liability of the system.
24 Notwithstanding the first sentence of this paragraph, the percentage
25 of the difference between the expected value and the full market
26 value of the assets to be added to the expected value of the assets
27 for the valuation period ending June 30, 1998 for the State shall be
28 100% and for other employers shall be 57% plus such additional
29 percentage as is equivalent to \$150,000,000. Notwithstanding the
30 first sentence of this paragraph, the amount of the difference
31 between the expected value and the full market value of the assets
32 to be added to the expected value of the assets for the valuation
33 period ending June 30, 1999 shall include an additional amount of
34 the market value of the assets sufficient to fund (1) the unfunded
35 accrued liability for the supplementary "special retirement"
36 allowances provided under subsection b. of section 16 of P.L.1964,
37 c.241 (C.43:16A-11.1) and (2) the unfunded accrued liability for the
38 full credit toward benefits under the retirement system for service
39 credited in the Public Employees' Retirement System and
40 transferred pursuant to section 1 of P.L.1993, c.247 (C.43:16A-3.8)
41 and the reimbursement of the cost of any credit purchase pursuant
42 to section 3 of P.L.1993, c.247 (C.43:16A-3.10) provided under
43 section 1 of P.L.2001, c.201 (C.43:16A-3.14).

44 "Excess valuation assets" means, with respect to the valuation
45 assets allocated to the State, the valuation assets allocated to the
46 State for a valuation period less the actuarial accrued liability of the
47 State for the valuation period, and beginning with the valuation
48 period ending June 30, 1998, less the present value of the expected

1 additional normal cost contributions attributable to the provisions of
2 P.L.1999, c.428 (C.43:16A-15.8 et al.) payable on behalf of the
3 active members employed by the State as of the valuation period
4 over the expected working lives of the active members in
5 accordance with the tables of actuarial assumptions applicable to
6 the valuation period, and less the present value of the expected
7 additional normal cost contributions attributable to the provisions of
8 P.L.2003, c.108 as amending section 16 of P.L.1964, c.241
9 (C.43:16A-11.1) payable on behalf of the active members employed
10 by the State as of the valuation period over the expected working
11 lives of the active members in accordance with the tables of
12 actuarial assumptions applicable to the valuation period, if the sum
13 is greater than zero. "Excess valuation assets" means, with respect
14 to the valuation assets allocated to other employers, the valuation
15 assets allocated to the other employers for a valuation period less
16 the actuarial accrued liability of the other employers for the
17 valuation period, excluding the unfunded accrued liability for early
18 retirement incentive benefits pursuant to P.L.1993, c.99 for the
19 other employers, and beginning with the valuation period ending
20 June 30, 1998, less the present value of the expected additional
21 normal cost contributions attributable to the provisions of P.L.1999,
22 c.428 (C.43:16A-15.8 et al.) payable on behalf of the active
23 members employed by other employers as of the valuation period
24 over the expected working lives of the active members in
25 accordance with the tables of actuarial assumptions applicable to
26 the valuation period, and less the present value of the expected
27 additional normal cost contributions attributable to the provisions of
28 P.L.2003, c.108 as amending section 16 of P.L.1964, c.241
29 (C.43:16A-11.1) payable on behalf of the active members employed
30 by other employers as of the valuation period over the expected
31 working lives of the active members in accordance with the tables
32 of actuarial assumptions applicable to the valuation period, if the
33 sum is greater than zero.

34 If there are excess valuation assets allocated to the State or to
35 the other employers for the valuation period ending June 30, 1995,
36 the normal contributions payable by the State or by the other
37 employers for the valuation periods ending June 30, 1995, and June
38 30, 1996 which have not yet been paid to the retirement system
39 shall be reduced to the extent possible by the excess valuation
40 assets allocated to the State or to the other employers, respectively,
41 provided that with respect to the excess valuation assets allocated to
42 the State, the General Fund balances that would have been paid to
43 the retirement system except for this provision shall first be
44 allocated as State aid to public schools to the extent that additional
45 sums are required to comply with the May 14, 1997 decision of the
46 New Jersey Supreme Court in *Abbott v. Burke*.

47 If there are excess valuation assets allocated to the other
48 employers for the valuation period ending June 30, 1998, the

1 accrued liability contributions payable by the other employers for
2 the valuation period ending June 30, 1997 shall be reduced to the
3 extent possible by the excess valuation assets allocated to the other
4 employers.

5 If there are excess valuation assets allocated to the State or to the
6 other employers for a valuation period ending after June 30, 1998,
7 the State Treasurer may reduce the normal contribution payable by
8 the State or by other employers for the next valuation period as
9 follows:

10 (1) for valuation periods ending June 30, 1996 through June 30,
11 2000, to the extent possible by up to 100% of the excess valuation
12 assets allocated to the State or to the other employers, respectively;

13 (2) for the valuation period ending June 30, 2001, to the extent
14 possible by up to 84% of the excess valuation assets allocated to the
15 State or to the other employers, respectively;

16 (3) for the valuation period ending June 30, 2002, to the extent
17 possible by up to 68% of the excess valuation assets allocated to the
18 State or to the other employers, respectively; and

19 (4) for valuation periods ending June 30, 2003 through June 30,
20 2007, to the extent possible by up to 50% of the excess valuation
21 assets allocated to the State or to the other employers, respectively.

22 Notwithstanding the discretion provided to the State Treasurer in
23 the previous paragraph to reduce the amount of the normal
24 contribution payable by employers other than the State, the State
25 Treasurer shall reduce the amount of the normal contribution
26 payable by employers other than the State by \$150,000,000 in the
27 aggregate for the valuation period ending June 30, 1998, and then
28 the State Treasurer may reduce further pursuant to the provisions of
29 the previous paragraph the normal contribution payable by such
30 employers for that valuation period.

31 As of the valuation report in which the funded level is in excess
32 of 104%, an amount equal to the present value of the future normal
33 contributions for the benefits provided by P.L.2003, c.108 as
34 amending section 16 of P.L.1964, c.241 (C.43:16A-11.1), shall be
35 credited to the benefit enhancement fund. If there are excess
36 valuation assets after reductions in normal contributions as
37 authorized in the preceding paragraphs, for a valuation period
38 beginning with the valuation period in which the benefits provided
39 by section 16 of P.L.1964, c.241 (C.43:16A-11.1), as amended by
40 P.L.2003, c.108 apply, an amount of excess valuation assets not to
41 exceed the amount of the member contributions for the fiscal year
42 in which the normal contributions are payable shall be credited to
43 the benefit enhancement fund. The amount of excess valuation
44 assets credited to the benefit enhancement fund shall not exceed the
45 present value of the expected additional normal and accrued
46 liability contributions attributable to the provisions of section 16 of
47 P.L.1964, c.241 (C.43:16A-11.1), as amended by P.L.2003, c.108,
48 payable on behalf of the active members over the expected working

1 lives of the active members in accordance with the tables of
2 actuarial assumptions for the valuation period. No additional
3 excess valuation assets shall be credited to the benefit enhancement
4 fund after the maximum amount is attained. Interest shall be
5 credited to the benefit enhancement fund.

6 The normal and accrued liability contributions for the increased
7 benefits for active employees under section 16 of P.L.1964, c.241
8 (C.43:16A-11.1), as amended by P.L.2003, c.108, shall be paid
9 from the benefit enhancement fund. If assets in the benefit
10 enhancement fund are insufficient to pay the normal and accrued
11 liability contributions for the increased benefits for a valuation
12 period, the retirement system shall pay the amount of normal and
13 accrued liability contributions for the increased benefits not covered
14 by assets from the benefit enhancement fund.

15 The normal and accrued liability contributions shall be certified
16 annually by the retirement system and shall be included in the
17 budget of the employer and levied and collected in the same manner
18 as any other taxes are levied and collected for the payment of the
19 salaries of members.

20 Notwithstanding the preceding sentence, the normal and accrued
21 liability contributions to be included in the budget of and paid by
22 the employer other than the State shall be as follows: for the
23 payment due in the State fiscal year ending on June 30, 2004, 20%
24 of the amount certified by the retirement system; for the payment
25 due in the State fiscal year ending on June 30, 2005, a percentage of
26 the amount certified by the retirement system as the State Treasurer
27 shall determine but not more than 40%; for the payment due in the
28 State fiscal year ending on June 30, 2006, a percentage of the
29 amount certified by the retirement system as the State Treasurer
30 shall determine but not more than 60%; and for the payment due in
31 the State fiscal year ending on June 30, 2007, a percentage of the
32 amount certified by the retirement system as the State Treasurer
33 shall determine but not more than 80%.

34 The State Treasurer shall reduce the normal and accrued liability
35 contributions payable by employers other than the State to 50
36 percent of the amount certified annually by the retirement system
37 for payments due in the State fiscal year ending June 30, 2009. An
38 employer that elects to pay the reduced normal and accrued liability
39 contribution shall adopt a resolution, separate and apart from other
40 budget resolutions, stating that the employer needs to pay the
41 reduced contribution and providing an explanation of that need
42 which shall include (1) a description of its inability to meet the levy
43 cap without jeopardizing public safety, health, and welfare or
44 without jeopardizing the fiscal stability of the employer, or (2) a
45 description of another condition that offsets the long term fiscal
46 impact of the payment of the reduced contribution. An employer
47 also shall document those actions it has taken to reduce its
48 operating costs, or provide a description of relevant anticipated

1 circumstances that could have an impact on revenues or
2 expenditures. This resolution shall be submitted to and approved by
3 the Local Finance Board after making a finding that these fiscal
4 conditions are valid and affirming the findings contained in the
5 employer resolution.

6 An employer that elects to pay 100 percent of the amount
7 certified by the retirement system for State fiscal year ending June
8 30, 2009 shall be credited with such payment and any such amounts
9 shall not be included in the employer's unfunded liability.

10 The actuaries for the retirement system shall determine the
11 unfunded liability of the retirement system, by employer, for the
12 reduced normal and accrued liability contributions provided under
13 P.L. , c. (pending before the Legislature as this bill). This
14 unfunded liability shall be paid by the employer in level annual
15 payments over a period of 15 years beginning with the payments
16 due in the State fiscal year ending June 30, 2012 and shall be
17 adjusted by the rate of return on the actuarial value of assets.

18 The retirement system shall annually certify to each employer the
19 contributions due to the contingent reserve fund for the liability
20 under P.L. , c. (pending before the Legislature as this bill). The
21 contributions certified by the retirement system shall be paid by the
22 employer to the retirement system on or before the date prescribed
23 by law for payment of employer contributions for basic retirement
24 benefits. If payment of the full amount of the contribution certified
25 is not made within 30 days after the last date for payment of
26 employer contributions for basic retirement benefits, interest at the
27 rate of 10% per year shall be assessed against the unpaid balance on
28 the first day after the thirtieth day.

29 (10) The treasurer or corresponding officer of the employer shall
30 pay to the State Treasurer no later than April 1 of the State's fiscal
31 year in which payment is due the amount so certified as payable by
32 the employer, and shall pay monthly to the State Treasurer the
33 amount of the deductions from the salary of the members in the
34 employ of the employer, and the State Treasurer shall credit such
35 amount to the appropriate fund or funds, of the retirement system.

36 If payment of the full amount of the employer's obligation is not
37 made within 30 days of the due date established by this act, interest
38 at the rate of 10% per annum shall commence to run against the
39 unpaid balance thereof on the first day after such 30th day.

40 If payment in full, representing the monthly transmittal and
41 report of salary deductions, is not made within 15 days of the due
42 date established by the retirement system, interest at the rate of 10%
43 per annum shall commence to run against the total transmittal of
44 salary deductions for the period on the first day after such 15th day.

45 (11) The expenses of administration of the retirement system
46 shall be paid by the State of New Jersey. Each employer shall
47 reimburse the State for a proportionate share of the amount paid by
48 the State for administrative expense. This proportion shall be

1 computed as the number of members under the jurisdiction of such
2 employer bears to the total number of members in the system. The
3 pro rata share of the cost of administrative expense shall be
4 included with the certification by the retirement system of the
5 employer's contribution to the system.

6 (12) Notwithstanding anything to the contrary, the retirement
7 system shall not be liable for the payment of any pension or other
8 benefits on account of the employees or beneficiaries of any
9 employer participating in the retirement system, for which reserves
10 have not been previously created from funds, contributed by such
11 employer or its employees for such benefits.

12 (13) (Deleted by amendment, P.L.1992, c.125.)

13 (14) Commencing with valuation year 1991, with payment to be
14 made in Fiscal Year 1994, the Legislature shall annually
15 appropriate and the State Treasurer shall pay into the pension
16 accumulation fund of the retirement system an amount equal to
17 1.1% of the compensation of the members of the system for the
18 valuation year to fund the benefits provided by section 16 of
19 P.L.1964, c.241 (C.43:16A-11.1), as amended by P.L.1979, c.109.

20 (15) If the valuation assets are insufficient to fund the normal
21 and accrued liability costs attributable to P.L.1999, c.428
22 (C.43:16A-15.8 et al.) as provided hereinabove, the normal and
23 unfunded accrued liability contributions required to fund these costs
24 for the State and other employers shall be paid by the State.

25 (16) The savings realized as a result of the amendments to this
26 section by P.L.2001, c.44 in the payment of normal contributions
27 computed by the actuary for the valuation periods ending June 30,
28 1998 for employers other than the State shall be used solely and
29 exclusively by a county or municipality for the purpose of reducing
30 the amount that is required to be raised by the local property tax
31 levy by the county for county purposes or by the municipality for
32 municipal purposes, as appropriate. The Director of the Division of
33 Local Government Services in the Department of Community
34 Affairs shall certify for each year that each county or municipality
35 has complied with the requirements set forth herein. If the director
36 finds that a county or municipality has not used the savings solely
37 and exclusively for the purpose of reducing the amount that is
38 required to be raised by the local property tax levy by the county for
39 county purposes or by the municipality for municipal purposes, as
40 appropriate, the director shall direct the county or municipal
41 governing body, as appropriate, to make corrections to its budget.

42 (cf: P.L.2007, c.92, s.23)

43

44 3. Section 3 of P.L.2007, c.62 (C.18A:7F-38) is amended to
45 read as follows:

46 3. a. (1) Notwithstanding the provisions of any other law to the
47 contrary, a school district shall not adopt a budget pursuant to
48 sections 5 and 6 of P.L.1996, c.138 (C.18A:7F-5 and 18A:7F-6)

1 with an increase in its adjusted tax levy that exceeds the tax levy
2 growth limitation calculated as follows: the sum of the prebudget
3 year adjusted tax levy and the adjustment for increases in
4 enrollment multiplied by four percent, and adjustments for a
5 reduction in total unrestricted State aid from the prebudget year, an
6 increase in health care costs, [and] beginning in the 2008-2009
7 school year, amounts approved by a waiver granted by the
8 commissioner pursuant to section 4 of P.L.2007, c.62 (C.18A:7F-
9 39), and, for the 2010-2011 school year, increases in amounts for
10 certain normal and accrued liability pension contributions set forth
11 in sections 1 and 2 of P.L. , c. (pending before the Legislature as
12 this bill) amending section 24 of P.L.1954, c.84 (C.43:15A-24) and
13 section 15 of P.L.1944, c.255 (C.43:16A-15) for the year set forth
14 in those sections.

15 (2) Notwithstanding any provision of paragraph (1) of this
16 subsection to the contrary, beginning in the 2008-2009 school year
17 the tax levy growth limitation for a district which is spending above
18 adequacy as determined pursuant to subsection d. of section 5 of
19 P.L.2007, c.260 (C.18A:7F-47) and has a prebudget year general
20 fund tax levy greater than its local share as calculated pursuant to
21 section 10 of that act and which receives an increase in State aid
22 between the prebudget and budget years that is greater than 2% or
23 the CPI, whichever is greater, shall be reduced by the amount of the
24 State aid increase that exceeds 2% or the CPI, whichever is greater.
25 For the purposes of this paragraph, the CPI shall not exceed 4%.
26 The reduction shall be made following the calculation of any
27 adjustments for increases in enrollment, a reduction in total
28 unrestricted State aid, [and] an increase in health care costs, and an
29 increase in the amount of the normal and accrued liability pension
30 contributions calculated pursuant to subsections b., c., and d. of this
31 section and prior to the request or approval of waivers pursuant to
32 section 4 of P.L.2007, c.62 (C.18A:7F-39). In the event that the
33 reduction would bring the district's spending below adequacy,
34 notwithstanding the requirements of this paragraph to the contrary
35 the amount of the reduction made to the district's tax levy growth
36 limitation shall not be greater than the amount that brings the
37 district's spending to adequacy.

38 b. (1) The allowable adjustment for increases in enrollment
39 authorized pursuant to subsection a. of this section shall equal the
40 per pupil prebudget year adjusted tax levy multiplied by EP, where
41 EP equals the sum of:

42 (a) 0.50 for each unit of weighted resident enrollment that
43 constitutes an increase from the prebudget year over 1%, but not
44 more than 2.5%;

45 (b) 0.75 for each unit of weighted resident enrollment that
46 constitutes an increase from the prebudget year over 2.5%, but not
47 more than 4%; and

1 (c) 1.00 for each unit of weighted resident enrollment that
2 constitutes an increase from the prebudget year over 4%.

3 (2) A school district may request approval from the
4 commissioner to calculate EP equal to 1.00 for any increase in
5 weighted resident enrollment if it can demonstrate that the
6 calculation pursuant to paragraph (1) of this subsection would result
7 in an average class size that exceeds 10% above the facilities
8 efficiency standards established pursuant to P.L.2000, c.72
9 (C.18A:7G-1 et al.).

10 c. The allowable adjustment for a reduction in total
11 unrestricted State aid authorized pursuant to subsection a. of this
12 section shall equal any reduction in total unrestricted State aid from
13 the prebudget to the budget year.

14 d. (1) The allowable adjustment for increases in health care
15 costs authorized pursuant to subsection a. of this section shall equal
16 that portion of the actual increase in total health care costs for the
17 budget year, less any withdrawals from the current expense
18 emergency reserve account for increases in total health care costs,
19 that exceeds four percent of the total health care costs in the
20 prebudget year, but that is not in excess of the product of the total
21 health care costs in the prebudget year multiplied by the average
22 percentage increase of the State Health Benefits Program, P.L.1961,
23 c.49 (C.52:14-17.25 et seq.), as annually determined by the
24 Division of Pensions and Benefits in the Department of the
25 Treasury.

26 (2) The allowable adjustment for increases in the amount of
27 normal and accrued liability pension contributions authorized
28 pursuant to subsection a. of this section shall equal that portion of
29 the actual increase in total normal and accrued liability pension
30 contributions for the budget year that exceeds four percent of the
31 total normal and accrued liability pension contributions in the
32 prebudget year.

33 e. In addition to the adjustments authorized pursuant to
34 subsection a. of this section, for the purpose of determining a school
35 district's allowable tax levy growth limitation for the 2007-2008
36 school year, a school district may apply to the commissioner for an
37 adjustment for increases in special education costs over \$40,000 per
38 pupil, increases in tuition, capital outlay increases, and incremental
39 increases in costs for opening a new school facility in the budget
40 year.

41 (1) The allowable adjustment for increases in special education
42 costs over \$40,000 per pupil shall equal any increase in the sum of
43 per pupil amounts in excess of \$40,000 for the budget year less the
44 sum of per pupil amounts in excess of \$40,000 for the prebudget
45 year indexed by four percent.

46 (2) The allowable adjustment for increases in tuition shall equal
47 any increase in the tuition for the budget year charged to a sending
48 district by the receiving district pursuant to the provisions of

1 N.J.S.18A:38-19 or charged by a county vocational school district
2 pursuant to the provisions of section 71 of P.L.1990, c.52
3 (C.18A:54-20.1) less 104 percent of the tuition for the prebudget
4 year charged to a sending district by the receiving district pursuant
5 to the provisions of N.J.S.18A:38-19 or charged by a county
6 vocational school district pursuant to the provisions of section 71 of
7 P.L.1990, c.52 (C.18A:54-20.1).

8 (3) The allowable adjustment for increases in capital outlay
9 shall equal any increase in capital outlay, less any withdrawals from
10 the capital reserve account, over the prebudget year in excess of
11 four percent.

12 f. The adjusted tax levy shall be increased or decreased
13 accordingly whenever the responsibility and associated cost of a
14 school district activity is transferred to another school district or
15 governmental entity.

16 (cf: P.L.2007, c.260, s.37)

17

18 4. Section 10 of P.L.2007, c.62 (C.40A:4-45.45) is amended to
19 read as follows:

20 10. a. In the preparation of its budget the amount to be raised by
21 taxation by a local unit shall not exceed the sum of new ratables, the
22 adjusted tax levy, and the total of waivers approved pursuant to
23 section 11 of P.L.2007, c.62 (C.40A:4-45.46); provided, however,
24 that in the case of a county, the amount to be raised by taxation
25 shall not exceed the amount permitted by section 4 of P.L.1976,
26 c.68 (C.40A:4-45.4).

27 b. The following exclusions shall be added to the calculation of
28 the adjusted tax levy:

29 (1) increases in amounts required to be raised for (a) all debt
30 service and (b) lease payments with county improvement authorities
31 pursuant to leases in effect on the effective date of P.L.2007, c.62
32 (C.18A:7F-37 et al.);

33 (2) increases in amounts required to be raised to replace State
34 formula aid due to a reduction in State formula aid from the
35 previous local budget year;

36 (3) increases in amounts for certain pension contributions set
37 forth in section 5 of P.L.2003, c.108 (C.40A:4-45.43) for the years
38 set forth in that section;

39 (4) with respect to municipalities, any increase, greater than four
40 percent, in the reserve for uncollected taxes that is required by law;

41 (5) increases in health care costs equal to that portion of the
42 actual increase in total health care costs for the budget year that is
43 in excess of four percent of the total health care costs in the prior
44 year, but is not in excess of the product of the total health care costs
45 in the prior year and the average percentage increase of the State
46 Health Benefits Program, P.L.1961, c.49 (C.52:14-17.25 et seq.), as
47 annually determined by the Division of Pensions and Benefits in the
48 Department of the Treasury;

1 (6) increases in amounts for certain normal and accrued liability
2 pension contributions set forth in sections 1 and 2 of P.L. ,
3 c. (pending before the Legislature as this bill) amending section 24
4 of P.L.1954, c.84 (C.43:15A-24) and section 15 of P.L.1944, c.255
5 (C.43:16A-15) equal to that portion of the actual increase in normal
6 and accrued liability pension contributions for the budget year that
7 is in excess of four percent of the normal and accrued liability
8 pension contributions in the prior year.

9 **[(6)]** Notwithstanding the other provisions of this subsection,
10 when the appropriation for all debt service is less than the amount
11 appropriated for all debt service in the prior fiscal year, the amount
12 of the difference shall be deducted from the sum of the exclusions
13 listed in paragraphs (1) through **[(5)]** (6) of this subsection. If
14 there are no exclusions, then the amount of the difference shall
15 reduce the adjusted tax levy by that amount. Any cancelled or
16 unexpended appropriation for any exclusion pursuant to this
17 subsection or waiver pursuant to section 11 of P.L.2007, c.62
18 (C.40A:4-45.46), also shall be deducted from the sum of the
19 exclusions listed in paragraphs (1) through **[(5)]** (6) or directly
20 reduce the adjusted tax levy if there are no exclusions.
21 (cf: P.L.2007, c.62, s.10)

22
23 5. (New section) In addition to the exceptions to the limits on
24 increases to municipal appropriations set forth in section 3 of
25 P.L.1976, c.68 (C.40A:4-45.3) and to the county tax levy set forth
26 in section 4 of P.L.1976, c.68 (C.40A:4-45.4), appropriations that
27 represent expenditures made by a municipality or county for the
28 purpose of funding certain normal and accrued liability
29 contributions set forth in sections 1 and 2 of P.L. , c. (pending
30 before the Legislature as this bill) amending section 24 of P.L.1954,
31 c.84 (C.43:15A-24) and section 15 of P.L.1944, c.255 (C.43:16A-
32 15) due in the State fiscal year 2009-2010 shall be exempt from the
33 limits on increases to municipal appropriations and from the limits
34 on increases to the county tax levy in county budgets, respectively,
35 for the local budget year in which those contributions are due,
36 except that for local fiscal year 2009 the full normal and accrued
37 liability contributions to the Public Employees' Retirement System
38 shall be added to the allowable operating appropriations before
39 exceptions.

40
41 6. Within 180 days after the effective date of P.L. ,
42 c. (pending before the Legislature as this bill), the Director of the
43 Division of Pensions and Benefits in the Department of the
44 Treasury shall report to the Governor and, pursuant to section 2 of
45 P.L.1991, c.164 (C.52:14-19.1), to the Legislature on the feasibility
46 and consequences of creating individual employer accounts within
47 the State-administered retirement systems.

1 7. This act shall take effect immediately.

2

3

4 SPONSOR'S STATEMENT

5

6 This bill provides for an adjustment in the contributions that
7 local employers must make to the Public Employees' Retirement
8 System (PERS) and the Police and Firemen's Retirement System
9 (PFRS) during State fiscal year 2009.

10 The PERS and PFRS, like the other State-administered
11 retirement systems, are funded on an actuarial reserve basis. An
12 actuary for each system annually projects that system's overall
13 liability for benefits to members, retirees and their beneficiaries.
14 The actuary then sets off against this projected liability the system's
15 assets on hand, and its anticipated income from such sources such
16 as return on investments and member contributions. The difference
17 constitutes the system's liability, which must be met through
18 employer contributions; these consist of a "normal contribution,"
19 covering the system's liability attributable to the service rendered by
20 covered employees during the year for which the contribution is
21 determined, and an "accrued liability contribution," covering the
22 system's unfunded liability for previous service. The two
23 contribution requirements are computed and certified to employers
24 as a percentage of total compensation.

25 In recognition of the enormous financial burden that full
26 payments of the PERS and PFRS contributions in State fiscal year
27 2009 will place on local property taxpayers and local budgets
28 during this historically difficult economic period for the State, this
29 bill provides that the State Treasurer will reduce for local employers
30 the normal and accrued liability contributions to 50 percent of the
31 amount certified annually by the PERS and PFRS for payments due
32 in State fiscal year 2009.

33 An employer that elects to pay the reduced normal and accrued
34 liability contribution must adopt a resolution, separate and apart
35 from other budget resolutions, stating that the employer needs to
36 pay the reduced contribution and providing an explanation of that
37 need which must include (1) a description of its inability to meet the
38 levy cap without jeopardizing public safety, health, and welfare or
39 without jeopardizing the fiscal stability of the employer, or (2) a
40 description of another condition that offsets the long term fiscal
41 impact of the payment of the reduced contribution. An employer
42 also must document those actions it has taken to reduce its
43 operating costs, or provide a description of relevant anticipated
44 circumstances that could have an impact on revenues or
45 expenditures. This resolution must be submitted to and approved
46 by the Local Finance Board after making a finding that these fiscal
47 conditions are valid and affirming the findings contained in the
48 employer resolution.

1 The bill provides that a local employer may pay 100 percent of
2 the required contribution. Such an employer will be credited with
3 the full payment and any such amounts will not be included in their
4 unfunded liability.

5 The actuaries for PERS and PFRS will determine the unfunded
6 liability of those retirement systems, by employer, for the reduced
7 normal and accrued liability contributions provided under the bill.
8 This unfunded liability will be paid by the employer in level annual
9 payments over a period of 15 years beginning with the payments
10 due in the State fiscal year ending June 30, 2012 and will be
11 adjusted by the rate of return on the actuarial value of assets.

12 The bill provides that for the respective fiscal year during which
13 a local public employers' pension contributions to the PERS and
14 PFRS is reduced, and for the year thereafter when the employers
15 would again be subject to the full contribution requirement, the
16 affected contribution payments will be exempt from the limits
17 imposed on increases to municipal appropriations set forth in
18 N.J.S.A.40A:4-45.3, the local budget "cap" law, and to the county
19 tax levy set forth in N.J.S.A.40A:4-45.4. The bill also amends
20 current law concerning the calculation of the tax levy growth
21 limitation for the purpose of an increase in the adjusted tax levy for
22 a school district, and the exclusions added to the calculation for the
23 adjusted tax levy for a local unit of government, to account for
24 certain normal and accrued liability pension contribution increases.

25 Finally, the bill requires the Director of the Division of Pensions
26 and Benefits in the Department of the Treasury to report to the
27 Governor and Legislature, within 180 days after its effective date,
28 on the feasibility and consequences of creating individual employer
29 accounts within the State-administered retirement systems.

FISCAL NOTE
ASSEMBLY, No. 3868
STATE OF NEW JERSEY
213th LEGISLATURE

DATED: MARCH 30, 2009

SUMMARY

Synopsis: Adjusts required local employer contributions to PERS and PFRS for State fiscal year 2009.

Type of Impact: Decrease in local government costs in State FY 2009. Increase in local government costs from State FY 2012 to FY 2026.

Agencies Affected: Department of the Treasury, Division of Pensions and Benefits; local government entities.

Executive Estimate

Fiscal Impact	<u>FY 2009</u>	<u>FY 2012</u>	<u>FY 2013</u>
Local Cost	-0-	up to \$56,491,255	up to \$54,450,847
Local Savings	up to \$584,347,865	-0-	-0-

- The Office of Legislative Services (OLS) **concurs** with the Executive Branch fiscal estimate.
- This bill provides for reductions in the contributions that local employers must make to the Public Employees' Retirement system (PERS) and the Police and Firemen's Retirement System (PFRS) during State fiscal year 2009 and requires those entities to pay the deferred amounts, with interest, over a 15-year period.
- If all local employers elect to defer 50 percent of the pension contributions to the PERS and PFRS in FY 2009, then the total reduction in contributions in PERS and PFRS will be \$584.3 million.
- The Division of Pensions and Benefits indicates that the estimate for the additional near term interest costs to pay for the reduction in contributions will be \$56.4 million beginning in FY 2012, \$54.4 million in FY 2013, and \$52.2 million in FY 2014.
- The OLS notes that repayment of the deferred contribution amounts will cost local governments \$0.65 in interest (present value) for every dollar in pension contributions deferred.

BILL DESCRIPTION

Assembly Bill No. 3868 of 2009 provides for an adjustment in the contributions that local employers must make to the PERS and the PFRS during State fiscal year 2009.

This bill provides that the State Treasurer will reduce for local employers the normal and accrued liability contributions to 50 percent of the amount certified annually by the PERS and PFRS for payments due in State fiscal year 2009.

An employer that elects to pay the reduced normal and accrued liability contribution must adopt a resolution, separate and apart from other budget resolutions, stating that the employer needs to pay the reduced contribution and providing an explanation of that need which must include (1) a description of its inability to meet the levy cap without jeopardizing public safety, health, and welfare or without jeopardizing the fiscal stability of the employer, or (2) a description of another condition that offsets the long term fiscal impact of the payment of the reduced contribution. An employer also must document those actions it has taken to reduce its operating costs, or provide a description of relevant anticipated circumstances that could have an impact on revenues or expenditures. This resolution must be submitted to and approved by the Local Finance Board after making a finding that these fiscal conditions are valid and affirming the findings contained in the employer resolution.

The bill provides that a local employer may pay 100 percent of the required contribution. Such an employer will be credited with the full payment and any such amounts will not be included in their unfunded liability.

The actuaries for PERS and PFRS will determine the unfunded liability of those retirement systems, by employer, for the reduced normal and accrued liability contributions provided under the bill. This unfunded liability will be paid by the employer in level annual payments over a period of 15 years beginning with the payments due in the State fiscal year ending June 30, 2012 and will be adjusted by the rate of return on the actuarial value of assets.

The bill provides that for the respective fiscal year during which a local public employers' pension contributions to the PERS and PFRS is reduced, and for the year thereafter when the employers would again be subject to the full contribution requirement, the affected contribution payments will be exempt from the limits imposed on increases to municipal appropriations set forth in N.J.S.A.40A:4-45.3, the local budget "cap" law, and to the county tax levy set forth in N.J.S.A.40A:4-45.4. The bill also amends current law concerning the calculation of the tax levy growth limitation for the purpose of an increase in the adjusted tax levy for a school district, and the exclusions added to the calculation for the adjusted tax levy for a local unit of government, to account for certain normal and accrued liability pension contribution increases.

FISCAL ANALYSIS

EXECUTIVE BRANCH

According to the Division of Pensions and Benefits, in the Department of the Treasury, this bill will reduce local employers' contributions to the PERS and the PFRS by a total of \$584.4 million in State FY 2009, assuming that all local employers choose to defer their FY 2009 payments, due April 1, 2009. All local employers who choose to participate are required to begin to payback the deferred FY 2009 principal amounts plus interest to PERS and PFRS beginning in FY 2012 with level payments at an assumed 8.25 percent interest rate over a 15 year period. The annual principal and interest repayment amount, beginning in FY 2012, if all local governments choose to participate, would be a combined \$81.2 million for a total

repayment amount of \$1.2 billion by FY 2026. The interest portion of the annual combined repayment amount, for all local employers, beginning in FY 2012 would be \$56.5 million, \$54.4 million in FY 2013, and \$52.2 million in FY 2014.

OFFICE OF LEGISLATIVE SERVICES

The OLS concurs with the Executive Branch fiscal estimate. The OLS notes that the maximum amount that can be deferred in State FY 2009 is \$584.4 million. While we do not know at this time how many local governments will choose to defer their FY 2009 pension contributions, for every dollar that is deferred, the local governments will have to pay an additional 65 cents (present value) in interest over 15 years. This bill requires that any local government that elects to defer their FY 2009 pension contributions must adopt a separate resolution justifying the fiscal necessity of deferring their payment, as specified. If a local employer chooses to pay 100 percent of the required contribution in FY 2009, that local employer will be credited with the full payment and any such amounts will not be included in their individual unfunded liability.

Section: State Government

*Analyst: Kimberly Anne McCord
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*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-1 et seq.).