

S T A T E O F N E W Y O R K

S. 6888--C

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S E N A T E - A S S E M B L Y

February 22, 2010

IN SENATE -- Introduced by Sens. HASSELL-THOMPSON, PARKER, ADAMS, ADDABO, DILAN, DUANE, ESPADA, HUNTLEY, KRUEGER, KRUGER, MONTGOMERY, OPPENHEIMER, PERALTA, PERKINS, SAMPSON, SCHNEIDERMAN, SMITH, SQUADRON, STACHOWSKI, STEWART-COUSINS, THOMPSON, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged and said bill committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. PEOPLES-STOKES, AUBRY, BENJAMIN, BING, CASTRO, GIBSON, JACOBS, JAFFEE, JOHN, ROSENTHAL, SKARTADOS, ROBINSON, BRODSKY, JEFFRIES, TOWNS, SCHROEDER, MILLMAN, BARRON, PERRY, WRIGHT, ESPAILLAT, N. RIVERA, TITUS, SCARBOROUGH, HOOPER, BOYLAND -- Multi-Sponsored by -- M. of A. COOK, CRESPO, DeLMONTE, DenDEKKER, DESTITO, DINOWITZ, FARRELL, GLICK, GOTTFRIED, HEASTIE, HYER-SPENCER, KOON, MAYERSOHN, MENG, P. RIVERA, SCHIMEL -- read once and referred to the Committee on Governmental Employees -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the retirement and social security law, the education law, the workers' compensation law and the state finance law, in relation to increasing participation by minority and women-owned business enterprises

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

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

LBD15736-06-0

1 Section 1. Short title. This act shall be known and may be cited as
2 the "New York state MWBE asset management and financial institution
3 strategy".

4 S 2. Legislative findings. 1. The New York state MWBE asset manage-
5 ment and financial institution strategy is hereby established to codify
6 and replicate, across certain fiduciary-controlled entities established
7 by New York state law, best practices with respect to the inclusion of
8 minority and women-owned business enterprises that are asset managers,
9 investment banks, and financial and professional service firms in the
10 opportunity to provide services to such fiduciary-controlled entities --
11 the New York state common retirement fund, New York state teachers'
12 retirement system, the New York insurance fund, and the New York state
13 deferred compensation plan. Certain fiduciary-controlled entities have
14 recently adopted emerging manager programs to increase opportunities for
15 firms that include small, disadvantaged or minority and women-owned
16 business enterprises. These programs and similar programs in other
17 states have shown that there is a growing pool of minority and women-
18 owned asset managers, investment banks and financial and professional
19 services firms that are qualified to provide investment management,
20 investment banking, underwriting and other financial and professional
21 services to such fiduciary-controlled entities. The intent of this act
22 is to institutionalize access to opportunities for MWBE firms in such
23 fiduciary-controlled entities that use such services, to create reason-
24 able objectives for conducting business with such firms, and to facili-
25 tate transparency by creating a regime of public reporting about the use
26 of such firms for such services. Nothing in this act shall be deemed to
27 preempt or affect in any way existing laws or fiduciary obligations of
28 the trustees, plan sponsors, fiduciaries, board members or executive
29 officers of any of such fiduciary-controlled entities, to create quotas
30 or other unlawful preferences, or to diminish the ability of any entity
31 covered by this act to make independent decisions consistent with best
32 practices for procuring the services covered hereby.

33 2. In 2006, the New York state department of economic development
34 (NYSDED) commissioned a study to assist the state in evaluating whether
35 the state's minority and women-owned business enterprise (MWBE) initi-
36 atives were still necessary to remedy discrimination in state contract-
37 ing programs. On May 5, 2010, the study was presented to NYSDDED, members
38 of the legislature and other stakeholders. The study's findings indicted
39 that: (a) there is both statistical and anecdotal evidence of business
40 discrimination against MWBEs in the private sector of the New York state
41 market area; (b) there is evidence of discrimination against MWBEs in
42 the New York state market area in the small business credit market; (c)
43 MWBEs in the state's market area report suffering business related
44 discrimination in large numbers and with statistically significant
45 greater frequency than non-MWBEs; and (d) in general, minorities and
46 women reported that race and gender-conscious contracting programs are
47 needed to ensure full and fair access to government.

48 3. As a result of such findings, the governor and the state legisla-
49 ture are considering amendments to article 15-A of the executive law and
50 certain provisions of the public authorities law that cover MWBE
51 procurement programs, to improve outreach to MWBEs by state agencies and
52 state authorities, to increase transparency and public reporting on
53 direct and indirect expenditures with MWBEs, to generally eliminate
54 artificial barriers to entry for MWBE firms and to strengthen the effi-
55 cacy of the state's MWBE programs.

1 4. Many studies have shown that, as it relates to asset management,
2 diversification of asset management contracts through hiring smaller
3 asset managers, including managers that are minority and women-owned
4 business enterprises, creates greater investment portfolio diversity and
5 improves investment returns thereby fulfilling the fiduciary obligations
6 of fiduciary-controlled entities. Increasingly, legislators in other
7 jurisdictions such as Illinois and Maryland and public pension plan
8 fiduciaries in states such as California, Connecticut, Illinois, New
9 York and Texas among others have adopted strategies to increase the
10 diversification of their financial service providers, including by
11 designing emerging manager programs to identify underrepresented, quali-
12 fied asset managers, broker-dealers and investment banks to increase
13 business activity with such firms. On the federal level on July 30,
14 2007, the House of Representatives passed a resolution on the topic, the
15 "financial services diversity initiative" (H.R. 110-278), which among
16 other things "encourages financial institutions and public and private
17 pension funds to seek qualified women- and minority-owned firms as asset
18 managers, underwriters, and other business relationships and to appoint
19 more women and minorities as Board members."

20 5. On December 11, 2009, chapter 506 of the laws of 2009 was signed
21 into law by the governor, which among other things, expanded the
22 contracting areas covered under article 15-A of the executive law to
23 include financial and professional services, which previously had been
24 specifically excluded from such article. This act is an effort to apply
25 the principles inherent to MWBE programs to fiduciary-controlled enti-
26 ties established by the laws of New York state.

27 6. Certain fiduciary-controlled entities have each voluntarily adopted
28 separate successful programs that include making investments with firms
29 that include minority and women-owned business enterprises engaged in
30 asset management. The legislature finds such efforts to be important and
31 consistent with the goals set forth in this act. The legislature deems
32 it necessary to take such successes a step further by codifying the best
33 practices in this area to attain institutional change in ensuring inclu-
34 sion of MWBE firms by such fiduciary-controlled entities that procure
35 asset management, investment banking and other financial and profes-
36 sional services.

37 S 3. Section 176 of the retirement and social security law is amended
38 by adding six new subdivisions 4, 5, 6, 7, 8 and 9 to read as follows:

39 4. THE TERM "MWBE ASSET MANAGER" SHALL MEAN AN ASSET MANAGER IN ANY OF
40 THE FOLLOWING ASSET CLASSES: PUBLIC EQUITY OR FIXED INCOME SECURITIES,
41 HEDGE FUNDS, FUND OF HEDGE FUNDS, PRIVATE EQUITY (INCLUDING VENTURE
42 CAPITAL), FUND OF PRIVATE EQUITY FUNDS, REAL ESTATE INVESTMENT FUNDS,
43 FUND OF REAL ESTATE FUNDS, OR ANY OTHER ASSET CLASS FOR WHICH AN APPLI-
44 CABLE FIDUCIARY-CONTROLLED ENTITY ENGAGES EXTERNAL ASSET MANAGERS THAT
45 IS (A) A MWBE; AND (B) A REGISTERED INVESTMENT ADVISOR OR EXEMPT FROM
46 SUCH REGISTRATION AND (C) CERTIFIED PURSUANT TO THE PROVISIONS OF SUBDI-
47 VISION THREE OF SECTION FOUR HUNDRED TWENTY-THREE-C OF THIS CHAPTER.

48 5. THE TERM "MINORITY GROUP MEMBER" SHALL MEAN A UNITED STATES CITIZEN
49 OR PERMANENT RESIDENT ALIEN WHO IS AND CAN DEMONSTRATE MEMBERSHIP IN ONE
50 OF THE FOLLOWING GROUPS:

51 (A) BLACK PERSONS HAVING ORIGINS IN ANY OF THE BLACK AFRICAN RACIAL
52 GROUPS;

53 (B) HISPANIC PERSONS OF MEXICAN, PUERTO RICAN, DOMINICAN, CUBAN,
54 CENTRAL OR SOUTH AMERICAN OF EITHER INDIAN OR HISPANIC ORIGIN, REGARD-
55 LESS OF RACE;

(C) NATIVE AMERICAN OR ALASKAN NATIVE PERSONS HAVING ORIGINS IN ANY OF THE ORIGINAL PEOPLES OF NORTH AMERICA; OR

(D) ASIAN AND PACIFIC ISLANDER PERSONS HAVING ORIGINS IN ANY OF THE FAR EAST COUNTRIES, SOUTH EAST ASIA, THE INDIAN SUBCONTINENT OR THE PACIFIC ISLANDS.

6. THE TERM "MWBE" FOR THE PURPOSE OF ENGAGING IN BUSINESS WITH THE FIDUCIARY-CONTROLLED ENTITIES COVERED BY THIS SECTION, MEANS A BUSINESS ENTERPRISE, INCLUDING WITHOUT LIMITATION, A SOLE PROPRIETORSHIP, PARTNERSHIP, LIMITED PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, LIMITED LIABILITY COMPANY, CORPORATION OR OTHER SIMILAR ENTITY WHETHER DOMESTIC OR FOREIGN, THAT IS:

(A)(I) AT LEAST FIFTY-ONE PERCENT OWNED BY (A) ONE OR MORE MINORITY GROUP MEMBERS, OR (B) ONE OR MORE WOMEN, IN EACH CASE, WHO HAVE SIGNIFICANT EXPERIENCE IN ASSET MANAGEMENT, BROKERAGE, OTHER FINANCIAL SERVICES OR RELATED PROFESSIONAL SERVICES SUCH AS ACCOUNTING, VALUATION OR LEGAL SERVICES, OR (II) SUBSTANTIALLY OWNED AND/OR OPERATED BY WOMEN OR MINORITY GROUP MEMBERS WHO HAVE SIGNIFICANT EXPERIENCE IN ASSET MANAGEMENT, BROKERAGE, OTHER FINANCIAL SERVICES OR RELATED PROFESSIONAL SERVICES SUCH AS ACCOUNTING, VALUATION OR LEGAL SERVICES;

(B) AN ENTERPRISE IN WHICH SUCH MINORITY OR WOMEN OWNERSHIP OR OPERATION IS REAL, SUBSTANTIAL AND CONTINUING;

(C) AN ENTERPRISE IN WHICH SUCH MINORITY OR WOMEN OWNERSHIP OR OPERATION HAS AND EXERCISES THE AUTHORITY TO CONTROL INDEPENDENTLY THE DAY-TO-DAY BUSINESS DECISIONS OF THE ENTERPRISE;

(D) AN ENTERPRISE AUTHORIZED TO DO BUSINESS IN THIS STATE; AND

(E) AN ENTERPRISE CERTIFIED BY THE STATE COMPTROLLER PURSUANT TO SECTION FOUR HUNDRED TWENTY-THREE-C OF THIS CHAPTER.

7. THE TERM "MWBE FINANCIAL INSTITUTION" SHALL MEAN (A) AS IT RELATES TO BROKERAGE SERVICES, A REGISTERED BROKER DEALER THAT IS AN MWBE CERTIFIED PURSUANT TO THE PROVISIONS OF SUBDIVISION THREE OF SECTION FOUR HUNDRED TWENTY-THREE-C OF THIS CHAPTER AND (B) AS IT RELATES TO ANY OTHER FINANCIAL SERVICES, AN MWBE CERTIFIED PURSUANT TO THE PROVISIONS OF SUBDIVISION THREE OF SECTION FOUR HUNDRED TWENTY-THREE-C OF THIS CHAPTER THAT PROVIDES BANKING, FINANCIAL ADVISORY, INSURANCE, FINANCIAL RESEARCH, VALUATION OR OTHER FINANCIAL SERVICES.

8. THE TERM "FIDUCIARY-CONTROLLED ENTITIES" SHALL MEAN THE COMMON RETIREMENT FUND, STATE TEACHERS RETIREMENT FUND, STATE INSURANCE FUND AND STATE DEFERRED COMPENSATION PLAN.

9. THE TERM "BEST EXECUTION" SHALL REFER TO THE OBLIGATION OF AN ENTITY THAT PURCHASES OR SELLS PUBLICLY-TRADED SECURITIES TO ENSURE THE OPTIMAL MIX OF PRICE IMPROVEMENT (GETTING A BETTER PRICE THAN IS CURRENTLY QUOTED), SPEED AND LIKELIHOOD OF EXECUTION.

S 4. The retirement and social security law is amended by adding a new section 423-c to read as follows:

S 423-C. MWBE ASSET MANAGEMENT AND FINANCIAL INSTITUTION STRATEGY. 1. WITHIN THE DISCRETION OF THE STATE COMPTROLLER AND IN ACCORDANCE WITH AND SUBJECT TO HIS OR HER FIDUCIARY DUTIES AND OBLIGATIONS AS TRUSTEE OF THE COMMON RETIREMENT FUND AND TO THE MEMBERS, RETIREES AND BENEFICIARIES OF SUCH FUND AND SUCH OTHER INVESTMENT LIMITATIONS AS MAY BE PRESCRIBED BY THIS CHAPTER, THE COMPTROLLER IS AUTHORIZED TO ESTABLISH AN MWBE ASSET MANAGEMENT AND FINANCIAL INSTITUTION STRATEGY INCLUDING REASONABLE GOALS FOR UTILIZATION OF MWBE ASSET MANAGERS, MWBE FINANCIAL INSTITUTIONS AND MWBE FINANCIAL AND PROFESSIONAL SERVICE FIRMS, WHICH STRATEGY SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, THE FOLLOWING OBJECTIVES:

1 (A) INVESTING ASSETS OF THE COMMON RETIREMENT FUND WITH MWBE ASSET
2 MANAGERS;

3 (B) SUBJECT TO BEST EXECUTION: (I) CONDUCTING TRADES OF PUBLIC EQUITY
4 SECURITIES WITH MWBE FINANCIAL INSTITUTIONS; AND (II) CONDUCTING TRADES
5 OF FIXED-INCOME SECURITIES THROUGH MWBE FINANCIAL INSTITUTIONS;

6 (C) ALLOCATING INVESTMENTS OF ASSETS OF THE COMMON RETIREMENT FUND
7 EITHER THROUGH: (I) DIRECT INVESTMENTS IN THE EQUITIES AND DEBT SECURI-
8 TIES OF MWBES; OR (II) INDIRECTLY THROUGH SPECIAL PROGRAMS INVOLVING
9 MWBE ASSET MANAGERS; AND

10 (D) AWARDING CONTRACTS FOR ACCOUNTING, BANKING, FINANCIAL ADVISORY,
11 INSURANCE, LEGAL, RESEARCH, VALUATION AND OTHER FINANCIAL AND PROFES-
12 SIONAL SERVICES TO MWBE FINANCIAL INSTITUTIONS AND OTHER MWBE PROFES-
13 SIONAL SERVICE FIRMS.

14 2. THE COMPTROLLER IS ALSO AUTHORIZED TO: (A) PERIODICALLY ADVERTISE
15 THE EXISTENCE OF THE STRATEGY ESTABLISHED IN THIS SECTION SO THAT MWBE
16 ASSET MANAGERS, MWBE FINANCIAL INSTITUTIONS AND OTHER MWBE PROFESSIONAL
17 SERVICE FIRMS ARE MADE AWARE OF THE OPPORTUNITIES MADE AVAILABLE PURSU-
18 ANT TO SUCH STRATEGY;

19 (B) WITHIN SIXTY DAYS OF THE END OF EACH FISCAL YEAR FOLLOWING THE
20 EFFECTIVE DATE OF THIS SECTION, THE STATE COMPTROLLER SHALL REPORT TO
21 THE GOVERNOR, LEGISLATURE AND THE CHIEF DIVERSITY OFFICER OF THE STATE
22 OF NEW YORK ON THE PARTICIPATION OF MWBE ASSET MANAGERS, MWBE FINANCIAL
23 INSTITUTIONS AND MWBE PROFESSIONAL SERVICE PROVIDERS IN INVESTMENT AND
24 BROKERAGE TRANSACTIONS WITH OR AS PROVIDERS OF SERVICES FOR THE COMMON
25 RETIREMENT FUND, INCLUDING A COMPARATIVE ANALYSIS OF SUCH ACTIVITY RELA-
26 TIVE TO SUCH ACTIVITY WITH ALL ASSET MANAGERS, FINANCIAL INSTITUTIONS
27 AND PROFESSIONAL SERVICE PROVIDERS FOR THE RELEVANT PERIOD AND ON THE
28 PROGRESS AND SUCCESS OF THE EFFORTS UNDERTAKEN DURING SUCH PERIOD TO
29 ACHIEVE THE GOALS OF SUCH STRATEGY. EACH REPORT SHALL BE SIMULTANEOUSLY
30 PUBLISHED ON THE WEBSITE OF THE COMMON RETIREMENT FUND FOR NOT LESS THAN
31 SIXTY DAYS FOLLOWING ITS RELEASE TO THE GOVERNOR AND THE OTHER RECIPI-
32 ENTS NAMED ABOVE;

33 (C) WORK WITH THE OTHER FIDUCIARY-CONTROLLED ENTITIES TO CREATE A
34 DATABASE OF SUCH MWBE ENTITIES; AND

35 (D) PERIODICALLY, BUT NOT LESS THAN ANNUALLY, HOLD A CONFERENCE TO
36 PROMOTE SUCH STRATEGY IN CONJUNCTION WITH THE OTHER FIDUCIARY-CONTROLLED
37 ENTITIES.

38 3. (A) THE STATE COMPTROLLER SHALL ESTABLISH AND ADOPT A CERTIFICATION
39 PROCESS AND GUIDELINES FOR THE SOLE PURPOSE OF IDENTIFICATION AND
40 REPORTING ON MWBE FIRMS PROVIDING ASSET MANAGEMENT, BROKERAGE, OR OTHER
41 FINANCIAL OR PROFESSIONAL SERVICES AS SUCH TERM IS DEFINED IN SUBDIVI-
42 SION SIX OF SECTION ONE HUNDRED SEVENTY-SIX OF THIS CHAPTER. SUCH
43 CERTIFICATION SHALL DIFFERENTIATE AND THE COMPTROLLER SHALL MAINTAIN
44 SEPARATE CATEGORIES FOR MWBE ASSET MANAGERS MEETING THE CRITERIA OF
45 SUBPARAGRAPH (I) OF PARAGRAPH (A) OF SUBDIVISION SIX OF SECTION ONE
46 HUNDRED SEVENTY-SIX OF THIS CHAPTER AND MWBE ASSET MANAGERS MEETING THE
47 CRITERIA OF SUBPARAGRAPH (II) OF PARAGRAPH (A) OF SUCH SUBDIVISION.

48 (B) SUCH CERTIFICATION PROCESS SHALL INCLUDE, BUT NEED NOT BE LIMITED
49 TO, A REQUEST FOR THE FOLLOWING INFORMATION RELATING TO EACH MANAGING
50 PRINCIPAL, PRINCIPAL, OPERATING PRINCIPAL, CHIEF FINANCIAL OFFICER,
51 OPERATING VICE-PRESIDENT, VICE-PRESIDENT, PARTNER, OWNER AND EMPLOYEE
52 ASSOCIATED WITH A PROSPECTIVE MWBE ENTITY:

53 (I) TITLE;

54 (II) POSITION;

55 (III) OWNERSHIP PERCENTAGE;

56 (IV) ETHNICITY;

1 (V) GENDER; AND

2 (VI) LENGTH OF SERVICE.

3 S 5. The education law is amended by adding a new section 508-a to
4 read as follows:

5 S 508-A. NEW YORK STATE TEACHERS' RETIREMENT SYSTEM MWBE ASSET MANAGE-
6 MENT AND FINANCIAL INSTITUTION STRATEGY. 1. WITHIN THE DISCRETION OF
7 THE RETIREMENT BOARD AND IN ACCORDANCE WITH AND SUBJECT TO ITS FIDUCIARY
8 DUTIES AND OBLIGATIONS AS TRUSTEES OF THE TEACHERS RETIREMENT SYSTEM AND
9 TO THE MEMBERS, RETIREES AND BENEFICIARIES OF SUCH SYSTEM AND SUCH OTHER
10 INVESTMENT LIMITATIONS AS MAY BE PRESCRIBED BY THIS CHAPTER, THE RETIRE-
11 MENT BOARD IS AUTHORIZED TO ESTABLISH ON MWBE ASSET MANAGEMENT AND
12 FINANCIAL INSTITUTION STRATEGY PURSUANT TO SECTION FOUR HUNDRED TWENTY-
13 THREE-C OF THE RETIREMENT AND SOCIAL SECURITY LAW INCLUDING REASONABLE
14 GOALS FOR UTILIZATION OF MWBE ASSET MANAGERS, MWBE FINANCIAL INSTI-
15 TUTIONS AND MWBE FINANCIAL AND PROFESSIONAL SERVICES FIRMS, AS SUCH
16 TERMS ARE DEFINED IN SECTION ONE HUNDRED SEVENTY-SIX OF THE RETIREMENT
17 AND SOCIAL SECURITY LAW WHICH STRATEGY SHALL INCLUDE, BUT SHALL NOT BE
18 LIMITED TO, THE FOLLOWING OBJECTIVES:

19 A. INVESTING ASSETS OF THE TEACHERS' RETIREMENT SYSTEM WITH MWBE ASSET
20 MANAGERS;

21 B. SUBJECT TO BEST EXECUTION, (1) CONDUCTING TRADES OF PUBLIC EQUITY
22 SECURITIES WITH MWBE FINANCIAL INSTITUTIONS AND (2) CONDUCTING TRADES OF
23 FIXED-INCOME SECURITIES THROUGH MWBE FINANCIAL INSTITUTIONS;

24 C. ALLOCATING INVESTMENTS OF ASSETS OF THE TEACHER'S RETIREMENT SYSTEM
25 EITHER THROUGH (1) DIRECT INVESTMENTS IN THE EQUITIES AND DEBT SECURI-
26 TIES OF MWBES OR (2) INDIRECTLY THROUGH SPECIAL PROGRAMS INVOLVING MWBE
27 ASSET MANAGERS; AND

28 D. AWARDING CONTRACTS FOR ACCOUNTING, BANKING, FINANCIAL ADVISORY,
29 INSURANCE, LEGAL, RESEARCH, VALUATION AND OTHER FINANCIAL AND PROFES-
30 SIONAL SERVICES TO MWBE FINANCIAL INSTITUTIONS AND OTHER MWBE PROFES-
31 SIONAL SERVICES FIRMS.

32 AS USED IN THIS SECTION, THE TERMS "MWBE ASSET MANAGER", "MWBE FINAN-
33 CIAL INSTITUTIONS", "MWBE", "FIDIUCIARY-CONTROLLED ENTITIES", AND "BEST
34 EXECUTION" SHALL HAVE THE MEANINGS SPECIFIED IN SECTION ONE HUNDRED
35 SEVENTY-SIX OF THE RETIREMENT AND SOCIAL SECURITY LAW, AND SHALL BE
36 CERTIFIED IN A MANNER CONSISTENT WITH THE PROVISIONS OF SUBDIVISION
37 THREE OF SECTION FOUR HUNDRED TWENTY-THREE-C OF THE RETIREMENT AND
38 SOCIAL SECURITY LAW.

39 2. THE RETIREMENT BOARD IS ALSO AUTHORIZED TO:

40 A. PERIODICALLY ADVERTISE THE EXISTENCE OF SUCH STRATEGY SO THAT MWBE
41 ASSET MANAGERS, MWBE FINANCIAL INSTITUTIONS AND OTHER MWBE PROFESSIONAL
42 SERVICE FIRMS ARE MADE AWARE OF THE OPPORTUNITIES MADE AVAILABLE PURSU-
43 ANT TO SUCH STRATEGY;

44 B. WITHIN SIXTY DAYS OF THE END OF EACH FISCAL YEAR FOLLOWING THE
45 EFFECTIVE DATE OF THIS SECTION, THE RETIREMENT BOARD SHALL REPORT TO THE
46 GOVERNOR, LEGISLATURE AND THE CHIEF DIVERSITY OFFICER OF THE STATE OF
47 NEW YORK ON THE PARTICIPATION OF MWBE ASSET MANAGERS, MWBE FINANCIAL
48 INSTITUTIONS AND MWBE PROFESSIONAL SERVICE PROVIDERS IN INVESTMENT AND
49 BROKERAGE TRANSACTIONS WITH OR AS PROVIDERS OF SERVICES FOR THE TEACH-
50 ERS' RETIREMENT SYSTEM, INCLUDING A COMPARATIVE ANALYSIS OF SUCH ACTIV-
51 ITY RELATIVE TO SUCH ACTIVITY WITH ALL ASSET MANAGERS, FINANCIAL INSTI-
52 TUTIONS AND PROFESSIONAL SERVICE PROVIDERS FOR THE RELEVANT PERIOD AND
53 ON THE PROGRESS AND SUCCESS OF THE EFFORTS UNDERTAKEN DURING SUCH PERIOD
54 TO ACHIEVE THE GOALS OF SUCH STRATEGY. EACH REPORT SHALL BE SIMULTANE-
55 OUSLY PUBLISHED ON THE WEBSITE OF THE TEACHERS' RETIREMENT SYSTEM FOR

NOT LESS THAN SIXTY DAYS FOLLOWING ITS RELEASE TO THE GOVERNOR AND THE OTHER RECIPIENTS NAMED ABOVE;

C. WORK WITH THE OTHER FIDUCIARY-CONTROLLED ENTITIES TO CREATE A DATA-BASE OF SUCH MWBE ENTITIES; AND

D. PERIODICALLY, BUT NOT LESS THAN ANNUALLY, HOLD A CONFERENCE TO PROMOTE SUCH STRATEGY IN CONJUNCTION WITH THE OTHER FIDUCIARY-CONTROLLED ENTITIES.

S 6. The workers' compensation law is amended by adding a new section 87-i to read as follows:

S 87-I. NEW YORK STATE INSURANCE FUND MWBE ASSET MANAGEMENT AND FINANCIAL INSTITUTION STRATEGY. 1. WITHIN THE DISCRETION OF THE COMMISSIONERS OF THE STATE INSURANCE FUND AND IN ACCORDANCE WITH AND SUBJECT TO THEIR FIDUCIARY DUTY AND OBLIGATIONS AS TRUSTEES OF THE STATE INSURANCE FUND AND TO THE BENEFICIARIES OF SUCH FUND AND SUCH OTHER INVESTMENT LIMITATIONS AS MAY BE PRESCRIBED BY THIS CHAPTER, THE COMMISSIONERS ARE AUTHORIZED TO ESTABLISH AN MWBE ASSET MANAGEMENT AND FINANCIAL INSTITUTION STRATEGY INCLUDING REASONABLE GOALS FOR UTILIZATION OF MWBE ASSET MANAGERS, MWBE FINANCIAL INSTITUTIONS AND MWBE FINANCIAL AND PROFESSIONAL SERVICE FIRMS, WHICH STRATEGY SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, THE FOLLOWING OBJECTIVES:

(A) INVESTING ASSETS OF THE STATE INSURANCE FUND WITH MWBE ASSET MANAGERS;

(B) SUBJECT TO BEST EXECUTION, (1) CONDUCTING TRADES OF PUBLIC EQUITY SECURITIES WITH MWBE FINANCIAL INSTITUTIONS; AND (2) CONDUCTING TRADES OF FIXED-INCOME SECURITIES THROUGH MWBE FINANCIAL INSTITUTIONS;

(C) ALLOCATING INVESTMENTS OF ASSETS OF THE STATE INSURANCE FUND EITHER THROUGH (1) DIRECT INVESTMENTS IN THE EQUITIES AND DEBT SECURITIES OF MWBES; OR (2) INDIRECTLY THROUGH SPECIAL PROGRAMS INVOLVING MWBE ASSET MANAGERS; AND

(D) AWARDING CONTRACTS FOR ACCOUNTING, BANKING, FINANCIAL ADVISORY, INSURANCE, LEGAL, RESEARCH, VALUATION AND OTHER FINANCIAL AND PROFESSIONAL SERVICES TO MWBE FINANCIAL INSTITUTIONS AND OTHER MWBE PROFESSIONAL SERVICE FIRMS.

AS USED IN THIS SECTION, THE TERMS "MWBE ASSET MANAGER", "MWBE FINANCIAL INSTITUTIONS", "MWBE", "FIDUCIARY-CONTROLLED ENTITIES" AND "BEST EXECUTION" SHALL HAVE THE MEANINGS SPECIFIED IN SECTION ONE HUNDRED SEVENTY-SIX OF THE RETIREMENT AND SOCIAL SECURITY LAW AND SHALL BE CERTIFIED IN A MANNER CONSISTENT WITH THE PROVISIONS OF SUBDIVISION THREE OF SECTION FOUR HUNDRED TWENTY-THREE-C OF THE RETIREMENT AND SOCIAL SECURITY LAW.

2. THE COMMISSIONERS ARE ALSO AUTHORIZED TO:

(A) PERIODICALLY ADVERTISE THE EXISTENCE OF SUCH STRATEGY SO THAT MWBE ASSET MANAGERS, MWBE FINANCIAL INSTITUTIONS AND OTHER MWBE PROFESSIONAL SERVICE FIRMS ARE MADE AWARE OF THE OPPORTUNITIES MADE AVAILABLE PURSUANT TO THIS STRATEGY;

(B) WITHIN SIXTY DAYS OF THE END OF EACH FISCAL YEAR FOLLOWING THE EFFECTIVE DATE OF THIS SECTION, THE COMMISSIONERS SHALL REPORT TO THE GOVERNOR, THE LEGISLATURE AND THE CHIEF DIVERSITY OFFICER OF THE STATE OF NEW YORK ON THE PARTICIPATION OF MWBE ASSET MANAGERS, MWBE FINANCIAL INSTITUTIONS AND MWBE PROFESSIONAL SERVICE PROVIDERS IN INVESTMENT AND BROKERAGE TRANSACTIONS WITH OR AS PROVIDERS OF SERVICES FOR THE STATE INSURANCE FUND, INCLUDING A COMPARATIVE ANALYSIS OF SUCH ACTIVITY RELATIVE TO SUCH ACTIVITY WITH ALL ASSET MANAGERS, FINANCIAL INSTITUTIONS AND PROFESSIONAL SERVICE PROVIDERS FOR THE RELEVANT PERIOD AND ON THE PROGRESS AND SUCCESS OF THE EFFORTS UNDERTAKEN DURING SUCH PERIOD TO ACHIEVE THE GOALS OF SUCH STRATEGY. EACH REPORT SHALL BE SIMULTANEOUSLY

1 PUBLISHED ON THE WEBSITE OF THE STATE INSURANCE FUND FOR NOT LESS THAN
2 SIXTY DAYS FOLLOWING ITS RELEASE TO THE GOVERNOR AND THE OTHER RECIPI-
3 ENTS NAMED ABOVE;

4 (C) WORK WITH THE OTHER FIDUCIARY-CONTROLLED ENTITIES TO CREATE A
5 DATABASE OF SUCH MWBE ENTITIES; AND

6 (D) PERIODICALLY, BUT NOT LESS THAN ANNUALLY, HOLD A CONFERENCE TO
7 PROMOTE SUCH STRATEGY IN CONJUNCTION WITH THE OTHER FIDUCIARY-CONTROLLED
8 ENTITIES.

9 S 7. Paragraphs c, d, e and f of subdivision 2 of section 5 of the
10 state finance law are relettered paragraphs e, f, g and h and two new
11 paragraphs c and d are added to read as follows:

12 C. WITHIN THE DISCRETION OF THE DEFERRED COMPENSATION BOARD AND IN
13 ACCORDANCE WITH AND SUBJECT TO ITS FIDUCIARY DUTY AND OBLIGATIONS TO THE
14 DEFERRED COMPENSATION PLAN FOR STATE EMPLOYEES AND TO THE MEMBERS AND
15 BENEFICIARIES OF SUCH PLAN AND SUCH OTHER INVESTMENT LIMITATIONS AS MAY
16 BE PRESCRIBED BY THIS CHAPTER, THE DEFERRED COMPENSATION BOARD IS
17 AUTHORIZED TO ESTABLISH AN MWBE ASSET MANAGEMENT AND FINANCIAL INSTITU-
18 TION STRATEGY INCLUDING REASONABLE GOALS FOR UTILIZATION OF MWBE ASSET
19 MANAGERS, MWBE FINANCIAL INSTITUTIONS AND MWBE PROFESSIONAL SERVICE
20 FIRMS, WHICH SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, THE FOLLOWING
21 OBJECTIVES:

22 (I) CONDUCTING PROCUREMENT PROCEDURES IN A MANNER THAT WILL ASSURE THE
23 INCLUSION OF MWBE ASSET MANAGERS IN ANY REQUEST FOR PROPOSAL OR SEARCH
24 PROCESS FOR ASSET MANAGEMENT SERVICES UNDERTAKEN IN ACCORDANCE WITH THE
25 RULES AND REGULATIONS AND OF THE BOARD;

26 (II) SUBJECT TO BEST EXECUTION POLICIES, DEVELOPING A STRATEGY TO (1)
27 CONDUCT TRADES OF PUBLIC EQUITY SECURITIES WITH MWBE FINANCIAL INSTI-
28 TUTIONS AND (2) CONDUCT TRADES OF FIXED-INCOME SECURITIES THROUGH MWBE
29 FINANCIAL INSTITUTIONS;

30 (III) CONDUCTING PROCUREMENT PROCEDURES IN A MANNER THAT WILL ASSURE
31 THE INCLUSION OF MWBE FINANCIAL INSTITUTIONS AND OTHER MWBE PROFESSIONAL
32 SERVICE FIRMS IN PROCUREMENTS FOR SERVICES THAT INCLUDE ACCOUNTING,
33 BANKING, FINANCIAL ADVISORY, INSURANCE, LEGAL, RESEARCH, VALUATION AND
34 OTHER FINANCIAL AND PROFESSIONAL SERVICES THAT ARE UNDERTAKEN IN ACCORD-
35 ANCE WITH THE RULES AND REGULATIONS OF THE BOARD;

36 (IV) COOPERATING WITH OTHER FIDUCIARY CONTROLLED ENTITIES AND STATE
37 AGENCIES AND OFFICES TO IDENTIFY MWBE ASSET MANAGERS, MWBE FINANCIAL
38 INSTITUTIONS AND MWBE PROFESSIONAL SERVICE FIRMS.

39 AS USED IN THIS SECTION, THE TERMS "MWBE ASSET MANAGER", "MWBE FINAN-
40 CIAL INSTITUTIONS", "MWBE", "FIDUCIARY-CONTROLLED ENTITIES" AND "BEST
41 EXECUTION" SHALL HAVE THE MEANINGS SPECIFIED IN SECTION ONE HUNDRED
42 SEVENTY-SIX OF THE RETIREMENT AND SOCIAL SECURITY LAW.

43 D. THE BOARD IS ALSO AUTHORIZED TO:

44 (I) PERIODICALLY PROVIDE NOTICE OF THE EXISTENCE OF SUCH STRATEGY SO
45 THAT MWBE ASSET MANAGERS, MWBE FINANCIAL INSTITUTIONS AND OTHER MWBE
46 PROFESSIONAL SERVICE FIRMS ARE MADE AWARE OF THE OPPORTUNITIES MADE
47 AVAILABLE PURSUANT TO THIS STRATEGY;

48 (II) WITHIN SIXTY DAYS OF THE END OF EACH FISCAL YEAR FOLLOWING THE
49 EFFECTIVE DATE OF THIS PARAGRAPH, THE BOARD SHALL REPORT TO THE GOVER-
50 NOR, LEGISLATURE AND THE CHIEF DIVERSITY OFFICER OF THE STATE OF NEW
51 YORK ON THE PARTICIPATION OF MWBE ASSET MANAGERS, MWBE FINANCIAL INSTI-
52 TUTIONS AND MWBE PROFESSIONAL SERVICE PROVIDERS IN INVESTMENT AND
53 BROKERAGE TRANSACTIONS WITH OR AS PROVIDERS OF SERVICES FOR THE DEFERRED
54 COMPENSATION PLANS, INCLUDING A COMPARATIVE ANALYSIS OF SUCH ACTIVITY
55 RELATIVE TO SUCH ACTIVITY WITH ALL ASSET MANAGERS, FINANCIAL INSTI-
56 TUTIONS AND PROFESSIONAL SERVICE PROVIDERS FOR THE RELEVANT PERIOD AND

1 ON THE PROGRESS AND THE SUCCESS OF THE EFFORTS UNDERTAKEN DURING SUCH
2 PERIOD TO ACHIEVE THE GOALS OF SUCH STRATEGY. EACH REPORT SHALL BE
3 SIMULTANEOUSLY PUBLISHED ON THE WEBSITE OF THE DEFERRED COMPENSATION
4 PLANS FOR NOT LESS THAN SIXTY DAYS FOLLOWING ITS RELEASE TO THE GOVERNOR
5 AND THE OTHER RECIPIENTS NAMED ABOVE;

6 (III) WORK WITH THE OTHER FIDUCIARY-CONTROLLED ENTITIES TO CREATE A
7 DATABASE OF SUCH MWBE ENTITIES; AND

8 (IV) PERIODICALLY, BUT NOT LESS THAN ANNUALLY, HOLD A CONFERENCE TO
9 PROMOTE SUCH STRATEGY IN CONJUNCTION WITH THE OTHER FIDUCIARY-CONTROLLED
10 ENTITIES.

11 S 8. The provisions of this act are severable, and if any part or
12 provision hereof, or the application thereof to any person or circum-
13 stance, shall be adjudged by any court of competent jurisdiction to be
14 invalid or unenforceable, such judgment shall not affect, impair or
15 invalidate the remaining provisions to any person or circumstance, but
16 shall be confined in its operation to the provision, person or circum-
17 stance directly involved in the controversy in which such judgment shall
18 have been rendered.

19 S 9. This act shall take effect on the ninetieth day after it shall
20 have become a law.