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

S. 6888--C A. 9976--C

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, ADDABBO, 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

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

S 2. Legislative findings. 1. The New York state MWBE asset management and financial institution strategy is hereby established to codify and replicate, across certain fiduciary-controlled entities established by New York state law, best practices with respect to the inclusion of minority and women-owned business enterprises that are asset managers, investment banks, and financial and professional service firms in the opportunity to provide services to such fiduciary-controlled entities -- the New York state common retirement fund, New York state teachers' retirement system, the New York insurance fund, and the New York state deferred compensation plan. Certain fiduciary-controlled entities have recently adopted emerging manager programs to increase opportunities for firms that include small, disadvantaged or minority and women-owned business enterprises. These programs and similar programs in other states have shown that there is a growing pool of minority and women-owned asset managers, investment banks and financial and professional services firms that are qualified to provide investment management, investment banking, underwriting and other financial and professional services to such fiduciary-controlled entities. The intent of this act is to institutionalize access to opportunities for MWBE firms in such fiduciary-controlled entities that use such services, to create reasonable objectives for conducting business with such firms, and to facilitate transparency by creating a regime of public reporting about the use of such firms for such services. Nothing in this act shall be deemed to preempt or affect in any way existing laws or fiduciary obligations of the trustees, plan sponsors, fiduciaries, board members or executive officers of any of such fiduciary-controlled entities, to create quotas or other unlawful preferences, or to diminish the ability of any entity covered by this act to make independent decisions consistent with best practices for procuring the services covered hereby.

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

3. As a result of such findings, the governor and the state legislature are considering amendments to article 15-A of the executive law and certain provisions of the public authorities law that cover MWBE procurement programs, to improve outreach to MWBEs by state agencies and state authorities, to increase transparency and public reporting on direct and indirect expenditures with MWBEs, to generally eliminate artificial barriers to entry for MWBE firms and to strengthen the efficacy of the state's MWBE programs.

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

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

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

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

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

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

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

(B) HISPANIC PERSONS OF MEXICAN, PUERTO RICAN, DOMINICAN, CUBAN, CENTRAL OR SOUTH AMERICAN OF EITHER INDIAN OR HISPANIC ORIGIN, REGARDLESS 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:

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

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

(C) ALLOCATING INVESTMENTS OF ASSETS OF THE COMMON RETIREMENT FUND EITHER THROUGH: (I) DIRECT INVESTMENTS IN THE EQUITIES AND DEBT SECURITIES OF MWBES; OR (II) 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.

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

(B) WITHIN SIXTY DAYS OF THE END OF EACH FISCAL YEAR FOLLOWING THE EFFECTIVE DATE OF THIS SECTION, THE STATE COMPTROLLER SHALL REPORT TO THE GOVERNOR, 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 COMMON RETIREMENT 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 PUBLISHED ON THE WEBSITE OF THE COMMON RETIREMENT FUND 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 DATABASE 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.

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

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

(I) TITLE;

(II) POSITION;

(III) OWNERSHIP PERCENTAGE;

(IV) ETHNICITY;

(V) GENDER; AND
(VI) LENGTH OF SERVICE.

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

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

A. INVESTING ASSETS OF THE TEACHERS' RETIREMENT SYSTEM 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 TEACHER'S RETIREMENT SYSTEM 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 SERVICES FIRMS.

AS USED IN THIS SECTION, THE TERMS "MWBE ASSET MANAGER", "MWBE FINANCIAL INSTITUTIONS", "MWBE", "FIDIUCIARY-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 RETIREMENT BOARD IS 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 SUCH STRATEGY;

B. WITHIN SIXTY DAYS OF THE END OF EACH FISCAL YEAR FOLLOWING THE EFFECTIVE DATE OF THIS SECTION, THE RETIREMENT BOARD SHALL REPORT TO THE GOVERNOR, 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 TEACHERS' RETIREMENT SYSTEM, 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 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 DATABASE 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

PUBLISHED ON THE WEBSITE OF THE STATE INSURANCE FUND 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 DATABASE 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 7. Paragraphs c, d, e and f of subdivision 2 of section 5 of the state finance law are relettered paragraphs e, f, g and h and two new paragraphs c and d are added to read as follows:

C. WITHIN THE DISCRETION OF THE DEFERRED COMPENSATION BOARD AND IN ACCORDANCE WITH AND SUBJECT TO ITS FIDUCIARY DUTY AND OBLIGATIONS TO THE DEFERRED COMPENSATION PLAN FOR STATE EMPLOYEES AND TO THE MEMBERS AND BENEFICIARIES OF SUCH PLAN AND SUCH OTHER INVESTMENT LIMITATIONS AS MAY BE PRESCRIBED BY THIS CHAPTER, THE DEFERRED COMPENSATION BOARD 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 PROFESSIONAL SERVICE FIRMS, WHICH SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, THE FOLLOWING OBJECTIVES:

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

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

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

(IV) COOPERATING WITH OTHER FIDUCIARY CONTROLLED ENTITIES AND STATE AGENCIES AND OFFICES TO IDENTIFY MWBE ASSET MANAGERS, MWBE FINANCIAL INSTITUTIONS AND 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.

D. THE BOARD IS ALSO AUTHORIZED TO:

(I) PERIODICALLY PROVIDE NOTICE OF 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;

(II) WITHIN SIXTY DAYS OF THE END OF EACH FISCAL YEAR FOLLOWING THE EFFECTIVE DATE OF THIS PARAGRAPH, THE BOARD SHALL REPORT TO THE GOVERNOR, 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 DEFERRED COMPENSATION PLANS, 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 THE SUCCESS OF THE EFFORTS UNDERTAKEN DURING SUCH PERIOD TO ACHIEVE THE GOALS OF SUCH STRATEGY. EACH REPORT SHALL BE SIMULTANEOUSLY PUBLISHED ON THE WEBSITE OF THE DEFERRED COMPENSATION PLANS FOR NOT LESS THAN SIXTY DAYS FOLLOWING ITS RELEASE TO THE GOVERNOR AND THE OTHER RECIPIENTS NAMED ABOVE;

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

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

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

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