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

3511

2009-2010 Regular Sessions

I N S E N A T E

March 20, 2009

Introduced by Sen. SAVINO -- (at request of the New York State Teachers' Retirement System) -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to amend the retirement and social security law, in relation to increasing to ten percent the amount of assets of the New York state teachers' retirement system which may be invested in real property

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

Section 1. Paragraph (e) of subdivision 6 of section 177 of the retirement and social security law, as amended by chapter 560 of the laws of 1997, is amended to read as follows:

(e) Such real property, other than property to be used primarily for agricultural, horticultural, ranch, mining, recreational, amusement or club purposes, as may be acquired, as an investment for the production of income (INCLUDING CAPITAL APPRECIATION), or as may be acquired to be improved or developed for such investment purpose pursuant to an existing program therefor, subject to the following limitations: (1) the cost of each parcel of real property so acquired under the authority of this subdivision, including the estimated cost to the fund of the improvement or development thereof, when added to the value of all other real property then held by it pursuant to this subdivision, shall not exceed [five] TEN per cent of its assets, and (2) the cost of each parcel of real property acquired under the authority of this subdivision, including the estimated cost to the fund of the improvement or development thereof, shall not exceed two per cent of the fund's assets.

S 2. Subdivision 6 of section 177 of the retirement and social security law is amended by adding a new paragraph (f) to read as follows:

(F) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, FOR THE PURPOSES OF THIS SUBDIVISION, AN INVESTMENT IN AN ENTITY THAT INVESTS OR PROPOSES TO INVEST, DIRECTLY OR INDIRECTLY THROUGH ONE OR MORE OTHER ENTITIES, AT LEAST A MAJORITY OF ITS ASSETS IN (1) ANY INTEREST IN REAL

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

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PROPERTY OF ANY KIND OR CHARACTER AS AN INVESTMENT FOR THE PRODUCTION OF INCOME (INCLUDING CAPITAL APPRECIATION), OR (2) DEBT INSTRUMENTS SECURED BY ANY INTEREST IN REAL ESTATE MAY BE CONSIDERED AN INVESTMENT IN REAL ESTATE PURSUANT TO THIS SUBDIVISION AND INCLUDED IN THE ASSETS SUBJECT TO THE TEN PERCENT LIMITATION OF PARAGRAPH (E) OF THIS SUBDIVISION.

S 3. This act shall take effect June 30, 2009, provided, that if this act shall have become a law on or after June 30, 2009, this act shall take effect immediately and shall be deemed to have been in full force and effect on and after June 30, 2009.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill would amend subdivision 6 of section 177 of the Retirement and Social Security Law to increase the percentage of assets of the New York State Teachers' Retirement System (NYSTRS) which may be invested in real estate from five to ten percent. Additionally, this bill would add a new paragraph (f) to subdivision 6 of section 177 to allow NYSTRS to classify, at the System's election, real estate oriented funds or partnerships as a real estate asset for investment purposes.

It is estimated that there will be no annual cost to the employers of members of the New York State Teachers' Retirement System if this bill is enacted.

The source of this estimate is Fiscal Note 2009-4 dated October 15, 2008 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2009 Legislative Session.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

FINANCIAL IMPACT - EMPLOYER CONTRIBUTIONS: With respect to the NYCRS, the enactment of this proposed legislation would not, in and of itself, result in any change in employer contributions.

The ultimate cost of a Retirement Program is the benefits it pays. The financing of that ultimate cost is provided by contributions and investment income.

Investment income depends upon the amount of assets of the respective NYCRS Fund and the rate of return received on those assets. The rate of return depends to a large extent upon the asset allocation policy of the respective NYCRS Fund.

To the extent that the NYCRS increase their investments in the securities authorized by this proposed legislation and those securities produced greater (lesser) rates of return than the rates of return that the NYCRS would otherwise have achieved, then employer contributions to the NYCRS will be lesser (greater).

STATEMENT OF ACTUARIAL OPINION: I, Robert C. North, Jr., am the Chief Actuary for the New York City Retirement Systems. I am a Fellow of the Society of Actuaries and a Member of the American Academy of Actuaries. I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

FISCAL NOTE IDENTIFICATION: This estimate is intended for use only during the 2009 Legislative Session. It is Fiscal Note 2009-01, dated January 16, 2009, prepared by the Chief Actuary for the New York City Retirement Systems.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill would amend the Retirement and Social Security Law to increase the percentage of assets of the eight (8) public retirement systems of New York State which may be invested in real estate from 5 to 10 percent. It would also allow such Systems to elect to classify real estate oriented funds or partnerships as a real estate asset for investment purposes.

If this bill is enacted, insofar as this bill affects the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System, we assume that there would be small investment changes as a result of enactment. Any increases or decreases in investment earnings will result in decreases or increases, respectively, in employer contributions. Annual changes in assets will be shared by all employers and will be spread over the future working lifetimes of active members.

This estimate, dated January 29, 2009, and intended for use only during the 2009 Legislative Session, is Fiscal Note Number 2009-95 prepared by the Actuary for the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System.