

3541

2009-2010 Regular Sessions

I N S E N A T E

March 24, 2009

Introduced by Sen. MARCELLINO -- 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 establishing the New York state sustainable private equity investment program and to establish the sustainable private equity investment board

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

1 Section 1. The retirement and social security law is amended by adding  
2 two new sections 423-c and 423-d to read as follows:  
3 S 423-C. NEW YORK STATE SUSTAINABLE PRIVATE EQUITY INVESTMENT PROGRAM.  
4 1. THE COMPTROLLER IS HEREBY AUTHORIZED TO ESTABLISH WITHIN THE COMMON  
5 RETIREMENT FUND A NEW YORK STATE SUSTAINABLE PRIVATE EQUITY INVESTMENT  
6 PROGRAM FOR THE PURPOSE OF INVESTING IN PRIVATE BUSINESSES ENGAGED IN  
7 THE GENERATION AND USE OF CLEANER ENERGY, CONSERVATION AND EFFICIENCY,  
8 ADVANCING RENEWABLE ENERGY GENERALLY INCLUDING, BUT NOT LIMITED TO,  
9 DISTRIBUTED GENERATION, POWER TRANSMISSION AND DISTRIBUTION, ALTERNATIVE  
10 AND RENEWABLE ENERGY, ENERGY MANAGEMENT SYSTEMS, WATER PURIFICATION  
11 TECHNOLOGY AND INFRASTRUCTURE, AND MANUFACTURING TECHNOLOGIES. THE  
12 PROGRAM SHALL BE DEVOTED TO PRIVATE BUSINESSES WHOSE LOWER-CARBON  
13 APPROACHES ARE RELEVANT TO CLIMATE CHANGE, AND WHOSE TECHNOLOGIES HELP  
14 REDUCE EMISSIONS RELATIVE TO TRADITIONAL FOSSIL FUEL USE, REDUCE OR  
15 SEQUESTER GREENHOUSE GASES, AND WHOSE NEW TECHNOLOGIES REDUCE EMISSIONS  
16 RELATIVE TO TRADITIONAL FOSSIL FUEL USE. THE COMPTROLLER IS AUTHORIZED  
17 TO INVEST UP TO TWO HUNDRED FIFTY MILLION DOLLARS OF ASSETS OF THE  
18 COMMON RETIREMENT FUND TO CARRY OUT THE PURPOSES OF THIS SECTION. THE  
19 COMPTROLLER MAY MAKE INVESTMENTS PURSUANT TO THIS SECTION IN PARTNER-  
20 SHIPS, CORPORATIONS, TRUSTS OR LIMITED LIABILITY COMPANIES ORGANIZED ON  
21 A FOR-PROFIT BASIS THAT ENTER INTO AGREEMENTS TO INVEST THE MONEYS OF  
22 THE NEW YORK STATE SUSTAINABLE PRIVATE EQUITY INVESTMENT PROGRAM IN

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

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1 QUALIFIED BUSINESSES. THE COMPTROLLER SHALL MAKE SUCH INVESTMENTS  
2 CONSISTENT WITH THE PROVISIONS OF PARAGRAPH (B) OF SUBDIVISION NINE OF  
3 SECTION ONE HUNDRED SEVENTY-SEVEN OF THIS CHAPTER. THE COMPTROLLER MAY  
4 ESTABLISH PROCEDURES NECESSARY TO INSURE THAT INVESTMENTS OF MONEYS OF  
5 THE NEW YORK STATE SUSTAINABLE PRIVATE EQUITY INVESTMENT PROGRAM ARE,  
6 FOR EACH INVESTMENT IN A QUALIFIED BUSINESS, EQUITABLY MATCHED BY  
7 INVESTMENTS MADE BY OTHER SOURCES. THE COMPTROLLER SHALL CONSULT WITH  
8 THE SUSTAINABLE PRIVATE EQUITY INVESTMENT BOARD WHEN DETERMINING IF A  
9 BUSINESS OR BUSINESS PRACTICE IS SUSTAINABLE. THE COMPTROLLER SHALL, TO  
10 THE MAXIMUM EXTENT PRACTICABLE, INSURE THAT THE GEOGRAPHIC DISTRIBUTION  
11 OF INVESTMENTS IN THE PROGRAM IS IN PROPORTION TO THE STATE POPULATION.

12 2. THE SUSTAINABLE PRIVATE EQUITY INVESTMENT BOARD SHALL CONSIST OF  
13 ELEVEN MEMBERS WHO SHALL BE SELECTED AS FOLLOWS:

14 (A) ONE SHALL BE THE COMPTROLLER, OR HIS OR HER DESIGNEE, WHO SHALL BE  
15 THE CHAIRPERSON OF THE COUNCIL;

16 (B) ONE SHALL BE THE PRESIDENT OF THE NEW YORK STATE ENERGY RESEARCH  
17 AND DEVELOPMENT AUTHORITY, OR HIS OR HER DESIGNEE;

18 (C) THREE SHALL BE APPOINTED BY THE GOVERNOR; PROVIDED, HOWEVER, THAT  
19 NO MORE THAN TWO SUCH APPOINTMENTS MADE PURSUANT TO THIS PARAGRAPH SHALL  
20 BE FROM THE SAME CATEGORY OF MEMBERS AS PROVIDED FOR IN SUBDIVISION  
21 THREE OF THIS SECTION; AND WHO SHALL BE SUBJECT TO CONFIRMATION BY THE  
22 SENATE;

23 (D) THREE SHALL BE APPOINTED BY THE GOVERNOR UPON THE RECOMMENDATION  
24 OF THE TEMPORARY PRESIDENT OF THE SENATE; PROVIDED, HOWEVER, THAT NO  
25 MORE THAN ONE SUCH APPOINTMENT MADE PURSUANT TO THIS PARAGRAPH SHALL BE  
26 FROM THE SAME CATEGORY OF MEMBERS AS PROVIDED FOR IN SUBDIVISION THREE  
27 OF THIS SECTION; AND

28 (E) THREE SHALL BE APPOINTED BY THE GOVERNOR UPON THE RECOMMENDATION  
29 OF THE SPEAKER OF THE ASSEMBLY; PROVIDED, HOWEVER, THAT NO MORE THAN ONE  
30 SUCH APPOINTMENT MADE PURSUANT TO THIS PARAGRAPH SHALL BE FROM THE SAME  
31 CATEGORY OF MEMBERS AS PROVIDED FOR IN SUBDIVISION THREE OF THIS  
32 SECTION.

33 3. THE MEMBERS APPOINTED UPON THE RECOMMENDATION OF THE TEMPORARY  
34 PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY, AND THE MEMBERS  
35 APPOINTED BY THE GOVERNOR PURSUANT TO PARAGRAPH (C) OF SUBDIVISION TWO  
36 OF THIS SECTION, SHALL INCLUDE A STATEWIDE ENVIRONMENTAL ORGANIZATION  
37 REPRESENTATIVE, A VENTURE CAPITAL SPECIALIST, A STATEWIDE AGRICULTURAL  
38 ORGANIZATION REPRESENTATIVE, A BUSINESS ENGAGED IN SUSTAINABLE ENERGY  
39 GENERATION, AND AN EXPERT IN SUSTAINABLE BUSINESS PRACTICES.

40 4. EACH BOARD MEMBER SHALL BE APPOINTED FOR A TERM OF FOUR YEARS.  
41 VACANCIES IN THE BOARD OCCURRING OTHERWISE THAN BY EXPIRATION OF A TERM  
42 SHALL BE FILLED FOR THE UNEXPIRED TERM IN THE SAME MANNER AS THE  
43 ORIGINAL APPOINTMENT. THE BOARD SHALL MEET AS FREQUENTLY AS IT MAY DEEM  
44 NECESSARY AND AT LEAST FOUR TIMES EACH YEAR ON SUCH DATES AS AGREED UPON  
45 BY THE BOARD. THE BOARD MAY APPROVE AND FROM TIME TO TIME AMEND BYLAWS  
46 IN RELATION TO ITS MEETINGS AND THE TRANSACTION OF ITS BUSINESS. A  
47 MAJORITY OF THE MEMBERS OF THE COUNCIL THEN IN OFFICE SHALL CONSTITUTE A  
48 QUORUM FOR THE TRANSACTION OF ANY BUSINESS OR THE EXERCISES OF ANY POWER  
49 BY THE BOARD.

50 5. MEMBERS OF THE BOARD SHALL RECEIVE NO COMPENSATION FOR THEIR  
51 SERVICES, BUT SHALL BE REIMBURSED FOR ACTUAL AND NECESSARY EXPENSES  
52 INCURRED BY THEM IN THE PERFORMANCE OF THEIR DUTIES. NOTWITHSTANDING ANY  
53 INCONSISTENT PROVISIONS OF LAW, NO OFFICER OR EMPLOYEE OF THE STATE OR  
54 ANY POLITICAL SUBDIVISION OF THE STATE SHALL FORFEIT SUCH OFFICE OR  
55 EMPLOYMENT BY REASON OF ACCEPTANCE OR APPOINTMENT AS A MEMBER OF THE  
56 BOARD. FOR PURPOSES OF SECTION THIRTEEN OF ARTICLE THIRTEEN OF THE

1 CONSTITUTION, MEMBERSHIP ON THE BOARD BY A SHERIFF SHALL NOT CONSTITUTE  
2 PUBLIC OFFICE.

3 6. THE BOARD SHALL BE SUBJECT TO ARTICLES SIX AND SEVEN OF THE PUBLIC  
4 OFFICERS LAW.

5 S 423-D. POWERS AND DUTIES OF THE BOARD. 1. THE BOARD SHALL SERVE AS  
6 A RESOURCE CENTER FOR THE GATHERING AND DISSEMINATION OF INFORMATION AND  
7 PROVIDE OTHER ASSISTANCE TO THE COMPTROLLER RELATING TO SUSTAINABLE  
8 INVESTMENT.

9 2. THE BOARD SHALL DEVELOP A DEFINITION OF SUSTAINABLE INVESTMENTS AND  
10 A LIST OF PRIVATE BUSINESS SECTORS THAT WOULD BE INCLUDED IN THE DEFINITION  
11 OF SUSTAINABLE INVESTMENTS. SUCH LIST SHALL INCLUDE, BUT NOT BE  
12 LIMITED TO, THOSE PRIVATE BUSINESSES ENGAGED IN THE GENERATION AND USE  
13 OF CLEANER ENERGY, CONSERVATION AND EFFICIENCY, ADVANCING RENEWABLE  
14 ENERGY GENERALLY INCLUDING, BUT NOT LIMITED TO, DISTRIBUTED GENERATION,  
15 POWER TRANSMISSION AND DISTRIBUTION, ALTERNATIVE AND RENEWABLE ENERGY,  
16 ALTERNATIVE FUEL TECHNOLOGY, BIOFUEL TECHNOLOGY, ENERGY MANAGEMENT  
17 SYSTEMS, WATER PURIFICATION TECHNOLOGY AND INFRASTRUCTURE, AND MANUFACTURING  
18 TECHNOLOGIES.

19 S 2. This act shall take effect immediately.

FISCAL NOTE.--Dollar costs or revenue losses within projections for  
future years insofar as possible; OR anticipated income or revenue gains  
with projections for future years insofar as possible.

If this bill is enacted, there would be small administrative costs to  
pay the administrative expenses of the sustainable private equity  
investment board.

The source of this fiscal note is Office of New York State Comptroller.