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

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:

Section 1. The retirement and social security law is amended by adding two new sections 423-c and 423-d to read as follows:

S 423-C. NEW YORK STATE SUSTAINABLE PRIVATE EQUITY INVESTMENT PROGRAM. 1. THE COMPTROLLER IS HEREBY AUTHORIZED TO ESTABLISH WITHIN THE COMMON RETIREMENT FUND A NEW YORK STATE SUSTAINABLE PRIVATE EQUITY INVESTMENT PROGRAM FOR THE PURPOSE OF INVESTING IN PRIVATE BUSINESSES ENGAGED IN THE GENERATION AND USE OF CLEANER ENERGY, CONSERVATION AND EFFICIENCY, ADVANCING RENEWABLE ENERGY GENERALLY INCLUDING, BUT NOT LIMITED TO, DISTRIBUTED GENERATION, POWER TRANSMISSION AND DISTRIBUTION, ALTERNATIVE AND RENEWABLE ENERGY, ENERGY MANAGEMENT SYSTEMS, WATER PURIFICATION TECHNOLOGY AND INFRASTRUCTURE, AND MANUFACTURING TECHNOLOGIES. THE PROGRAM SHALL BE DEVOTED TO PRIVATE BUSINESSES WHOSE LOWER-CARBON APPROACHES ARE RELEVANT TO CLIMATE CHANGE, AND WHOSE TECHNOLOGIES HELP REDUCE EMISSIONS RELATIVE TO TRADITIONAL FOSSIL FUEL USE, REDUCE OR SEQUESTER GREENHOUSE GASES, AND WHOSE NEW TECHNOLOGIES REDUCE EMISSIONS RELATIVE TO TRADITIONAL FOSSIL FUEL USE. THE COMPTROLLER IS AUTHORIZED TO INVEST UP TO TWO HUNDRED FIFTY MILLION DOLLARS OF ASSETS OF THE COMMON RETIREMENT FUND TO CARRY OUT THE PURPOSES OF THIS SECTION. THE COMPTROLLER MAY MAKE INVESTMENTS PURSUANT TO THIS SECTION IN PARTNERSHIPS, CORPORATIONS, TRUSTS OR LIMITED LIABILITY COMPANIES ORGANIZED ON A FOR-PROFIT BASIS THAT ENTER INTO AGREEMENTS TO INVEST THE MONEYS OF 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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QUALIFIED BUSINESSES. THE COMPTROLLER SHALL MAKE SUCH INVESTMENTS CONSISTENT WITH THE PROVISIONS OF PARAGRAPH (B) OF SUBDIVISION NINE OF SECTION ONE HUNDRED SEVENTY-SEVEN OF THIS CHAPTER. THE COMPTROLLER MAY ESTABLISH PROCEDURES NECESSARY TO INSURE THAT INVESTMENTS OF MONEYS OF THE NEW YORK STATE SUSTAINABLE PRIVATE EQUITY INVESTMENT PROGRAM ARE, FOR EACH INVESTMENT IN A QUALIFIED BUSINESS, EQUITABLY MATCHED BY INVESTMENTS MADE BY OTHER SOURCES. THE COMPTROLLER SHALL CONSULT WITH THE SUSTAINABLE PRIVATE EQUITY INVESTMENT BOARD WHEN DETERMINING IF A BUSINESS OR BUSINESS PRACTICE IS SUSTAINABLE. THE COMPTROLLER SHALL, TO THE MAXIMUM EXTENT PRACTICABLE, INSURE THAT THE GEOGRAPHIC DISTRIBUTION OF INVESTMENTS IN THE PROGRAM IS IN PROPORTION TO THE STATE POPULATION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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.