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

4263

2009-2010 Regular Sessions

I N S E N A T E

April 20, 2009

Introduced by Sen. KRUGER -- (at request of the State Comptroller) -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the state finance law, in relation to increasing the limit on certain investments from two hundred fifty to five hundred million dollars; to amend the retirement and social security law, in relation to the holding of investments of the common retirement fund in the name of the common retirement fund; to amend the state finance law and the local finance law, in relation to variable rate refunding and in relation to authorized investments for the state's short term investment pool; to amend chapter 57 of the laws of 2008 amending the state finance law and other laws relating to variable bond rates, in relation to making certain provisions thereof permanent; and to amend the public authorities law, in relation to administration of the local government assistance corporation and to exempting public authorities and industrial development agencies from the bond issuance charge in certain instances

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

Section 1. Subdivisions 3-a, 18 and 19 of section 98 of the state finance law, subdivisions 3-a and 18 as amended by chapter 219 of the laws of 1999 and subdivision 19 as amended by chapter 201 of the laws of 1996, are amended to read as follows:

3-a. Notes, bonds, debentures, mortgages and other evidences of indebtedness of the United States Postal Service; the federal national mortgage association; federal home loan mortgage corporation; student loan marketing association; federal farm credit system or any other United States government sponsored agency, provided that at the time of the investment such agency or its obligations are rated and the agency receives, or its obligations receive, the highest rating of all independent rating agencies that rate such agency or its obligations,

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

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provided, however, that no more than [two hundred fifty] FIVE HUNDRED million dollars may be invested in the obligations of any one agency.

18. Obligations of any corporation organized under the laws of any state in the United States maturing within two hundred seventy days provided that such obligations receive the highest rating of two independent rating services designated by the comptroller and that the issuer of such obligations has maintained such ratings on similar obligations during the preceding six months provided, however, that the issuer of such obligations need not have received such rating during the prior six month period if such issuer has received the highest rating of two independent rating services designated by the state comptroller and is the successor or wholly owned subsidiary of an issuer that has maintained such ratings on similar obligations during the preceding six month period or if the issuer is the product of a merger of two or more issuers, one of which has maintained such ratings on similar obligations during the preceding six month period, provided, however, that no more than [two hundred fifty] FIVE HUNDRED million dollars may be invested in such obligations of any one corporation.

19. Bankers' acceptances maturing within ninety days which are eligible for purchase in the open market by federal reserve banks and which have been accepted by a bank or trust company, which is organized under the laws of the United States or of any state thereof and which is a member of the federal reserve system and whose short-term obligations meet the criteria outlined in subdivision eighteen of this section. Provided, however, that no more than [two hundred fifty] FIVE HUNDRED million dollars may be invested in such bankers' acceptance of any one bank or trust company.

S 2. Subdivision a of section 423 of the retirement and social security law, as amended by chapter 770 of the laws of 1970, is amended to read as follows:

a. On and after April first, nineteen hundred sixty-seven, the comptroller shall invest the available monies of the common retirement fund in any investments and securities authorized by law for each retirement system and shall hold such investments in THE NAME OF THE COMMON RETIREMENT FUND OR IN his OR HER name as trustee of such fund, notwithstanding any other provision of this chapter. Participating interests in such investments shall be credited to each retirement system in the manner and at the time specified in [paragraph] SUBDIVISION two of section four hundred twenty-two of this article.

S 3. Paragraph (a) of subdivision 2 of section 56 of the state finance law, as amended by chapter 11 of the laws of 1994, is amended to read as follows:

(a) Refunding bonds shall be issued only when the comptroller shall have certified that, as a result of the refunding, there will be a debt service savings to the state on a present value basis as a result of the refunding transaction and that either (i) the refunding will benefit state taxpayers over the life of the refunding bonds by achieving an actual debt service savings each year during the term to maturity of the refunding bonds when debt service on the refunding bonds is expected to be paid from legislative appropriations or (ii) debt service on the refunding bonds shall be payable in annual installments of principal and interest which result in substantially level or declining debt service payments pursuant to paragraph (b) of subdivision two of section fifty-seven of this chapter. Such certification by the comptroller shall be conclusive as to matters contained therein after the refunding bonds have been issued.

For purposes of determining whether there is a debt service savings on a present value basis the present value of the total payments of both principal and interest to become due on the refunding bonds, after deducting any accrued interest or premium received by the state and not used to pay the principal of or interest on the bonds to be refunded or costs of issuance of the refunding bonds, excluding all such principal and interest payments to be made from income received as a result of the investment of the proceeds from the sale of the refunding bonds, shall be less than the present value of the principal and interest payments to become due at their stated maturities on the principal amount of bonds to be refunded which are outstanding as of the date of the issue of the refunding bonds after deducting therefrom all costs and expenses incidental to the issuance of the refunding bonds, including the development of the refunding plan, and of executing and performing the terms and conditions of the escrow contract and all fees and charges of the escrow holder, but only to the extent such costs and expenses are not paid from the proceeds of the refunding bonds. The present value of debt service payments pursuant to the foregoing provisions of this subdivision shall be computed by discounting the principal and interest payments on both the refunding bonds and the bonds to be refunded from the respective maturities thereof to the date of issue of the refunding bonds at a rate equal to the effective interest cost of the refunding bonds. The effective interest cost of the refunding bonds shall be that rate which is arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding bonds from the maturity dates thereof to the date of issue of the refunding bonds and to the bona fide initial public offering price including estimated accrued interest, or, if there is no public offering, to the price bid including estimated accrued interest. IN THE CASE OF A REFUNDING OF BONDS WHERE THE INTEREST RATE VARIES PERIODICALLY WITH BONDS THAT BEAR INTEREST AT A FIXED RATE, THE PRESENT VALUE OF THE BONDS TO BE REFUNDED SHALL BE DETERMINED ASSUMING THAT INTEREST WOULD BE PAID AT THE MAXIMUM RATE OF INTEREST PERMITTED ON SUCH REFUNDED BONDS BY THE DOCUMENTS PURSUANT TO WHICH SUCH BONDS WERE ISSUED, PROVIDED THAT THE BONDS TO BE REFUNDED SHALL BE FULLY PAID AND CANCELLED WITHIN SIXTY DAYS OF THE DATE OF ISSUANCE OF THE REFUNDING BONDS. THE DETERMINATION OF WHETHER THERE IS AN ACTUAL SAVINGS IN ANY YEAR SHALL ALSO BE MADE ASSUMING THAT THE MAXIMUM INTEREST RATE WILL BE PAID ON VARIABLE RATE BONDS THAT ARE BEING REFUNDED BY FIXED RATE REFUNDING BONDS.

S 4. Paragraph a of subdivision 4 of section 57 of the state finance law, as amended by chapter 437 of the laws of 2004, is amended to read as follows:

a. Such bonds shall be sold at par, at par plus a premium [not to exceed five percent in the case of refunding bonds or five-tenths of one percent in the case of all other bonds], or at a discount to the bidder offering the lowest interest cost to the state, taking into consideration any premium or discount and, in the case of refunding bonds, the bona fide initial public offering price, not less than four nor more than fifteen days, Sundays excepted, after a notice of such sale has been published at least once in a definitive trade publication of the municipal bond industry published on each business day in the state of New York which is generally available to participants in the municipal bond industry, which notice shall state the terms of the sale. The comptroller may not change the terms of the sale unless notice of such change is sent via a definitive trade wire service of the municipal bond industry which, in general, makes available information regarding activity and sales of municipal bonds and is generally available to participants in the municipal bond industry, at least one [day] HOUR prior to the [date] TIME of the sale as set forth in the original notice of sale. In so changing the terms or conditions of a sale the comptroller may send notice by such wire service that the sale will be delayed by up to thirty days, provided that wire notice of the new sale date will be given at least one business day prior to the new time when bids will be accepted. In such event, no new notice of sale shall be required to be published. Notwithstanding the provisions of section three hundred five of the state technology law or any other law, if the notice of sale contains a provision that bids will only be accepted electronically in the manner provided in such notice of sale, the comptroller shall not be required to accept non-electronic bids in any form. Advertisements shall contain a provision to the effect that the state comptroller, in his OR HER discretion, may reject any or all bids made in pursuance of such advertisements, and in the event of such rejection, the state comptroller is authorized to negotiate a private sale or readvertise for bids in the form and manner above described as many times as, in his OR HER judgment, may be necessary to effect a satisfactory sale. Notwithstanding the foregoing provisions of this paragraph, whenever in the judgment of the comptroller the interests of the state will be served thereby, he OR SHE may sell state bonds at private sale at par, at par plus a premium [not to exceed five percent in the case of refunding bonds or five-tenths of one percent in the case of all other bonds], or at a discount. The comptroller shall promulgate regulations governing the terms and conditions of any such private sales, which regulations shall include a provision that he OR SHE give notice to the governor, the temporary president of the senate, and the speaker of the assembly, of his OR HER intention to conduct a private sale of obligations pursuant to this section not less than five days prior to such sale or the execution of any binding agreement to effect such sale.

S 5. Paragraph (a) of subdivision 4 of section 60 of the state finance law, as amended by chapter 437 of the laws of 2004, is amended to read as follows:

(a) Such bonds shall be sold at par, at par plus a premium [not to exceed five percent in the case of refunding bonds or five-tenths of one percent in the case of all other bonds], or at a discount to the bidder offering the lowest interest cost to the state, taking into consideration any premium or discount and, in the case of refunding bonds, the bona fide initial public offering price, not less than four nor more than fifteen days, Sundays excepted, after a notice of such sale has been published at least once in a definitive trade publication of the municipal bond industry published on each business day in the state of New York which is generally available to participants in the municipal bond industry, which notice shall state the terms of the sale. The comptroller may not change the terms of the sale unless notice of such change is sent via a definitive trade wire service of the municipal bond industry which, in general, makes available information regarding activity and sales of municipal bonds and is generally available to participants in the municipal bond industry, at least one [day] HOUR prior to the [date] TIME of the sale as set forth in the original notice of sale. In so changing the terms or conditions of a sale the comptroller may send notice by such wire service that the sale will be delayed by up to thirty days, provided that wire notice of the new sale date will be given at least one business day prior to the new time when bids will be accepted. In such event, no new notice of sale shall be required to be published. Notwithstanding the provisions of section three hundred five of the state technology law or any other law, if the notice of sale contains a provision that bids will only be accepted electronically in the manner provided in such notice of sale, the comptroller shall not be required to accept non-electronic bids in any form. Advertisements shall contain a provision to the effect that the state comptroller, in his OR HER discretion, may reject any or all bids made in pursuance of such advertisements, and in the event of such rejection, the state comptroller is authorized to negotiate a private sale or readvertise for bids in the form and manner above described as many times as, in his OR HER judgment, may be necessary to effect a satisfactory sale. Notwithstanding the foregoing provisions of this subdivision, whenever in the judgment of the comptroller the interests of the state will be served thereby, he OR SHE may sell state bonds at private sale at par, at par plus a premium [not to exceed five percent in the case of refunding bonds or five-tenths of one percent in the case of all other bonds], or at a discount. The comptroller shall promulgate regulations governing the terms and conditions of any such private sales, which regulations shall include a provision that he OR SHE give notice to the governor, the temporary president of the senate, and the speaker of the assembly of his OR HER intention to conduct a private sale of obligations pursuant to this section not less than five days prior to such sale or the execution of any binding agreement to effect such sale.

S 6. Section 69-c of the state finance law, as amended by section 35 of part PP of chapter 56 of the laws of 2009, is amended to read as follows:

S 69-c. Variable rate bonds. Notwithstanding any other provision of law to the contrary, any State-supported debt may be issued as variable rate bonds.

Notwithstanding any other provision of law to the contrary, for purposes of calculating the present value of debt service and calculating savings in connection with the issuance of refunding indebtedness, (i) the effective interest rate and debt service payable on variable rate bonds in connection with which, and to the extent that, an authorized issuer has entered into an interest rate exchange or similar agreement pursuant to which the authorized issuer makes payments based on a fixed rate and receives payments based on a variable rate that is reasonably expected by such authorized issuer to be equivalent over time to the variable rate paid on the related variable rate bonds, shall be calculated assuming that the rate of interest on such variable rate bonds is the fixed rate payable by the authorized issuer on such interest rate exchange or similar agreement for the scheduled term of such agreement; (ii) the effective interest rate and debt service on variable rate bonds in connection with which, and to the extent that, an authorized issuer has not entered into such an interest rate exchange or similar agreement shall be calculated assuming that interest on such variable interest rate bonds is payable at a rate or rates reasonably assumed by the authorized issuer; (iii) the effective interest rate and debt service on any bonds subject to optional or mandatory tender shall be a rate or rates reasonably assumed by the authorized issuer; (iv) any variable rate bonds that are converted or refunded to a fixed rate, whether or not financed on an interim basis with bond anticipation notes, shall be assumed to generate a present value savings AND, PROVIDED THAT NO PRINCIPAL PAYMENT ON THE FIXED RATE CONVERSION OR REFUNDING BONDS EXCEEDS THE AMOUNT OF THE PRINCIPAL DUE IN THE SAME YEAR ON THE VARIABLE RATE REFUNDED OR CONVERTED BONDS BY MORE THAN FIVE

PERCENT OF THE PRINCIPAL PAYMENT THAT WOULD BE DUE IF ANY ADDITIONAL PRINCIPAL ON THE FIXED RATE CONVERSION OR REFUNDING BONDS WERE DISTRIBUTED PROPORTIONATELY (BY AMOUNT OF PRINCIPAL DUE ON THE VARIABLE RATE CONVERTED OR REFUNDED BONDS) AMONG THE MATURITIES OF THE FIXED RATE CONVERSION OR REFUNDING BONDS, A SAVINGS, OR NO DISSAVINGS, IN EACH YEAR TO MATURITY OF THE REFUNDING BONDS; and (v) otherwise, the effective interest rate and debt service on any bonds shall be calculated at a rate or rates reasonably assumed by the authorized issuer. Notwithstanding any other provision of law to the contrary, for calculating the present value of debt service and calculating savings in connection with the issuance of refunding indebtedness, the refunding of variable rate debt instruments with new variable rate debt instruments shall be excluded from any such requirements, if effectuated for sound business purposes.

S 7. Section 51 of part RR of chapter 57 of the laws of 2008, amending the state finance law and other laws relating to variable bond rates, as amended by section 13-a of part PP of chapter 56 of the laws of 2009, is amended to read as follows:

S 51. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2008; provided, however, that the amendments to subdivision 6 of section 4 and subdivision 4 of section 40 of the state finance law made by sections fifteen and sixteen of this act shall expire on the same date such subdivisions expire; and provided, further, however, that section thirty-four of this act shall take effect on the same date as the reversion of section 69-c of the state finance law as provided in section 58 of part T of chapter 57 of the laws of 2007, as amended; [provided, further that such amendments shall expire and be deemed repealed March 31, 2010;] and provided, further, however, that sections one, three, four, and eighteen through twenty-seven of this act shall expire March 31, 2009 when upon such date the provisions of such sections shall be deemed repealed; and provided further that section fourteen of this act shall expire March 31, 2010 when upon such date the provisions of such section shall be deemed repealed.

S 8. The opening paragraph of subdivision 1 of section 98-a of the state finance law, as amended by chapter 545 of the laws of 2005, is amended to read as follows:

Except as otherwise provided in subdivision two of this section, any moneys in the general fund of the state or moneys received from the sale of any bonds or notes issued by the state, any moneys in any fund or account of the state, heretofore or hereafter established, the investment of which is not otherwise authorized and which are not immediately required may be invested by the comptroller. Such moneys may be invested only in obligations of the categories specified in subdivisions one to five, both inclusive, [and subdivision] SUBDIVISIONS seven AND ELEVEN, subdivision fourteen, as added by chapters seven hundred ninety-seven and nine hundred thirty-two of the laws of nineteen hundred sixty-three, respectively, subdivisions fifteen, sixteen and seventeen of section ninety-eight of this article, maturing or redeemable at the option of the holder within twelve years of the date of such investment, subdivisions two-a, eighteen, nineteen and twenty of section ninety-eight of this article or in a certificate of deposit of a bank or trust company in this state. Any certificate of deposit shall be fully secured by the issuer thereof depositing with the comptroller stocks, bonds, or notes of any county, town, city, village, fire district or school district of this state issued pursuant to law and maturing within five years from the date of issuance of such certificate of deposit, bonds or notes or direct or guaranteed obligation of the United States of America or its agencies or of the state of New York or bonds and notes issued for any of the corporate purposes of the municipal assistance corporation for the city of New York in an amount equal to the amount of such certificate of deposit. Any bonds, notes or certificates of deposit purchased with moneys of the general fund shall be available always to pay any lawful appropriation in force. Any bonds, notes or certificates of deposit purchased with moneys received from the sale of any bonds or notes issued by the state shall be available always for the purposes or purpose for which such bonds or notes were issued. Any bonds, notes or certificates of deposit purchased with moneys of any other funds shall be available always for the purpose for which such fund was created. Unless otherwise required by law, income received on any moneys invested pursuant to this section shall be credited to the fund or funds from which such moneys were invested, provided, however, the comptroller is hereby precluded from crediting interest earnings to funds/accounts which:

S 9. Subparagraph (a) of subdivision 2 of paragraph b of section 90.10 of the local finance law, as amended by chapter 142 of the laws of 2004, is amended to read as follows:

(a) Refunding bonds shall be issued only in the event that the present value of the total payments of both principal and interest to become due on the refunding bonds, and deducting any accrued interest or premium received by the issuer and not used to pay the principal of or interest on the bonds to be refunded or costs of issuance of the refunding bonds, excluding all such principal and interest payments to be made from income received as a result of the investment of the proceeds from the sale of the refunding bonds, shall be less than the present value of the principal and interest payments to become due at their stated maturities on the principal amount of bonds to be refunded which are outstanding as of the date of the issue of the refunding bonds after deducting therefrom all costs and expenses incidental to the issuance of the refunding bonds, including the development of the refunding financial plan, and of executing and performing the terms and conditions of the escrow contract and all fees and charges of the escrow holder, but only to the extent such costs and expenses are not paid from the proceeds of the refunding bonds. The present value of debt service payments pursuant to the foregoing provisions of this subdivision shall be computed by discounting the principal and interest payments on both the refunding bonds and the bonds to be refunded from the respective maturities thereof to the date of issue of the refunding bonds at a rate equal to the effective interest cost of the refunding bonds. IN THE CASE OF A REFUNDING OF BONDS WHERE THE INTEREST RATE VARIES PERIODICALLY WITH BONDS THAT BEAR INTEREST AT A FIXED RATE, THE PRESENT VALUE OF THE BONDS TO BE REFUNDED SHALL BE DETERMINED ASSUMING THAT INTEREST WOULD BE PAID AT THE MAXIMUM RATE OF INTEREST PERMITTED ON SUCH BONDS BY THE DOCUMENTS PURSUANT TO WHICH SUCH BONDS WERE ISSUED, PROVIDED THAT THE BONDS TO BE REFUNDED SHALL BE FULLY PAID AND CANCELLED WITHIN SIXTY DAYS OF THE DATE OF ISSUANCE OF THE REFUNDING BONDS. The effective interest cost of the refunding bonds shall be that rate which is arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding bonds from the maturity dates thereof to the date of issue of the refunding bonds and to the bona fide initial public offering price including estimated accrued interest, or, if there is no public offering, to the price bid including estimated accrued interest. In the case of the city of New York, notwithstanding any other provision of law to the contrary, for purposes of calculating the present value of debt service and calculating savings in connection with the issuance of refunding bonds, (i) the effective interest rate and debt service payable on variable rate bonds in connection with which, and to the extent that, the city of New York has entered into an interest rate exchange or similar agreement pursuant to which such city makes payments based on a fixed rate and receives payments based on a variable rate that shall be found by the finance board of such city to be equivalent over time to the variable rate paid on the related variable rate bonds, shall be calculated assuming that the rate of interest on such variable rate bonds is the fixed rate payable by such city on such interest rate exchange or similar agreement for the scheduled term of such agreement; (ii) the effective interest rate and debt service on variable rate bonds in connection with which, and to the extent that, the city of New York has not entered into such an interest rate exchange or similar agreement shall be calculated assuming that interest on such variable interest rate bonds is payable at a rate or rates as shall be found by the finance board of such city; (iii) the effective interest rate and debt service on any bonds subject to optional or mandatory tender shall be calculated assuming that such bonds are remarketed following any such tender at a rate or rates as shall be found by the finance board of the city of New York; and (iv) otherwise, the effective interest rate and debt service on any bonds shall be calculated at a rate or rates determined by the finance board of the city of New York. Notwithstanding any other provision of law to the contrary, in the case of the city of New York, for calculating the present value of debt service and calculating savings in connection with the issuance of refunding bonds, the refunding of variable rate debt instruments with new variable rate debt instruments shall be excluded from any such requirements, if so determined by the finance board of such city.

S 10. Subparagraph (a) of subdivision 2 of paragraph b of section 90.10 of the local finance law, as amended by chapter 413 of the laws of 1991, is amended to read as follows:

(a) Refunding bonds shall be issued only in the event that the present value of the total payments of both principal and interest to become due on the refunding bonds, and deducting any accrued interest or premium received by the issuer and not used to pay the principal of or interest on the bonds to be refunded or costs of issuance of the refunding bonds, excluding all such principal and interest payments to be made from income received as a result of the investment of the proceeds from the sale of the refunding bonds, shall be less than the present value of the principal and interest payments to become due at their stated maturities on the principal amount of bonds to be refunded which are outstanding as of the date of the issue of the refunding bonds after deducting therefrom all costs and expenses incidental to the issuance of the refunding bonds, including the development of the refunding financial plan, and of executing and performing the terms and conditions of the escrow contract and all fees and charges of the escrow holder, but only to the extent such costs and expenses are not paid from the proceeds of the refunding bonds. The present value of debt service payments pursuant to the foregoing provisions of this subdivision shall be computed by discounting the principal and interest payments on both the refunding bonds and the bonds to be refunded from the respective maturities thereof to the date of issue of the refunding bonds at a rate equal to the effective interest cost of the refunding bonds. IN THE CASE OF A REFUNDING OF BONDS

WHERE THE INTEREST RATE VARIES PERIODICALLY WITH BONDS THAT BEAR INTEREST AT A FIXED RATE, THE PRESENT VALUE OF THE BONDS TO BE REFUNDED SHALL BE DETERMINED ASSUMING THAT INTEREST WOULD BE PAID AT THE MAXIMUM RATE OF INTEREST PERMITTED ON SUCH BONDS BY THE DOCUMENTS PURSUANT TO WHICH SUCH BONDS WERE ISSUED, PROVIDED THAT THE BONDS TO BE REFUNDED SHALL BE FULLY PAID AND CANCELLED WITHIN SIXTY DAYS OF THE DATE OF ISSUANCE OF THE REFUNDING BONDS. The effective interest cost of the refunding bonds shall be that rate which is arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding bonds from the maturity dates thereof to the date of issue of the refunding bonds and to the bona fide initial public offering price including estimated accrued interest, or, if there is no public offering, to the price bid including estimated accrued interest.

S 11. Subdivision 5 of section 3234 of the public authorities law, as amended by section 54 of part K of chapter 81 of the laws of 2002, is amended to read as follows:

5. A majority of the whole number of directors then in office shall constitute a quorum for the transaction of any business or the exercise of any power of the corporation. Except as otherwise specified in this title, for the transaction of any business or the exercise of any power of the corporation, the corporation shall have power to act by a majority of the directors present at any meeting at which a quorum is in attendance; provided that one or more directors may participate in a meeting by means of conference telephone or similar communications equipment allowing all directors participating in the meeting to hear each other at the same time and participation by such means shall constitute presence in person at a meeting. [A unanimous vote of all directors shall be required for approval] THE MAJORITY OF DIRECTORS PRESENT AND VOTING IN FAVOR of APPROVING a resolution authorizing the issuance of bonds or notes or any supplemental or amendatory resolution SHALL INCLUDE THE DIRECTOR OF THE BUDGET, THE COMPTROLLER AND THE CHAIRPERSON OF THE CORPORATION. The corporation may delegate to one or more of its directors, or officers, agents and employees, such powers and duties as the directors may deem proper. Five days notice shall be given to each director and nonvoting representative prior to any meeting of the corporation.

S 12. Subdivision 1 of section 2976 of the public authorities law, as amended by section 1 of part X of chapter 85 of the laws of 2002, is amended to read as follows:

1. (A) Notwithstanding any other law to the contrary, public benefit corporations (which for purposes of this section shall include industrial development agencies created pursuant to title one of article eighteen-A of the general municipal law or any other provision of law) which issue bonds, notes or other obligations shall pay to the state a bond issuance charge upon the issuance of such bonds in an amount determined pursuant to subdivision two of this section. Such charge shall be paid to the state department of taxation and finance, upon forms prescribed therefor, no later than fifteen days from the end of the month within which such bonds are issued.

(B) PROVIDED, HOWEVER, THAT NO PUBLIC BENEFIT CORPORATION, INCLUDING ANY COVERED INDUSTRIAL DEVELOPMENT AGENCY, SHALL BE REQUIRED TO PAY THE BOND ISSUANCE CHARGE IMPOSED BY PARAGRAPH (A) OF THIS SUBDIVISION AS A RESULT OF (I) ANY CONVERSION, WHETHER BY REFUNDING OR OTHERWISE, OF ANY ISSUE OF VARIABLE RATE OBLIGATIONS TO FIXED RATE OBLIGATIONS; OR (II) ANY REFUNDING OF VARIABLE RATE DEBT WITH OTHER VARIABLE RATE DEBT.

S 13. This act shall take effect immediately; provided, however, that the amendments to subparagraph (a) of subdivision 2 of paragraph b of section 90.10 of the local finance law made by section nine of this act shall be subject to the expiration and reversion of such subparagraph pursuant to section 5 of chapter 142 of the laws of 2004, as amended, when upon such date the provisions of section ten of this act shall take effect.

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

This bill would increase the limit which may be invested in any one company or agency of the federal government which issues certain notes, bonds, debentures, mortgages and other evidences of indebtedness from $250 million to $500 million. It would also change the savings calculation in regards to the issuance of refunding bonds in cases where the issue to be refunded has a variable rate of interest. In such cases, the present value of the refunded bonds shall be calculated at the maximum interest rate permitted on such refunded bonds.

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, there will be no cost.

This estimate, dated March 17, 2009, and intended for use only during the 2009 Legislative Session, is Fiscal Note No. 2009-188 prepared by the Actuary for the New York State and Local Police and Fire Retirement System and the New York State and Local Employees' Retirement System.