

8944

2009-2010 Regular Sessions

I N A S S E M B L Y

June 16, 2009

Introduced by M. of A. ABBATE -- read once and referred to the Committee
on Governmental Employees

AN ACT to amend the legislative law and the retirement and social security law, in relation to the preparation of legislative fiscal notes and providing for the repeal of such provisions upon expiration thereof

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

1 Section 1. Legislative findings. The legislature finds that it is
2 critically important to ensure that all fiscal notes required pursuant
3 to section 50 of the legislative law reflect the most accurate estimate
4 of the total cost of any proposed change to a retirement system or plan
5 of the state of New York or any of its political subdivisions. In order
6 to accomplish this public purpose, the legislature hereby finds that all
7 fiscal notes required pursuant to section 50 of the legislative law
8 should be prepared and submitted by the chief actuary of the affected
9 retirement system or plan, if applicable, in as timely a manner as practicable. The legislature further finds that all fiscal notes generated
10 pursuant to such section 50 shall represent the best faith estimate of
11 the chief actuary of the affected retirement system or plan, if applicable, and that such estimate shall be generated in accordance with the
12 generally-accepted actuarial standards and practices in effect at the
13 time for such retirement system or plan.

16 S 2. Section 50 of the legislative law, as added by chapter 503 of the
17 laws of 1971, is amended to read as follows:

18 S 50. Fiscal note in retirement bills. A bill which enacts or amends
19 any provision of law relating to a retirement system or plan of the
20 state of New York or of any of its political subdivisions shall contain
21 a fiscal note stating the estimated annual cost to the employer affected
22 and the source of such estimate. ALL FISCAL NOTES REQUIRED BY THIS

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

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1 SECTION SHALL BE PREPARED BY THE CHIEF ACTUARY OF THE AFFECTED RETIRE-
2 MENT SYSTEM.

3 S 3. The retirement and social security law is amended by adding two
4 new sections 809 and 810 to read as follows:

5 S 809. PREPARATION OF LEGISLATIVE FISCAL NOTES. A. 1. NOTWITHSTANDING
6 ANY OTHER PROVISION OF ANY GENERAL, SPECIAL, OR LOCAL LAW, CHARTER,
7 ADMINISTRATIVE CODE OR RULE OR REGULATION TO THE CONTRARY, THE ACTUARY
8 OF EACH PUBLIC RETIREMENT SYSTEM, AS DEFINED IN SUBDIVISION A OF SECTION
9 EIGHT HUNDRED OF THIS ARTICLE, IS RESPONSIBLE FOR FISCAL NOTES ON LEGIS-
10 LATION AFFECTING THE PUBLIC RETIREMENT SYSTEM FOR WHICH HE OR SHE
11 PROVIDES ACTUARIAL SERVICES IN ACCORDANCE WITH SECTION FIFTY OF THE
12 LEGISLATIVE LAW. EACH FISCAL NOTE SHALL BE PREPARED BY APPLYING GENERAL-
13 LY ACCEPTED ACTUARIAL METHODOLOGIES TO ESTIMATE THE FINANCIAL IMPACT OF
14 LEGISLATION SUBMITTED FOR ACTUARIAL REVIEW. IN THE EVENT LEGISLATION
15 CONTAINS PROVISIONS APPLICABLE TO MORE THAN ONE PUBLIC RETIREMENT
16 SYSTEM, A FISCAL NOTE ASSESSING THE FINANCIAL IMPACT ON EACH SYSTEM
17 SHALL BE PREPARED.

18 2. LEGISLATIVE FISCAL NOTES REQUIRED PURSUANT TO SECTION FIFTY OF THE
19 LEGISLATIVE LAW SHALL BE REQUESTED IN WRITING. SUCH WRITTEN REQUEST
20 SHALL ACCOMPANY A DRAFT OF THE PROPOSED LEGISLATION AND MEMORANDUM IN
21 SUPPORT AND SHALL CLEARLY IDENTIFY THE NAME OF THE INDIVIDUAL OR ENTITY
22 REQUESTING SUCH FISCAL NOTE AND THE DATE THAT SUCH REQUEST WAS MADE.

23 3. FISCAL NOTES REQUESTED PURSUANT TO PARAGRAPH TWO OF THIS SUBDIVI-
24 SION SHALL BE PROVIDED TO THE REQUESTING INDIVIDUAL OR ENTITY IN A
25 REASONABLE AND TIMELY MANNER. UPON COMPLETION OF THE FISCAL NOTE, THE
26 ACTUARY SHALL NOT CIRCULATE THE FISCAL NOTE PUBLICLY PRIOR TO THE
27 RECEIPT OF THE FISCAL NOTE BY THE ORIGINAL REQUESTER. ALL FISCAL NOTES
28 SHALL BE SUBJECT TO ALL FREEDOM OF INFORMATION LAWS IN THE STATE OF NEW
29 YORK.

30 B. 1. THE ACTUARY OF THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIRE-
31 MENT SYSTEM AND THE NEW YORK STATE AND LOCAL POLICE AND FIRE RETIREMENT
32 SYSTEM MAY BE RESPONSIBLE FOR PREPARING LEGISLATIVE FISCAL NOTES AS
33 PROVIDED IN SUBDIVISION A OF THIS SECTION WHICH MAY BE FUNDED THROUGH
34 THE PORTION OF THE ADMINISTRATIVE BUDGET OF SUCH SYSTEM ATTRIBUTABLE TO
35 THE POWERS AND DUTIES OF THE ACTUARY AS PROVIDED BY LAW OR OTHERWISE
36 REQUIRED BY THE COMPTROLLER.

37 2. THE ACTUARY OF THE NEW YORK STATE TEACHERS' RETIREMENT SYSTEM MAY
38 BE RESPONSIBLE FOR PREPARING LEGISLATIVE FISCAL NOTES AS PROVIDED IN
39 SUBDIVISION A OF THIS SECTION WHICH MAY BE FUNDED THROUGH THE PORTION OF
40 THE ADMINISTRATIVE BUDGET OF SUCH SYSTEM ATTRIBUTABLE TO THE POWERS AND
41 DUTIES OF THE ACTUARY AS PROVIDED BY LAW OR OTHERWISE REQUIRED BY THE
42 BOARD OF TRUSTEES OF SUCH SYSTEM.

43 C. THE ACTUARY OF THE FIVE ACTUARIALLY FUNDED RETIREMENT SYSTEMS OF
44 THE CITY OF NEW YORK SHALL, IN ADDITION TO THE POWERS DELINEATED IN
45 SUBDIVISION A OF THIS SECTION, FULFILL SUCH POWERS AND DUTIES AS
46 PROVIDED IN THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK, THE EDUCA-
47 TION LAW AND ALL OTHER APPLICABLE SECTIONS OF LAW, AND PERFORM ALL OTHER
48 DUTIES AS REQUIRED BY THE BOARDS OF TRUSTEES OF THE FIVE ACTUARIALLY
49 FUNDED RETIREMENT SYSTEMS IN THE CITY OF NEW YORK.

50 S 810. ACTUARIAL OVERSIGHT BOARD. A. THERE IS HEREBY ESTABLISHED THE
51 ACTUARIAL OVERSIGHT BOARD ("BOARD") AS AN INDEPENDENT ENTITY WITHIN THE
52 GUISE OF THE FIVE PUBLIC RETIREMENT SYSTEMS OF THE CITY OF NEW YORK.

53 B. THE BOARD SHALL CONSIST OF FIVE MEMBERS AS FOLLOWS: 1. ONE APPOINT-
54 MENT BY THE BOARD OF TRUSTEES OF THE NEW YORK CITY EMPLOYEES' RETIREMENT
55 SYSTEM; 2. ONE APPOINTMENT BY THE BOARD OF TRUSTEES OF THE NEW YORK CITY
56 TEACHERS' RETIREMENT SYSTEM; 3. ONE APPOINTMENT BY THE BOARD OF TRUSTEES

1 OF THE NEW YORK CITY BOARD OF EDUCATION RETIREMENT SYSTEM; 4. ONE
2 APPOINTMENT BY THE BOARD OF TRUSTEES OF THE NEW YORK CITY POLICE PENSION
3 FUND; 5. ONE APPOINTMENT BY THE BOARD OF TRUSTEES OF THE NEW YORK CITY
4 FIRE DEPARTMENT PENSION FUND. EACH MEMBER OF THE BOARD SHALL SERVE FOR
5 A TERM OF TWO YEARS. EACH APPOINTMENT SHALL ONLY REPRESENT ONE OF THE
6 ACTUARIALLY FUNDED RETIREMENT SYSTEMS WITHIN THE TWO YEAR APPOINTMENT
7 TERM. ALL MEMBERS SHALL CONTINUE IN OFFICE UNTIL THEIR SUCCESSORS HAVE
8 BEEN APPOINTED. THE MEMBERS SHALL SERVE WITHOUT COMPENSATION FOR THEIR
9 SERVICES AS MEMBERS, BUT SHALL BE ENTITLED TO REIMBURSEMENT FOR ACTUAL
10 AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES. THE
11 STATE AND CITY OF NEW YORK SHALL HOLD HARMLESS AND INDEMNIFY MEMBERS OF
12 THE BOARD PURSUANT TO SECTIONS SEVENTEEN AND EIGHTEEN OF THE PUBLIC
13 OFFICERS LAW AGAINST ANY CLAIM, DEMAND, SUIT OR JUDGMENT ARISING BY
14 REASON OF ANY ACT OR OMISSION BY SUCH MEMBER OCCURRING IN THE DISCHARGE
15 OF HIS OR HER DUTIES AND WITHIN THE SCOPE OF HIS OR HER SERVICE ON
16 BEHALF OF THE BOARD. THE BOARD AND ITS MEMBERS SHALL BE SUBJECT TO THE
17 PROVISIONS OF SECTIONS SEVENTY-THREE AND SEVENTY-FOUR OF THE PUBLIC
18 OFFICERS LAW AND CHAPTER SIXTY-EIGHT OF THE CHARTER OF THE CITY OF NEW
19 YORK. NOTWITHSTANDING ANY OTHER PROVISION OF ANY GENERAL, SPECIAL OR
20 LOCAL LAW, CHARTER, ADMINISTRATIVE CODE OR RULE OR REGULATION TO THE
21 CONTRARY, NO OFFICER OR EMPLOYEE OF THE STATE OR CIVIL DIVISION THEREOF
22 SHALL BE DEEMED TO HAVE FORFEITED OR SHALL FORFEIT HIS OR HER OFFICE OR
23 EMPLOYMENT BY REASON OF HIS OR HER ACCEPTANCE OF MEMBERSHIP ON THE BOARD
24 CREATED BY THIS SUBDIVISION.

25 C. THE CHAIRPERSON OF THE BOARD SHALL BE THE MEMBER OF THE BOARD
26 APPOINTED BY THE RETIREMENT SYSTEM HAVING THE LARGEST PERCENTAGE OF
27 ASSETS OF THE FIVE ACTUARIALLY FUNDED RETIREMENT SYSTEMS OF THE CITY OF
28 NEW YORK AS OF THE END OF THE PRECEDING FISCAL YEAR AS DETERMINED BY THE
29 COMPTROLLER OF THE CITY OF NEW YORK.

30 D. THE BOARD SHALL MEET NO LESS THAN ONCE EACH QUARTER IN A CALENDAR
31 YEAR. MEETINGS OF THE BOARD SHALL COMPLY WITH THE OPEN MEETINGS LAW
32 PURSUANT TO ARTICLE SEVEN OF THE PUBLIC OFFICERS LAW. THE ACTUARY OF THE
33 FIVE ACTUARIALLY FUNDED RETIREMENT SYSTEMS IN THE CITY OF NEW YORK SHALL
34 ASSIGN TO THE BOARD A SUFFICIENT NUMBER OF CLERICAL AND OTHER ASSISTANTS
35 TO PERMIT THE BOARD TO EFFICIENTLY EXERCISE ITS POWERS AND TO PERFORM
36 ITS DUTIES.

37 E. A MAJORITY OF THE WHOLE NUMBER OF THE MEMBERS OF THE BOARD, AT A
38 MEETING DULY HELD AT A TIME FIXED BY LAW, OR BY ANY BY-LAW DULY ADOPTED
39 BY THE BOARD, OR AT ANY DULY ADJOURNED MEETING OF SUCH MEETING OR AT ANY
40 MEETING DULY HELD UPON REASONABLE NOTICE TO ALL OF THE MEMBERS OF THE
41 BOARD, SHALL CONSTITUTE A QUORUM AND NOT LESS THAN A MAJORITY OF THE
42 WHOLE NUMBER OF THE BOARD MAY PERFORM AND EXERCISE THE POWERS AUTHORIZED
43 AND PROVIDED IN THIS SECTION. FOR THE PURPOSE OF THIS SECTION THE WORDS
44 "WHOLE NUMBER" SHALL BE CONSTRUED TO MEAN THE TOTAL NUMBER WHICH SUCH
45 BOARD WOULD HAVE WERE THERE NO VACANCIES AND WERE NONE OF THE MEMBERS OF
46 SUCH BOARD DISQUALIFIED FROM ACTING.

47 F. THE BOARD IS EMPOWERED TO OVERSEE THE OPERATIONS OF THE ACTUARY OF
48 THE FIVE ACTUARIALLY FUNDED RETIREMENT SYSTEMS OF THE CITY OF NEW YORK
49 INCLUDING AUDITING AND MONITORING THE IMPLEMENTATION OF THE ANNUAL BUDG-
50 ET AND ALL ADMINISTRATIVE OPERATIONS. THE BOARD IS EMPOWERED TO OVERSEE
51 A REASONABLE TIMEFRAME FOR THE PREPARATION OF FISCAL NOTES AFFECTING ANY
52 OF THE FIVE ACTUARIALLY FUNDED RETIREMENT SYSTEMS IN THE CITY OF NEW
53 YORK. THE ACTUARY OF THE FIVE ACTUARIALLY FUNDED RETIREMENT SYSTEMS
54 SHALL PRODUCE FISCAL NOTES WITHIN FOURTEEN CALENDAR DAYS BETWEEN THE
55 MONTHS OF JANUARY FIRST TO JUNE THIRTIETH AND FORTY-FIVE CALENDAR DAYS
56 BETWEEN JULY FIRST AND DECEMBER THIRTY-FIRST. NOTHING IN THIS SECTION

1 SHALL PROHIBIT THE ACTUARY OF THE FIVE ACTUARIALLY FUNDED RETIREMENT
2 SYSTEMS FROM PRODUCING FISCAL NOTES IN A LESSER PERIOD OF TIME THAN SET
3 FORTH BY THIS SECTION.

4 G. THE ACTUARY OF THE FIVE ACTUARIALLY FUNDED RETIREMENT SYSTEMS OF
5 THE CITY OF NEW YORK SHALL SUBMIT TO THE BOARD A PROPOSED ANNUAL ADMIN-
6 ISTRAIVE BUDGET WHICH IS SUFFICIENT TO CARRY OUT THE POWERS AND DUTIES
7 OF SUCH ACTUARY AS PROVIDED BY LAW. SUCH PROPOSED BUDGET SHALL INCLUDE
8 AN ALLOCATION FOR REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES
9 INCURRED BY THE MEMBERS OF THE BOARD IN THE PERFORMANCE OF THEIR DUTIES.
10 THE BOARD SHALL HAVE THE POWER TO APPROVE, MODIFY OR REJECT SUCH
11 PROPOSED ANNUAL ADMINISTRATIVE BUDGET; PROVIDED, HOWEVER, THAT UPON THE
12 EFFECTIVE DATE OF THIS SECTION FOR CITY FISCAL YEAR TWO THOUSAND TEN THE
13 BUDGET OF THE ACTUARY OF THE FIVE ACTUARIALLY FUNDED RETIREMENT SYSTEMS
14 OF THE CITY OF NEW YORK SHALL BE EQUAL TO THE ADOPTED BUDGET OF THE
15 OFFICE OF THE ACTUARY FOR CITY FISCAL YEAR TWO THOUSAND NINE AS SPECI-
16 FIED IN THE ADOPTED BUDGET OF THE CITY OF NEW YORK INCLUDING ANY MODIFI-
17 CATIONS THERETO. THE COSTS OF THE ANNUAL BUDGET IN CITY FISCAL YEAR TWO
18 THOUSAND TEN AND THE COSTS OF THE APPROVED ANNUAL BUDGET IN EACH SUBSE-
19 QUENT YEAR SHALL BE ALLOCATED AMONG THE: 1. NEW YORK CITY EMPLOYEES'
20 RETIREMENT SYSTEM; 2. NEW YORK CITY TEACHERS' RETIREMENT SYSTEM; 3. NEW
21 YORK CITY BOARD OF EDUCATION RETIREMENT SYSTEM; 4. NEW YORK CITY POLICE
22 PENSION FUND; AND 5. NEW YORK CITY FIRE DEPARTMENT PENSION FUND, AND
23 SHALL BE ASSESSED ANNUALLY ON A PRO RATA SHARE BASED UPON THE ASSETS OF
24 SUCH SYSTEMS AS DETERMINED BY THE OFFICE OF THE COMPTROLLER OF THE CITY
25 OF NEW YORK AS OF THE THIRTIETH DAY OF JUNE OF THE PRECEDING FISCAL YEAR
26 AND SHALL BE PAYABLE BY THE LAST DAY OF THE CALENDAR YEAR IN WHICH THE
27 EXPENSES WERE ASSESSED. THE BOARD OF TRUSTEES OF THE: (I) NEW YORK CITY
28 EMPLOYEES' RETIREMENT SYSTEM; (II) NEW YORK CITY TEACHERS' RETIREMENT
29 SYSTEM; (III) NEW YORK CITY BOARD OF EDUCATION RETIREMENT SYSTEM; (IV)
30 NEW YORK CITY POLICE PENSION FUND; AND (V) NEW YORK CITY FIRE DEPARTMENT
31 PENSION FUND MAY DRAW UPON THE ASSETS OF ITS RESPECTIVE RETIREMENT
32 SYSTEM TO FUND ITS PRO RATA SHARE.

33 H. THE ACTUARY OF THE FIVE ACTUARIALLY FUNDED RETIREMENT SYSTEMS OF
34 THE CITY OF NEW YORK SHALL HAVE THE POWER TO OBTAIN BY EMPLOYMENT OR BY
35 CONTRACT THE GOODS, PROPERTY AND SERVICES NECESSARY TO FULFILL HIS OR
36 HER POWERS, DUTIES AND RESPONSIBILITIES WITHIN THE APPROVED ANNUAL BUDG-
37 ET. ALL CONTRACTS FOR GOODS AND SERVICES ENTERED INTO BY THE ACTUARY
38 SHALL BE PROCURED AS PRESCRIBED IN CHAPTER THIRTEEN OF THE CHARTER OF
39 THE CITY OF NEW YORK.

40 I. THE PROVISIONS OF CHAPTER SEVENTEEN OF THE CHARTER OF THE CITY OF
41 NEW YORK SHALL CONTINUE TO APPLY TO THE ACTUARY AND THE ACTUARY SHALL
42 CONSTITUTE AN AGENCY FOR THE PURPOSES OF SUCH CHAPTER SEVENTEEN. THE
43 ACTUARY SHALL NOT OBTAIN ANY LEGAL SERVICES BY THE RETENTION OF EMPLOY-
44 EES OR BY CONTRACT UNLESS THE CORPORATION COUNSEL SHALL CONSENT THERETO.

45 S 4. This act shall take effect on the ninetieth day after it shall
46 have become a law and shall expire and be deemed repealed June 30, 2011.