

2793

2011-2012 Regular Sessions

I N S E N A T E

February 1, 2011

Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to creating a taxpayer abuse sanction, and to amend the state finance law, in relation to establishing the education taxpayer abuse penalty fund and the taxpayer abuse penalty fund

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

1 Section 1. The tax law is amended by adding a new section 608 to read
2 as follows:
3 S 608. TAXPAYER ABUSE SANCTION. (A) FOR PURPOSES OF THIS SECTION, THE
4 TERM "PUBLIC RETIREMENT SYSTEM OF THE STATE" SHALL MEAN THE NEW YORK
5 STATE EMPLOYEES' RETIREMENT SYSTEM, THE NEW YORK STATE AND LOCAL POLICE
6 AND FIRE RETIREMENT SYSTEM, THE NEW YORK STATE TEACHERS' RETIREMENT
7 SYSTEM, THE NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM, THE NEW YORK
8 CITY TEACHERS' RETIREMENT SYSTEM, THE NEW YORK CITY POLICE PENSION FUND,
9 THE NEW YORK CITY FIRE DEPARTMENT PENSION FUND, THE NEW YORK CITY BOARD
10 OF EDUCATION RETIREMENT SYSTEM AND ANY OTHER RETIREMENT SYSTEM OF THE
11 STATE OR CITY OF NEW YORK.
12 (B) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOU-
13 SAND ELEVEN, THERE SHALL BE A SANCTION IMPOSED AGAINST THE INCOME OF ANY
14 MEMBER OF A PUBLIC RETIREMENT SYSTEM OF THE STATE, WHO WAS CONVICTED OF:
15 (1) GRAND LARCENY IN THE FIRST DEGREE PURSUANT TO SECTION 155.42 OF THE
16 PENAL LAW; (2) GRAND LARCENY IN THE SECOND DEGREE PURSUANT TO SECTION
17 155.40 OF THE PENAL LAW; OR (3) SCHEME TO DEFRAUD IN THE FIRST DEGREE
18 PURSUANT TO SECTION 190.65 OF THE PENAL LAW; WHERE SUCH CONVICTION WAS
19 BASED UPON ACTS COMMITTED WHICH RELATED TO THE NATURE OF SUCH MEMBER'S
20 PUBLIC SERVICE.
21 (C) SUCH SANCTION SHALL BE IMPOSED FOR ANY TAXABLE YEAR DURING WHICH
22 SUCH MEMBER OF A PUBLIC RETIREMENT SYSTEM OF THE STATE IS ELIGIBLE TO

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

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1 RECEIVE A PENSION BENEFIT AND SHALL BE IN AN AMOUNT EQUAL TO THE AMOUNT
2 OF ANY SUCH BENEFIT RECEIVED DURING SUCH TAXABLE YEAR.

3 (D) MONIES RECEIVED FROM SANCTIONS IMPOSED PURSUANT TO THIS SECTION
4 SHALL:

5 (1) FOR MONIES RECEIVED FROM SANCTIONS IMPOSED FOR A CONVICTION OF A
6 PERSON WHO IS A MEMBER OF THE NEW YORK STATE TEACHERS' RETIREMENT
7 SYSTEM, THE NEW YORK CITY TEACHERS' RETIREMENT SYSTEM OR THE NEW YORK
8 CITY BOARD OF EDUCATION RETIREMENT SYSTEM, BE DEPOSITED IN THE EDUCATION
9 TAXPAYER ABUSE PENALTY FUND ESTABLISHED PURSUANT TO SECTION
10 NINETY-NINE-T OF THE STATE FINANCE LAW AND DISTRIBUTED PURSUANT TO THE
11 PROVISIONS OF SUCH SECTION; OR

12 (2) FOR MONIES RECEIVED FROM SANCTIONS IMPOSED FOR A CONVICTION OF A
13 PERSON WHO IS A MEMBER OF THE NEW YORK STATE EMPLOYEES' RETIREMENT
14 SYSTEM, THE NEW YORK STATE AND LOCAL POLICE AND FIRE RETIREMENT SYSTEM,
15 THE NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM, THE NEW YORK CITY POLICE
16 PENSION FUND, THE NEW YORK CITY FIRE DEPARTMENT PENSION FUND, OR ANY
17 OTHER RETIREMENT SYSTEM OF THE STATE OR CITY OF NEW YORK OTHER THAN A
18 RETIREMENT SYSTEM SET FORTH IN PARAGRAPH ONE OF THIS SUBDIVISION, BE
19 DEPOSITED IN THE TAXPAYER ABUSE PENALTY FUND ESTABLISHED PURSUANT TO
20 SECTION NINETY-NINE-U OF THE STATE FINANCE LAW AND DISTRIBUTED PURSUANT
21 TO THE PROVISIONS OF SUCH SECTION.

22 S 2. The state finance law is amended by adding two new sections 99-t
23 and 99-u to read as follows:

24 S 99-T. EDUCATION TAXPAYER ABUSE PENALTY FUND. 1. THERE IS HEREBY
25 ESTABLISHED IN THE JOINT CUSTODY OF THE COMMISSIONER OF TAXATION AND
26 FINANCE AND THE COMPTROLLER, A SPECIAL FUND TO BE KNOWN AS THE "EDUCA-
27 TION TAXPAYER ABUSE PENALTY FUND".

28 2. SUCH FUND SHALL CONSIST OF ALL REVENUES RECEIVED BY THE DEPARTMENT
29 OF TAXATION AND FINANCE, PURSUANT TO THE PROVISIONS OF PARAGRAPH ONE OF
30 SUBDIVISION (D) OF SECTION SIX HUNDRED EIGHT OF THE TAX LAW AND ALL
31 OTHER MONEYS APPROPRIATED, CREDITED, OR TRANSFERRED THERETO FROM ANY
32 OTHER FUND OR SOURCE PURSUANT TO LAW. NOTHING CONTAINED IN THIS SECTION
33 SHALL PREVENT THE STATE FROM RECEIVING GRANTS, GIFTS OR BEQUESTS FOR THE
34 PURPOSES OF THE FUND AS DEFINED IN THIS SECTION AND DEPOSITING THEM INTO
35 THE FUND ACCORDING TO LAW. ANY INTEREST RECEIVED BY THE COMPTROLLER ON
36 MONEYS ON DEPOSIT IN SUCH FUND SHALL BE RETAINED IN AND BECOME PART OF
37 SUCH FUND.

38 3. MONEYS IN SUCH FUND SHALL BE DISTRIBUTED TO SCHOOL DISTRICTS IN THE
39 STATE WHERE PERSONS SUBJECT TO THE PROVISIONS OF SUBDIVISION (B) OF
40 SECTION SIX HUNDRED EIGHT OF THE TAX LAW WERE EMPLOYED AT THE TIME OF
41 THE COMMISSION OF THE ACT OR ACTS UPON WHICH SUCH CONVICTION WAS BASED.
42 THE AMOUNT OF MONEYS IN THE FUND THAT SHALL BE DISTRIBUTED TO A SCHOOL
43 DISTRICT PURSUANT TO THIS SUBDIVISION SHALL BE EQUAL TO THE DOLLAR
44 AMOUNT OF THE SANCTION IMPOSED UPON SUCH CONVICTED PERSON. ANY MONEYS
45 RECEIVED BY THE FUND FROM A SOURCE OTHER THAN A SANCTION IMPOSED PURSU-
46 ANT TO THE PROVISIONS OF SUBDIVISION (B) OF SECTION SIX HUNDRED EIGHT OF
47 THE TAX LAW SHALL BE DISTRIBUTED EQUALLY AMONG SCHOOL DISTRICTS LOCATED
48 IN THE STATE.

49 4. MONEYS SHALL BE PAYABLE FROM THE FUND ON THE AUDIT AND WARRANT OF
50 THE STATE COMPTROLLER ON VOUCHERS APPROVED AND CERTIFIED BY THE COMMIS-
51 SIONER OF TAXATION AND FINANCE.

52 5. TO THE EXTENT PRACTICABLE, MONEYS OF THE FUND SHALL BE DISTRIBUTED
53 TO SCHOOL DISTRICTS AT LEAST ONCE ANNUALLY.

54 S 99-U. TAXPAYER ABUSE PENALTY FUND. 1. THERE IS HEREBY ESTABLISHED IN
55 THE JOINT CUSTODY OF THE COMMISSIONER OF TAXATION AND FINANCE AND THE

1 COMPTROLLER, A SPECIAL FUND TO BE KNOWN AS THE "TAXPAYER ABUSE PENALTY
2 FUND".

3 2. SUCH FUND SHALL CONSIST OF ALL REVENUES RECEIVED BY THE DEPARTMENT
4 OF TAXATION AND FINANCE, PURSUANT TO THE PROVISIONS OF PARAGRAPH TWO OF
5 SUBDIVISION (D) OF SECTION SIX HUNDRED EIGHT OF THE TAX LAW AND ALL
6 OTHER MONEYS APPROPRIATED, CREDITED, OR TRANSFERRED THERETO FROM ANY
7 OTHER FUND OR SOURCE PURSUANT TO LAW. NOTHING CONTAINED IN THIS SECTION
8 SHALL PREVENT THE STATE FROM RECEIVING GRANTS, GIFTS OR BEQUESTS FOR THE
9 PURPOSES OF THE FUND AS DEFINED IN THIS SECTION AND DEPOSITING THEM INTO
10 THE FUND ACCORDING TO LAW. ANY INTEREST RECEIVED BY THE COMPTROLLER ON
11 MONEYS ON DEPOSIT IN SUCH FUND SHALL BE RETAINED IN AND BECOME PART OF
12 SUCH FUND.

13 3. MONEYS IN SUCH FUND SHALL BE DISTRIBUTED TO MUNICIPALITIES IN THE
14 STATE WHERE PERSONS SUBJECT TO THE PROVISIONS OF SUBDIVISION (B) OF
15 SECTION SIX HUNDRED EIGHT OF THE TAX LAW WERE EMPLOYED AT THE TIME OF
16 THE COMMISSION OF THE ACT OR ACTS UPON WHICH SUCH CONVICTION WAS BASED
17 OR TO THE STATE IF SUCH PERSON WAS EMPLOYED BY THE STATE. THE AMOUNT OF
18 MONEYS IN THE FUND THAT SHALL BE DISTRIBUTED TO A MUNICIPALITY OR TO THE
19 STATE PURSUANT TO THIS SUBDIVISION SHALL BE EQUAL TO THE DOLLAR AMOUNT
20 OF THE SANCTION IMPOSED UPON SUCH CONVICTED PERSON. ANY MONEYS RECEIVED
21 BY THE FUND FROM A SOURCE OTHER THAN A SANCTION IMPOSED PURSUANT TO THE
22 PROVISIONS OF SUBDIVISION (B) OF SECTION SIX HUNDRED EIGHT OF THE TAX
23 LAW SHALL BE DISTRIBUTED EQUALLY AMONG MUNICIPALITIES LOCATED IN THE
24 STATE.

25 4. MONEYS SHALL BE PAYABLE FROM THE FUND ON THE AUDIT AND WARRANT OF
26 THE STATE COMPTROLLER ON VOUCHERS APPROVED AND CERTIFIED BY THE COMMIS-
27 SIONER OF TAXATION AND FINANCE.

28 5. TO THE EXTENT PRACTICABLE, MONEYS OF THE FUND SHALL BE DISTRIBUTED
29 TO MUNICIPALITIES AT LEAST ONCE ANNUALLY.

30 S 3. This act shall take effect immediately and shall apply to taxable
31 years beginning on or after January 1, 2011.