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

7053

I N S E N A T E

April 26, 2012

Introduced by Sen. KLEIN -- 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 annual disclosure by the state comptroller of the management fees associated with the investment of the moneys in the New York state retirement fund

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

Section 1. The opening paragraph of subdivision d of section 11 of the retirement and social security law, as amended by chapter 169 of the laws of 1994, is amended to read as follows:

d. The comptroller shall make an annual report showing the valuation of the assets and liabilities of the funds of the retirement system, as certified by the actuary, a statement of receipts and disbursements and his or her recommendations in regard thereto. Such report shall be published with and as a part of the annual report of the comptroller. ALL REPORTS REQUIRED BY THIS SUBDIVISION AND SUBDIVISION D-ONE OF THIS SECTION SHALL, UPON PUBLICATION, BE POSTED ON THE INTERNET WEBSITE OF THE DEPARTMENT OF AUDIT AND CONTROL ACCESSIBLE TO THE GENERAL PUBLIC. In addition to the above annual report, an actuarial report prepared in accordance with generally recognized and accepted actuarial principles and practices which are consistent with principles prescribed by the Actuarial Standards Boards (ASB) and the Code of Professional Conduct and Qualification Standards for Public Statements of Actuarial Opinion of the American Academy of Actuaries, shall be published on or before October fifteenth of each fiscal year to include:

S 2. Section 11 of the retirement and social security law is amended by adding a new subdivision d-1 to read as follows:

D-1. THE ANNUAL REPORT PROVIDED FOR IN SUBDIVISION D OF THIS SECTION SHALL DISCLOSE THE GROSS EXPENSE RATIO AND THE NAME OF EACH PRIMARY FUND MANAGER.

1. SUCH DISCLOSURE SHALL IDENTIFY:

(I) THE NAME AND ADDRESS OF EACH FUND MANAGER;

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

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(II) THE GROSS EXPENSE RATIO FOR EACH FUND THAT IS UNDER THE SUPERVISION OF SUCH FUND MANAGER;

(III) A BREAKDOWN OF THE GROSS EXPENSE RATIO FOR EACH FUND AND FOR THE AGGREGATE OF ALL FUNDS, BY THE FEES, COMMISSIONS, AND EXPENSES CHARGED BY SUCH FUND MANAGER, FOR ITEMS INCLUDING, BUT NOT LIMITED TO MANAGEMENT, BROKERAGE, INCENTIVE, PERFORMANCE OR ADMINISTRATIVE FEES; EQUITY COMMISSIONS; AND OTHER EXPENSES RELATED TO THE MANAGEMENT OF SUCH FUND. SUCH BREAKDOWN OF FEES, COMMISSIONS AND EXPENSES SHALL BE EXPRESSED IN MONETARY TERMS AND AS A PERCENTAGE OF THE ASSET BEING MANAGED BY SUCH FUND MANAGER AND BY THE AGGREGATE OF ALL FUND MANAGERS;

(IV) THE VALUE OF THE ASSETS ADMINISTERED BY SUCH FUND MANAGER AND BY THE AGGREGATE OF ALL FUND MANAGERS FOR THE RETIREMENT SYSTEM AS OF THE BEGINNING OF THE FISCAL YEAR ON APRIL FIRST AND ON THE FOLLOWING MARCH THIRTY-FIRST OF EACH YEAR; AND

(V) THE AVERAGE ANNUAL NET RATE OF RETURN, TO THE NEW YORK STATE RETIREMENT FUND, OF EACH FUND MANAGED BY A FUND MANAGER AND OF ALL FUNDS MANAGED BY FUND MANAGERS FROM ITS INCEPTION DATE, THE AVERAGE ANNUAL RETURN RATE, AND AVERAGE ANNUAL RETURN RATE OVER THE COURSE OF THREE, FIVE, AND TEN YEARS, WHEN APPLICABLE.

2. TO BETTER REFLECT AND COMPARE THE RISK AND VOLATILITY OF EACH FUND ASSET BEING MANAGED WITH THE CORRESPONDING GROSS MANAGEMENT FEES BEING CHARGED TO MANAGE SUCH FUND, THE DISCLOSURE OF SUCH FEES SHALL BE ORGANIZED BY THE TYPE OF ASSET OR FUND BEING MANAGED FOR THE NEW YORK STATE RETIREMENT FUND (BOTH NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM AND THE NEW YORK STATE AND LOCAL POLICE AND FIRE RETIREMENT SYSTEM). SUCH BREAK DOWN OF FUND OR ASSET TYPE MAY INCLUDE, BUT NOT BE LIMITED TO:

(I) DOMESTIC EQUITY MARKETS;

(II) INTERNATIONAL EQUITY MARKETS,

(III) BLENDED DOMESTIC AND INTERNATIONAL EQUITY MARKETS;

(IV) FIXED INCOME PORTFOLIOS; AND

(V) REAL ESTATE PROFILES; AND

(VI) ALTERNATIVE INVESTMENT PORTFOLIOS, SUCH AS PRIVATE EQUITY PORTFOLIOS, GREEN STRATEGIC INVESTMENT PROGRAMS, NEW YORK STATE MORTGAGE-PASS THROUGH OR AFFORDABLE HOUSING LOAN PROGRAMS, NEW YORK EQUITY REAL ESTATE INVESTMENTS, OR OTHER SUCH INVESTMENT PROGRAMS THAT INVEST OR RETAIN ASSETS RELATED TO INVESTMENTS IN NEW YORK STATE.

3. FOR THE PURPOSES OF THIS SUBDIVISION:

(I) "FUND" SHALL MEAN AN INDIVIDUAL ASSET, INVESTMENT, FUND, PORTFOLIO, OR CONSORTIUM OF ASSETS THAT IS MANAGED BY A FUND MANAGER.

(II) "FUND MANAGER" SHALL MEAN THE PRIMARY FUND MANAGER, FIRM, BROKER, CONSULTANT, CONSORTIUM, OR OTHER ENTITY THAT IS ASSIGNED OR HAS CONTRACTED WITH THE STATE COMPTROLLER TO ADMINISTER, OPERATE, OR MANAGE AN INDIVIDUAL INVESTMENT, FUND, PORTFOLIO, OR CONSORTIUM OF ASSETS THAT IS CONTAINED IN THE RETIREMENT ASSET OR INVESTMENT PORTFOLIO OF THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM OR THE NEW YORK STATE AND LOCAL POLICE AND FIRE RETIREMENT SYSTEM.

(III) "GROSS EXPENSE RATIO" SHALL MEAN THE RATIO OF THE GROSS MANAGEMENT FEES DIVIDED BY THE VALUE OF THE FUND THAT IS BEING MANAGED BY SUCH FUND MANAGER.

(IV) "GROSS MANAGEMENT FEE" SHALL INCLUDE ALL FEES, COMMISSIONS, OR EXPENSES COLLECTED OR CHARGED BY A FUND MANAGER TO MANAGE, OPERATE OR ADMINISTER A FUND ON BEHALF OF OR FOR THE BENEFIT OF THE NEW YORK STATE RETIREMENT FUND, INCLUDING, BUT NOT LIMITED TO MANAGEMENT, BROKERAGE, INCENTIVE, PERFORMANCE, OR ADMINISTRATIVE FEES; EQUITY, STOCK OR OTHER

COMMISSIONS; ADMINISTRATIVE EXPENSES, OR OTHER EXPENSES CHARGED THAT RELATE TO THE MANAGEMENT, OPERATION, OR ADMINISTRATION OF SUCH FUND.

S 3. Subdivision d of section 311 of the retirement and social security law, as added by chapter 1000 of the laws of 1966, is amended to read as follows:

d. The comptroller shall make an annual report showing the valuation of the assets and liabilities of the funds of the [policemen's and firemen's] retirement system, as certified by the actuary, a statement of receipts and disbursements and his recommendations in regard thereto. Such report shall be published with and as a part of the annual report of the comptroller. ALL REPORTS REQUIRED BY THIS SUBDIVISION AND SUBDIVISION D-ONE OF THIS SECTION SHALL, UPON PUBLICATION, BE POSTED ON THE INTERNET WEBSITE OF THE DEPARTMENT OF AUDIT AND CONTROL ACCESSIBLE TO THE GENERAL PUBLIC.

S 4. Section 311 of the retirement and social security law is amended by adding a new subdivision d-1 to read as follows:

D-1. THE ANNUAL REPORT PROVIDED FOR IN SUBDIVISION D OF THIS SECTION SHALL DISCLOSE THE GROSS EXPENSE RATIO AND THE NAME OF EACH PRIMARY FUND MANAGER.

1. SUCH DISCLOSURE SHALL IDENTIFY:

(I) THE NAME AND ADDRESS OF EACH FUND MANAGER;

(II) THE GROSS EXPENSE RATIO FOR EACH FUND THAT IS UNDER THE SUPERVISION OF SUCH FUND MANAGER;

(III) A BREAKDOWN OF THE GROSS EXPENSE RATIO FOR EACH FUND AND FOR THE AGGREGATE OF ALL FUNDS, BY THE FEES, COMMISSIONS, AND EXPENSES CHARGED BY SUCH FUND MANAGER, FOR ITEMS INCLUDING, BUT NOT LIMITED TO MANAGEMENT, BROKERAGE, INCENTIVE, PERFORMANCE OR ADMINISTRATIVE FEES; EQUITY COMMISSIONS; AND OTHER EXPENSES RELATED TO THE MANAGEMENT OF SUCH FUND. SUCH BREAKDOWN OF FEES, COMMISSIONS AND EXPENSES SHALL BE EXPRESSED IN MONETARY TERMS AND AS A PERCENTAGE OF THE ASSET BEING MANAGED BY SUCH FUND MANAGER AND BY THE AGGREGATE OF ALL FUND MANAGERS;

(IV) THE VALUE OF THE ASSETS ADMINISTERED BY SUCH FUND MANAGER AND BY THE AGGREGATE OF ALL FUND MANAGERS FOR THE RETIREMENT SYSTEM AS OF THE BEGINNING OF THE FISCAL YEAR ON APRIL FIRST AND ON THE FOLLOWING MARCH-THIRTY FIRST OF EACH YEAR; AND

(V) THE AVERAGE ANNUAL NET RATE OF RETURN, TO THE NEW YORK STATE RETIREMENT FUND, OF EACH FUND MANAGED BY A FUND MANAGER AND OF ALL FUNDS MANAGED BY FUND MANAGERS FROM ITS INCEPTION DATE, THE AVERAGE ANNUAL RETURN RATE, AND AVERAGE ANNUAL RETURN RATE OVER THE COURSE OF THREE, FIVE, AND TEN YEARS, WHEN APPLICABLE.

2. TO BETTER REFLECT AND COMPARE THE RISK AND VOLATILITY OF EACH FUND ASSET BEING MANAGED WITH THE CORRESPONDING GROSS MANAGEMENT FEES BEING CHARGED TO MANAGE SUCH FUND, THE DISCLOSURE OF SUCH FEES SHALL BE ORGANIZED BY THE TYPE OF ASSET OR FUND BEING MANAGED FOR THE NEW YORK STATE RETIREMENT FUND (BOTH NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM AND THE NEW YORK STATE AND LOCAL POLICE AND FIRE RETIREMENT SYSTEM). SUCH BREAK DOWN OF FUND OR ASSET TYPE MAY INCLUDE, BUT NOT BE LIMITED TO:

(I) DOMESTIC EQUITY MARKETS;

(II) INTERNATIONAL EQUITY MARKETS,

(III) BLENDED DOMESTIC AND INTERNATIONAL EQUITY MARKETS;

(IV) FIXED INCOME PORTFOLIOS; AND

(V) REAL ESTATE PROFILES; AND

(VI) ALTERNATIVE INVESTMENT PORTFOLIOS, SUCH AS PRIVATE EQUITY PORTFOLIOS, GREEN STRATEGIC INVESTMENT PROGRAMS, NEW YORK STATE MORTGAGE-PASS THROUGH OR AFFORDABLE HOUSING LOAN PROGRAMS, NEW YORK EQUITY REAL ESTATE

INVESTMENTS, OR OTHER SUCH INVESTMENT PROGRAMS THAT INVEST OR RETAIN ASSETS RELATED TO INVESTMENTS IN NEW YORK STATE.

3. FOR THE PURPOSES OF THIS SUBDIVISION:

(I) "FUND" SHALL MEAN AN INDIVIDUAL ASSET, INVESTMENT, FUND, PORTFOLIO, OR CONSORTIUM OF ASSETS THAT IS MANAGED BY A FUND MANAGER.

(II) "FUND MANAGER" SHALL MEAN THE PRIMARY FUND MANAGER, FIRM, BROKER, CONSULTANT, CONSORTIUM, OR OTHER ENTITY THAT IS ASSIGNED OR HAS CONTRACTED WITH THE STATE COMPTROLLER TO ADMINISTER, OPERATE, OR MANAGE AN INDIVIDUAL INVESTMENT, FUND, PORTFOLIO, OR CONSORTIUM OF ASSETS THAT IS CONTAINED IN THE RETIREMENT ASSET OR INVESTMENT PORTFOLIO OF THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM OR THE NEW YORK STATE AND LOCAL POLICE AND FIRE RETIREMENT SYSTEM.

(III) "GROSS EXPENSE RATIO" SHALL MEAN THE RATIO OF THE GROSS MANAGEMENT FEES DIVIDED BY THE VALUE OF THE FUND THAT IS BEING MANAGED BY SUCH FUND MANAGER.

(IV) "GROSS MANAGEMENT FEE" SHALL INCLUDE ALL FEES, COMMISSIONS, OR EXPENSES COLLECTED OR CHARGED BY A FUND MANAGER TO MANAGE, OPERATE OR ADMINISTER A FUND ON BEHALF OF OR FOR THE BENEFIT OF THE NEW YORK STATE RETIREMENT FUND, INCLUDING, BUT NOT LIMITED TO MANAGEMENT, BROKERAGE, INCENTIVE, PERFORMANCE, OR ADMINISTRATIVE FEES; EQUITY, STOCK OR OTHER COMMISSIONS; ADMINISTRATIVE EXPENSES, OR OTHER EXPENSES CHARGED THAT RELATE TO THE MANAGEMENT, OPERATION, OR ADMINISTRATION OF SUCH FUND.

S 5. This act shall take effect on the first of January next succeeding the date on which it shall have become a law, and shall apply to annual reports made after such date.