

5354

2013-2014 Regular Sessions

I N   S E N A T E

May 16, 2013

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Introduced by Sen. FLANAGAN -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the general municipal law and the education law, in relation to the creation and funding of other post-employment benefit reserve funds; and to repeal certain provisions of the general municipal law relating thereto

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

1     Section 1. The general municipal law is amended by adding a new  
2     section 6-t to read as follows:  
3     S 6-T. OTHER POST-EMPLOYMENT BENEFIT RESERVE FUNDS. 1. AS USED IN THIS  
4     SECTION,  
5     (A) "MUNICIPAL CORPORATION" MEANS A SCHOOL DISTRICT (EXCEPT A SCHOOL  
6     DISTRICT IN A CITY WITH A POPULATION OF ONE HUNDRED TWENTY-FIVE THOUSAND  
7     OR MORE) OR A BOARD OF COOPERATIVE EDUCATIONAL SERVICES.  
8     (B) "OTHER POST-EMPLOYMENT BENEFIT" MEANS ANY BENEFIT OTHER THAN A  
9     PENSION BENEFIT THAT A MUNICIPAL CORPORATION IS OBLIGATED BY CONTRACT,  
10    LOCAL LAW, OR STATUTE TO PAY TO, OR ON BEHALF OF, AN INDIVIDUAL ON  
11    ACCOUNT OF THAT INDIVIDUAL'S PRIOR EMPLOYMENT BY THE MUNICIPAL CORPO-  
12    RATION, INCLUDING POST-EMPLOYMENT HEALTHCARE BENEFITS, REGARDLESS OF THE  
13    TYPE OF PLAN THAT PROVIDES THEM, BUT EXCLUDING TERMINATION BENEFITS SUCH  
14    AS THOSE DESCRIBED IN SECTION SIX-P OF THIS ARTICLE.  
15    (C) "PARTICIPATING EMPLOYER" MEANS A PARTICIPATING EMPLOYER AS DEFINED  
16    IN SUBDIVISION TWENTY OF SECTION TWO OF THE RETIREMENT AND SOCIAL SECU-  
17    RITY LAW OR IN SUBDIVISION TWENTY OF SECTION THREE HUNDRED TWO OF SUCH  
18    LAW.  
19    2. THE GOVERNING BOARD OF ANY MUNICIPAL CORPORATION WHICH IS ALSO A  
20    PARTICIPATING EMPLOYER MAY ESTABLISH BY RESOLUTION A RESERVE FUND FOR  
21    THE PURPOSE OF FINANCING OTHER POST-EMPLOYMENT BENEFITS.  
22    3. THERE MAY BE PAID INTO AN OTHER POST-EMPLOYMENT BENEFIT RESERVE  
23    FUND:

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

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1 (A) SUCH AMOUNTS AS MAY BE PROVIDED THEREFOR BY BUDGETARY APPROPRI-  
2 ATION OR RAISED BY TAX THEREFOR;

3 (B) SUCH REVENUES AS ARE NOT REQUIRED BY LAW TO BE PAID INTO ANY OTHER  
4 FUND OR ACCOUNT;

5 (C) SUCH OTHER FUNDS AS MAY BE LEGALLY APPROPRIATED; AND

6 (D) NOTWITHSTANDING ANY LAW TO THE CONTRARY, SUCH AMOUNTS AS MAY BE  
7 TRANSFERRED FROM A RESERVE FUND ESTABLISHED PURSUANT TO SECTION SIX-C,  
8 SIX-D, SIX-E, SIX-F, SIX-G, SIX-M, SIX-N, OR SIX-P OF THIS ARTICLE  
9 COMPRISED OF MONEYS RAISED FROM THE SAME TAX BASE AS THE MONEYS IN THE  
10 OTHER POST-EMPLOYMENT BENEFIT RESERVE FUND, OR A RESERVE FUND ESTAB-  
11 LISHED PURSUANT TO SECTION THIRTY-SIX HUNDRED FIFTY-ONE OF THE EDUCATION  
12 LAW, PROVIDED, THAT ANY SUCH TRANSFER SHALL ONLY BE MADE BY RESOLUTION  
13 OF THE GOVERNING BOARD OF SUCH MUNICIPAL CORPORATION ADOPTED AFTER A  
14 PUBLIC HEARING HELD ON AT LEAST FIFTEEN DAYS PRIOR PUBLISHED NOTICE IN  
15 THE OFFICIAL NEWSPAPER OF THE MUNICIPAL CORPORATION OR, IF THE MUNICI-  
16 PAL CORPORATION DOES NOT HAVE AN OFFICIAL NEWSPAPER, IN AT LEAST ONE  
17 NEWSPAPER HAVING GENERAL CIRCULATION IN THE MUNICIPAL CORPORATION.

18 4. THE MONEYS IN ANOTHER POST-EMPLOYMENT BENEFIT RESERVE FUND SHALL BE  
19 DEPOSITED AND SECURED IN THE MANNER PROVIDED BY SECTION TEN OF THIS  
20 ARTICLE, THE GOVERNING BOARD OF SUCH MUNICIPAL CORPORATION, OR THE CHIEF  
21 FISCAL OFFICER THEREOF IF THE GOVERNING BOARD SHALL DELEGATE SUCH DUTY  
22 TO HIM OR HER, MAY INVEST THE MONEYS IN SUCH FUND IN THE MANNER PROVIDED  
23 BY SECTION ELEVEN OF THIS ARTICLE, ANY INTEREST EARNED OR CAPITAL GAIN  
24 REALIZED ON THE MONEY SO DEPOSITED OR INVESTED SHALL ACCRUE TO AND  
25 BECOME PART OF SUCH FUND.

26 5. THE GOVERNING BOARD OF SUCH MUNICIPAL CORPORATION BY RESOLUTION MAY  
27 AUTHORIZE EXPENDITURES FROM ANOTHER POST-EMPLOYMENT BENEFIT RESERVE FUND  
28 EXCEPT AS OTHERWISE PROVIDED BY LAW, MONEYS IN ANOTHER POST-EMPLOYMENT  
29 BENEFIT RESERVE FUND MAY ONLY BE EXPENDED TO FINANCE OTHER POST-EMPLOY-  
30 MENT BENEFITS.

31 6. THE GOVERNING BOARD OF SUCH MUNICIPAL CORPORATION BY RESOLUTION MAY  
32 AUTHORIZE THE TRANSFER OF A PORTION OF THE MONEYS IN ANOTHER POST-EM-  
33 PLOYMENT BENEFIT RESERVE FUND TO A RESERVE FUND OF THE MUNICIPAL CORPO-  
34 RATION ESTABLISHED PURSUANT TO SECTION SIX-C, SIX-D, SIX-E, SIX-F,  
35 SIX-G, SIX-M, SIX-N, OR SIX-P OF THIS ARTICLE COMPRISED OF MONEYS RAISED  
36 FROM THE SAME TAX BASE AS THE MONEYS IN THE RETIREMENT CONTRIBUTION  
37 RESERVE FUNDS, OR A RESERVE FUND ESTABLISHED PURSUANT TO SECTION THIR-  
38 TY-SIX HUNDRED FIFTY-ONE OF THE EDUCATION LAW, PROVIDED, THAT ANY SUCH  
39 TRANSFER SHALL ONLY BE MADE BY RESOLUTION OF THE GOVERNING BOARD OF SUCH  
40 MUNICIPAL CORPORATION ADOPTED AFTER A PUBLIC HEARING HELD ON AT LEAST  
41 FIFTEEN DAYS PRIOR PUBLISHED NOTICE IN THE OFFICIAL NEWSPAPER OF THE  
42 MUNICIPAL CORPORATION OR, IF THE MUNICIPAL CORPORATION DOES NOT HAVE AN  
43 OFFICIAL NEWSPAPER, IN AT LEAST ONE NEWSPAPER HAVING GENERAL CIRCULATION  
44 IN THE MUNICIPAL CORPORATION.

45 7. THE CHIEF FISCAL OFFICER OF SUCH MUNICIPAL CORPORATION SHALL  
46 ACCOUNT FOR ANOTHER POST-EMPLOYMENT BENEFIT RESERVE FUND SEPARATE AND  
47 APART FROM ALL OTHER FUNDS OF THE MUNICIPAL CORPORATION SUCH ACCOUNTING  
48 SHALL SHOW: THE SOURCE, DATE AND AMOUNT OF EACH SUM PAID INTO THE FUND;  
49 THE INTEREST EARNED BY SUCH FUND; CAPITAL GAINS OR LOSSES RESULTING FROM  
50 THE SALE OF INVESTMENTS OF THIS FUND; THE ORDER, PURPOSE THEREOF, DATE  
51 AND AMOUNT OF EACH PAYMENT FROM SUCH FUND; THE ASSETS OF THE FUND, INDI-  
52 CATING CASH BALANCE AND A SCHEDULE OF INVESTMENTS.

53 THE CHIEF FISCAL OFFICER, WITHIN SIXTY DAYS OF THE END OF EACH FISCAL  
54 YEAR, SHALL FURNISH A DETAILED REPORT OF THE OPERATION AND CONDITION OF  
55 THIS FUND TO THE GOVERNING BOARD.

1 8. NO MEMBER OF THE GOVERNING BOARD OF SUCH MUNICIPAL CORPORATION  
2 SHALL:

3 (A) AUTHORIZE A WITHDRAWAL FROM AN OTHER POST-EMPLOYMENT BENEFIT  
4 RESERVE FUND FOR ANY PURPOSE EXCEPT AS PROVIDED IN THIS SECTION; OR

5 (B) EXPEND ANY MONEY WITHDRAWN FROM SUCH FUND FOR A PURPOSE OTHER THAN  
6 AS PROVIDED IN THIS SECTION.

7 9. THE GOVERNING BOARD OF SUCH MUNICIPAL CORPORATION BY RESOLUTION MAY  
8 DETERMINE THAT AN OTHER POST-EMPLOYMENT BENEFIT RESERVE FUND IS NO LONG-  
9 ER NEEDED AND TERMINATE THE FUND. SUCH RESOLUTION SHALL TRANSFER ANY  
10 MONEYS REMAINING IN SUCH FUND TO ONE OR MORE RESERVE FUNDS OF THE MUNIC-  
11 IPAL CORPORATION ESTABLISHED PURSUANT TO SECTION SIX-C, SIX-D, SIX-E,  
12 SIX-F, SIX-I, SIX-M, SIX-N, OR SIX-P OF THIS ARTICLE COMPRISED OF MONEYS  
13 RAISED FROM THE SAME TAX BASE AS THE MONEYS IN THE OTHER POST-EMPLOYMENT  
14 BENEFIT RESERVE FUND, OR ONE OR MORE RESERVE FUNDS ESTABLISHED PURSUANT  
15 TO SECTION THIRTY-SIX HUNDRED FIFTY-ONE OF THE EDUCATION LAW.

16 S 2. Notwithstanding any other provision of law, within 180 days of  
17 the effective date of this act, a municipal corporation may by resol-  
18 ution transfer into an other post-employment benefits reserve fund  
19 created in accordance with section 6-t of the general municipal law any  
20 funds previously committed or assigned by that municipal corporation for  
21 the purpose of paying other post-employment benefits as defined in  
22 section 6-t of the general municipal law, regardless of how those funds  
23 have been designated.

24 S 3. Subdivisions 10 and 11 of section 6-p of the general municipal  
25 law are REPEALED.

26 S 4. Paragraph b of subdivision 5 of section 1950 of the education  
27 law, as amended by section 80-a of part A of chapter 58 of the laws of  
28 2011, is amended to read as follows:

29 b. The cost of services herein referred to shall be the amount allo-  
30 cated to each component school district by the board of cooperative  
31 educational services to defray expenses of such board, except that that  
32 part of the salary paid any teacher, supervisor or other employee of the  
33 board of cooperative educational services which is in excess of thirty  
34 thousand dollars shall not be such an approved expense, and except also  
35 that administrative and clerical expenses shall not exceed ten percent  
36 of the total expenses for purposes of this computation. Any gifts,  
37 donations or interest earned by the board of cooperative educational  
38 services or on behalf of the board of cooperative educational services  
39 by the dormitory authority or any other source shall not be deducted in  
40 determining the cost of services allocated to each component school  
41 district. [Any payments made to a component school district by the board  
42 of cooperative educational services pursuant to subdivision eleven of  
43 section six-p of the general municipal law attributable to an approved  
44 cost of service computed pursuant to this subdivision shall be deducted  
45 from the cost of services allocated to such component school district.]  
46 The expense of transportation provided by the board of cooperative  
47 educational services pursuant to paragraph q of subdivision four of this  
48 section shall be eligible for aid apportioned pursuant to subdivision  
49 seven of section thirty-six hundred two of this chapter and no board of  
50 cooperative educational services transportation expense shall be an  
51 approved cost of services for the computation of aid under this subdivi-  
52 sion. Transportation expense pursuant to paragraph q of subdivision four  
53 of this section shall be included in the computation of the ten percent  
54 limitation on administrative and clerical expenses.

55 S 5. This act shall take effect immediately.