

1434

2015-2016 Regular Sessions

I N A S S E M B L Y

January 12, 2015

Introduced by M. of A. JAFFEE, CAHILL -- Multi-Sponsored by -- M. of A. CROUCH, SOLAGES -- read once and referred to the Committee on Education

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:
24 (A) SUCH AMOUNTS AS MAY BE PROVIDED THEREFOR BY BUDGETARY APPROPRI-
25 ATION OR RAISED BY TAX THEREFOR;

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

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

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

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

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

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

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

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

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

54 8. NO MEMBER OF THE GOVERNING BOARD OF SUCH MUNICIPAL CORPORATION
55 SHALL:

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

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

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

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

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

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

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

53 S 5. This act shall take effect immediately.