

# STATE OF NEW YORK

2854

2023-2024 Regular Sessions

## IN ASSEMBLY

January 27, 2023

Introduced by M. of A. ZEBROWSKI, DICKENS, STIRPE, SAYEGH, COOK, CRUZ, SEAWRIGHT, LUPARDO, BUTTENSCHON, DeSTEFANO, NORRIS, McDONOUGH, BRABENEK, MILLER -- Multi-Sponsored by -- M. of A. HAWLEY, SIMON -- 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:

Section 1. The general municipal law is amended by adding a new section 6-w to read as follows:

§ 6-w. Other post-employment benefit reserve funds. 1. As used in this section:

(a) "Municipal corporation" means a school district (except a school district in a city with a population of one hundred twenty-five thousand or more) or a board of cooperative educational services.

(b) "Other post-employment benefit" means any benefit other than a pension benefit that a municipal corporation is obligated by contract, local law, or statute to pay to, or on behalf of, an individual on account of that individual's prior employment by the municipal corporation, including post-employment healthcare benefits, regardless of the type of plan that provides them, but excluding termination benefits such as those described in section six-p of this article.

(c) "Participating employer" means a participating employer as defined in subdivision twenty of section two of the retirement and social security law or in subdivision twenty of section three hundred two of such law.

2. The governing board of any municipal corporation which is also a participating employer may establish by resolution a reserve fund for the purpose of financing other post-employment benefits.

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

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1 3. There may be paid into another post-employment benefit reserve  
2 fund:

3 (a) Such amounts as may be provided therefor by budgetary appropri-  
4 ation or raised by tax therefor;

5 (b) Such revenues as are not required by law to be paid into any other  
6 fund or account;

7 (c) Such other funds as may be legally appropriated; and

8 (d) Notwithstanding any law to the contrary, such amounts as may be  
9 transferred from a reserve fund established pursuant to section six-c,  
10 six-d, six-e, six-f, six-g, six-m, six-n, or six-p of this article  
11 comprised of moneys raised from the same tax base as the moneys in the  
12 other post-employment benefit reserve fund, or a reserve fund estab-  
13 lished pursuant to section thirty-six hundred fifty-one of the education  
14 law, provided, that any such transfer shall only be made by resolution  
15 of the governing board of such municipal corporation adopted after a  
16 public hearing held on at least fifteen days prior published notice in  
17 the official newspaper of the municipal corporation or, if the munici-  
18 pal corporation does not have an official newspaper, in at least one  
19 newspaper having general circulation in the municipal corporation.

20 4. The moneys in another post-employment benefit reserve fund shall be  
21 deposited and secured in the manner provided by section ten of this  
22 article, the governing board of such municipal corporation, or the chief  
23 fiscal officer thereof if the governing board shall delegate such duty  
24 to him or her, may invest the moneys in such fund in the manner provided  
25 by section eleven of this article, any interest earned or capital gain  
26 realized on the money so deposited or invested shall accrue to and  
27 become part of such fund.

28 5. The governing board of such municipal corporation by resolution may  
29 authorize expenditures from another post-employment benefit reserve fund  
30 except as otherwise provided by law, moneys in another post-employment  
31 benefit reserve fund may only be expended to finance other post-employ-  
32 ment benefits.

33 6. The governing board of such municipal corporation by resolution may  
34 authorize the transfer of a portion of the moneys in another post-em-  
35 ployment benefit reserve fund to a reserve fund of the municipal corpo-  
36 ration established pursuant to section six-c, six-d, six-e, six-f,  
37 six-g, six-m, six-n, or six-p of this article comprised of moneys raised  
38 from the same tax base as the moneys in the retirement contribution  
39 reserve funds, or a reserve fund established pursuant to section thir-  
40 ty-six hundred fifty-one of the education law, provided, that any such  
41 transfer shall only be made by resolution of the governing board of such  
42 municipal corporation adopted after a public hearing held on at least  
43 fifteen days prior published notice in the official newspaper of the  
44 municipal corporation or, if the municipal corporation does not have an  
45 official newspaper, in at least one newspaper having general circulation  
46 in the municipal corporation.

47 7. The chief fiscal officer of such municipal corporation shall  
48 account for another post-employment benefit reserve fund separate and  
49 apart from all other funds of the municipal corporation such accounting  
50 shall show: the source, date and amount of each sum paid into the fund;  
51 the interest earned by such fund; capital gains or losses resulting from  
52 the sale of investments of this fund; the order, purpose thereof, date  
53 and amount of each payment from such fund; the assets of the fund, indi-  
54 cating cash balance and a schedule of investments.

The chief fiscal officer, within sixty days of the end of each fiscal year, shall furnish a detailed report of the operation and condition of this fund to the governing board.

8. No member of the governing board of such municipal corporation shall:

(a) Authorize a withdrawal from another post-employment benefit reserve fund for any purpose except as provided in this section; or

(b) Expend any money withdrawn from such fund for a purpose other than as provided in this section.

9. The governing board of such municipal corporation by resolution may determine that an other post-employment benefit reserve fund is no longer needed and terminate the fund. Such resolution shall transfer any moneys remaining in such fund to one or more reserve funds of the municipal corporation established pursuant to section six-c, six-d, six-e, six-f, six-g, six-m, six-n, or six-p of this article comprised of moneys raised from the same tax base as the moneys in the other post-employment benefit reserve fund, or one or more reserve funds established pursuant to section thirty-six hundred fifty-one of the education law.

§ 2. Notwithstanding any other provision of law, within 180 days of the effective date of this act, a municipal corporation may by resolution transfer into another post-employment benefits reserve fund created in accordance with section 6-w of the general municipal law any funds previously committed or assigned by that municipal corporation for the purpose of paying other post-employment benefits as defined in section 6-w of the general municipal law, regardless of how those funds have been designated.

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

§ 4. Paragraph b of subdivision 5 of section 1950 of the education law, as amended by chapter 130 of the laws of 2022, is amended to read as follows:

b. The cost of services herein referred to shall be the amount allocated to each component school district by the board of cooperative educational services to defray expenses of such board, including approved expenses from the testing of potable water systems of occupied school buildings under the board's jurisdiction as required pursuant to section eleven hundred ten of the public health law provided that such expenses for testing of potable water systems are not reimbursable from another state or federal source, except that that part of the salary paid any teacher, supervisor or other employee of the board of cooperative educational services which is in excess of thirty thousand dollars shall not be such an approved expense, and except also that administrative and clerical expenses shall not exceed ten percent of the total expenses for purposes of this computation. Any gifts, donations or interest earned by the board of cooperative educational services or on behalf of the board of cooperative educational services by the dormitory authority or any other source shall not be deducted in determining the cost of services allocated to each component school district. ~~[Any payments made to a component school district by the board of cooperative educational services pursuant to subdivision eleven of section six-p of the general municipal law attributable to an approved cost of service computed pursuant to this subdivision shall be deducted from the cost of services allocated to such component school district.]~~ The expense of transportation provided by the board of cooperative educational services pursuant to paragraph q of subdivision four of this section shall be eligible for aid apportioned pursuant to subdivision seven of section

1 thirty-six hundred two of this chapter and no board of cooperative  
2 educational services transportation expense shall be an approved cost of  
3 services for the computation of aid under this subdivision. Transporta-  
4 tion expense pursuant to paragraph q of subdivision four of this section  
5 shall be included in the computation of the ten percent limitation on  
6 administrative and clerical expenses.  
7 § 5. This act shall take effect immediately.