STATE OF NEW YORK

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IN ASSEMBLY

May 1, 2024

Introduced by M. of A. ALVAREZ -- Multi-Sponsored by -- M. of A. BICHOTTE HERMELYN -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the retirement and social security law, in relation to diversity and inclusion in the management of public pension funds, ensure equitable access to investment opportunities, and foster the growth of emerging BIPOC (black, indigenous, and people of color) owned investment management firms within the state of New York

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Short title. This act shall be known and may be cited as the "New York state agency BIPOC asset management and financial institution strategy act".

§ 2. The retirement and social security law is amended by adding a new section 423-d to read as follows:

§ 423-d. BIPOC-owned investment management firms; state of New York. 1. For the purposes of this section, the following terms shall have the following meanings:

(a) "Best practices" shall mean industry-recognized standards and guidelines for diversity, equity, and inclusion.

(b) "BIPOC" shall mean black, indigenous, and people of color.

(c) "BIPOC-owned firms" shall mean business enterprises owned by individuals from black, indigenous, and people of color communities.

(d) "Designated entities" shall mean entities governed by this section, including but not limited to, the common retirement fund, the New York state teachers' retirement system, and the New York state insurance fund.

(e) "Emerging manager programs" shall mean programs designed to enhance opportunities for small, disadvantaged, or BIPOC-owned business enterprises.

(f) "Fiduciaries" shall mean individuals entrusted with fiduciary duties within the designated entities.

2. (a) All public pension funds in the state shall provide opportunities for emerging BIPOC-owned investment management firms. Such public

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

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pension funds shall adopt an investment manager diversity policy to set objectives for enhancing the utilization of BIPOC investment management firms.

(b) Twenty percent of a public pension fund's total assets shall be invested with BIPOC investment managers.

(c) Twenty-five percent of a public pension fund's active assets shall be invested with BIPOC investment managers.

(d) There shall be an asset class breakdown as follows:

(i) thirty percent of a public pension fund's equity assets shall be invested with BIPOC investment managers;

(ii) fifteen percent of a public pension fund's fixed income assets shall be invested with BIPOC investment managers; and

(iii) fifteen percent of a public pension fund's alternative assets shall be invested with BIPOC investment managers.

3. Pursuant to subdivision two of this section, the utilization standards shall serve as the minimum requirement, and such standards may be subject to modification in response to changes in the number of BIPOC investment managers that are capable of directly managing mandates from a public pension fund.

4. (a) A public pension fund shall, within six months of the effective date of this section, establish mechanisms to ensure compliance with the investment manager diversity policy.

(b) The relevant authorities of each public pension fund shall report annually to the comptroller on the progress and outcomes achieved in meeting the utilization standards set forth in subdivision three of this section.

(c) The comptroller shall compile and publish an annual report detailing the progress and effectiveness of the investment manager diversity policy.

5. (a) Within six months of the effective date of this section, each public pension fund within the state shall develop a comprehensive implementation plan to ensure compliance with the investment manager diversity policy outlined in subdivision two of this section. This plan shall detail the strategies, procedures, and timelines that such fund shall adopt to achieve the specified utilization standards for BIPOC investment managers across various asset classes.

(b) The governing body of each public pension fund shall submit an annual progress report to the city comptroller outlining the advancements made in fulfilling the investment manager diversity policy's requirements. Such report shall include, but not be limited to:

(i) the total assets managed by BIPOC investment managers as a percentage of the fund's total assets;

(ii) the active assets managed by BIPOC investment managers as a percentage of the fund's active assets;

(iii) the allocation of equity, fixed income, and alternative assets to BIPOC investment managers; and

(iv) an assessment of any challenges faced and steps taken to address them.

(c) Each public pension fund shall provide a narrative report detailing any initiatives, programs, or partnerships established to promote the growth and development of BIPOC-owned investment management firms within the state. Such report shall highlight successful collaborations and the impact of these initiatives on diversifying the investment landscape.

(d) All annual reports submitted to the comptroller shall be made publicly available on the fund's website, ensuring transparency and accountability to the public.

6. (a) The comptroller shall review and assess the annual progress reports submitted by the public pension funds.

(b) In the event that a public pension fund fails to meet the utilization standards specified in subdivision two of this section, the comptroller shall work closely with such fund to identify the reasons for non-compliance and provide guidance on corrective actions.

(c) The comptroller shall compile the information received from the public pension funds and produce an annual report assessing the overall progress and effectiveness of the investment manager diversity policy across the state. Such report shall also include recommendations for enhancing diversity and inclusion in asset management within the public pension sector.

7. To promote awareness and understanding of the goals and benefits of the investment manager diversity policy, each public pension fund shall establish public outreach and educational programs that engage the community, investment professionals, and other stakeholders. Such programs may include seminars, workshops, webinars, and informational materials that highlight the value of diverse investment management teams and the potential for economic growth through BIPOC-owned businesses.

8. To support the growth of emerging BIPOC-owned investment management firms, each public pension fund shall explore opportunities to provide technical assistance, mentorship, and resources. Such support may encompass financial education, networking opportunities, and guidance on compliance and best practices, with the aim of fostering a vibrant ecosystem of diverse investment professionals.

9. Five years after the effective date of this section, the city comptroller shall conduct a comprehensive review of the investment manager diversity policy's impact on the public pension sector's diversity and inclusion goals.

§ 3. The retirement and social security law is amended by adding a new section 423-e to read as follows:

§ 423-e. BIPOC-owned investment management firms; city of New York. 1. For the purposes of this section, the following terms shall have the following meanings:

(a) "Best practices" shall mean industry-recognized standards and guidelines for diversity, equity, and inclusion.

(b) "BIPOC" shall mean black, indigenous, and people of color.

(c) "BIPOC-owned firms" shall mean business enterprises owned by individuals from black, indigenous, and people of color communities.

(d) "Designated entities" shall mean entities governed by this section, including but not limited to, the common retirement fund, the New York state teachers' retirement system, and the New York state insurance fund.

(e) "Emerging manager programs" shall mean programs designed to enhance opportunities for small, disadvantaged, or BIPOC-owned business enterprises.

(f) "Fiduciaries" shall mean individuals entrusted with fiduciary duties within the designated entities.

(g) "Municipality" shall mean any city, village, or incorporated town with an inhabitant count one million or more but less than twelve million, as determined by United States government statistics or a relevant census.

(h) "Compensation" shall mean any money, thing of value, or economic benefit conferred on or received by a consultant in exchange for services rendered or to be rendered.

(i) "Economic opportunity" shall mean any transaction or arrangement involving the purchase, sale, lease, contract, option, or other engagement related to property or services, in which a consultant may gain an economic benefit.

(j) "Trustees" shall mean the relevant governing body, such as city councils, boards of trustees, and other appropriate authorities.

1-a. In each municipality and city as defined in paragraph (g) of subdivision one of this section, the relevant governing body, such as city councils, boards of trustees, and other appropriate authorities, shall establish and administer specific funds as described in this section for the benefit of police officers, firefighters, municipal employees, officers, and public school teachers, along with their surviving spouses, children, and certain other dependents.

2. (a) The trustees of each public pension fund in the city of New York shall be mandated to allocate no less than forty percent of the total dollar amount of the identified fund under management towards investments through BIPOC asset managers, BIPOC financial institutions, and BIPOC financial or professional service firms.

(b) Investment funds that do not fall under the BIPOC category shall aspire to reach a minimum of twenty percent but shall strive to achieve the goal of forty percent of funds received from the fund being allocated towards BIPOC-led investments.

3. The scope of BIPOC investments covered by this section shall include, but not be limited to, the following:

(a) investing assets of the various pension funds with BIPOC asset managers, recognizing their expertise, experience, and unique perspectives in managing investment portfolios; and

(b) subject to best execution practices:

(i) conducting trades of public equity securities with BIPOC financial institutions, promoting collaboration and economic opportunities within the BIPOC community; and

(ii) conducting trades of fixed-income securities through BIPOC institutions, contributing to the growth and development of BIPOC-led financial entities;

(c) allocating investments of all pension fund assets through:

(i) direct investments in the equities and debt securities of BIPOC entities, fostering capital flow to BIPOC-led projects and businesses; and

(ii) indirect investments through special programs involving BIPOC asset managers, facilitating partnerships and promoting access to investment opportunities; and

(d) awarding contracts for various financial and professional services to BIPOC financial institutions and other BIPOC professional service firms, ensuring equitable distribution of opportunities and supporting the growth of BIPOC-led enterprises.

4. (a) The trustees of the various funds shall have the authority to establish additional goals that supplement the requirements stated in subdivision two of this section.

(b) Within sixty days of the conclusion of each fiscal year subsequent to the effective date of this section, the trustees shall provide a comprehensive report to the city comptroller. Such report shall detail the participation of BIPOC asset managers, BIPOC financial institutions,

and BIPOC professional service providers in investment and brokerage transactions, as well as their provision of services for the fund.

(c) Such report shall include a comparative analysis of the activities outlined in subdivision three of this section in relation to all asset managers, financial institutions, and professional service providers engaged by the city comptroller of the pension fund during the relevant period.

(d) Such report shall evaluate and highlight the progress and success achieved in pursuing the aspirational goals outlined in subdivision two of this section. These efforts shall be undertaken to the greatest extent feasible, ensuring compliance with financial and fiduciary prudence.

(e) Each report shall be promptly published on the official website of the applicable investment fund, remaining accessible for a minimum period of sixty days following its release.

5. (a) Effective January first, two thousand twenty-five, and on each subsequent January first thereafter, any consultant retained by the fund shall disclose to the trustees all compensation and economic opportunities received in the preceding twenty-four months from investment advisors retained by the trustees.

(b) A consultant shall disclose to the trustees any compensation or economic opportunity received within the past twenty-four months from an investment advisor that is recommended for selection by such consultant. Such disclosure shall be made prior to the trustees appointing an investment advisor. No contract for consulting services shall be awarded by the trustees of the fund without first requiring the consultant to fulfill the necessary disclosure requirements stated within this section.

6. To qualify for fund allocation as provided under this section, the following minimum requirements shall be met by the respective firms:

(a) For real estate manager qualifications:

(i) the firm shall manage gross assets under management across all clients that are less than two billion dollars at the inception of the relationship;

(ii) the firm's latest fund offerings shall seek less than two hundred fifty million dollars of equity;

(iii) real estate firms shall have at least forty-five percent of their economic interests owned by principals and employees; and

(iv) qualified real estate managers shall operate and reside within New York state.

(b) For private equity manager qualifications:

(i) the firm shall be a legally structured entity, adhering to all applicable laws and regulations;

(ii) the firm shall have a private placement memorandum (PPM) in place;

(iii) the firm shall raise a first, second, or third institutional fund; and

(iv) The firm's institutional fund shall not exceed certain fund size limits.

(c) For fixed income manager qualifications:

(i) the firm shall have two billion dollars or less in assets under management;

(ii) the firm shall have a maximum of fifty percent non-employee ownership; and

(iii) the firm shall be a legally structured entity with a valid corporate tax identification number.

(d) For a registered investment advisor or exemption, the firm shall be a registered investment advisor or qualify for exemption from regis-tration.

§ 4. This act shall take effect immediately.