

STATE OF NEW YORK

9999

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:

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

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

6 § 423-d. BIPOC-owned investment management firms; state of New York.
7 1. For the purposes of this section, the following terms shall have the
8 following meanings:

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

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

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

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

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

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

23 2. (a) All public pension funds in the state shall provide opportu-
24 nities 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.

LBD14197-01-4

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

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

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

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

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

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

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

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

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

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

27 (c) The comptroller shall compile and publish an annual report detail-
28 ing the progress and effectiveness of the investment manager diversity
29 policy.

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

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

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

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

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

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

49 (c) Each public pension fund shall provide a narrative report detail-
50 ing any initiatives, programs, or partnerships established to promote
51 the growth and development of BIPOC-owned investment management firms
52 within the state. Such report shall highlight successful collaborations
53 and the impact of these initiatives on diversifying the investment land-
54 scape.

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

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

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

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

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

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

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

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

36 § 423-e. BIPOC-owned investment management firms; city of New York. 1.
37 For the purposes of this section, the following terms shall have the
38 following meanings:

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

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

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

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

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

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

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

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

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

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

10 1-a. In each municipality and city as defined in paragraph (g) of
11 subdivision one of this section, the relevant governing body, such as
12 city councils, boards of trustees, and other appropriate authorities,
13 shall establish and administer specific funds as described in this
14 section for the benefit of police officers, firefighters, municipal
15 employees, officers, and public school teachers, along with their
16 surviving spouses, children, and certain other dependents.

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

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

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

28 (a) investing assets of the various pension funds with BIPOC asset
29 managers, recognizing their expertise, experience, and unique perspec-
30 tives in managing investment portfolios; and

31 (b) subject to best execution practices:

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

35 (ii) conducting trades of fixed-income securities through BIPOC insti-
36 tutions, contributing to the growth and development of BIPOC-led finan-
37 cial entities;

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (a) For real estate manager qualifications:

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

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

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

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

41 (b) For private equity manager qualifications:

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

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

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

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

50 (c) For fixed income manager qualifications:

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

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

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

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

4 § 4. This act shall take effect immediately.