

[McKinney's Session Laws of N.Y.
1976 Vol. 1]

1975 EXTRAORDINARY SESSION Ch. 890

§ 2. Paragraph b of subdivision nine of section three thousand thirty-eight of such law, such section having been added by chapter one hundred sixty-nine of the laws of nineteen hundred seventy-five, is hereby amended to read as follows:

b. In addition to the foregoing limitation the city shall not, at any date, permit the aggregate principal amount of its outstanding short-term obligations (excluding bond anticipation notes) plus the aggregate principal amount of all notes and bonds issued by the corporation (less any notes or bonds refunded or renewed and less any short-term obligations of the city then held by the corporation and less any short-term obligations of the city issued and payable within the same fiscal year) to exceed four billion five hundred millions dollars plus, in the discretion of the board of directors, an additional amount not exceeding five hundred million dollars plus, in the discretion of the board of directors, until June thirtieth, nineteen hundred seventy-six, a further additional amount not exceeding one hundred million dollars.

§ 3. If any provision of this act is declared unconstitutional, or other provisions of this act shall be rendered ineffective, unless inseparable from the provision declared to be unconstitutional.

§ 4. This act shall take effect immediately.

New York City—Retirement Systems, Pension Funds—

Purchase of New York City Obligations

CHAPTER 890

An Act in relation to authorizing the purchase by certain retirement systems and pension funds of the city of New York of obligations of the city of New York and obligations of the municipal assistance corporation for the city of New York and to amend the retirement and social security law in relation to indemnification provided for certain investments in municipal assistance corporation obligations and in obligations of the city of New York.

Approved Dec. 5, 1975, effective as provided in section 5.

Passed on home rule request. See Const. art. IX, § 2(b)(2), and McKinney's Legislative Law § 44.

Passed on message of necessity. See Const. art. IX, § 2(b)(2), and McKinney's Legislative Law § 44.

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

Section 1. a. Notwithstanding any inconsistent provisions of law, the trustees of the New York city employees' retirement system, the board of education retirement system of the city of New York, the teachers' retirement system of the city of New York, the New York city police pension funds and fire department pension funds may, in their discretion, purchase obligations of the city of New York or obligations of the municipal assistance corporation for the city of New York without regard to the percentage of the assets of any such system or fund invested in such obligations and without regard to the percentage of outstanding obligations of such issuer held or to be held by such system or fund.

b. For the purchase of the obligations and the sale of assets as described in this act, the trustees of such retirement systems and funds in determining investments by such systems and funds may consider, in

deletions by ~~strikeout~~

addition to other appropriate factors recognized by law, the extent to which such investments will (a) maintain the ability of the city of New York (1) to make future contributions to such systems and funds and (2) to satisfy its future obligations to pay pension and retirement benefits to members and beneficiaries of such systems and funds and (b) protect the sources of funds to provide retirement benefits for members and beneficiaries of such systems and funds.

§ 2. a. Notwithstanding any other provision of law, including the provisions of subdivision one of section seventeen of the public officers law, the city of New York shall save harmless and indemnify all members of the board, officers, employees, trustees, fiduciaries and investment advisors of any such system or fund from financial loss arising out of any claim, demand, suit, action or judgment for alleged negligence, waste or breach of fiduciary duty (a) resulting from the purchase by such systems and funds of any obligations of the city of New York or the municipal assistance corporation for the city of New York from such city or corporation or (b) resulting from the sale of any assets held in such systems and funds to produce sufficient revenues to purchase such obligations, provided that such person shall, within eight days after the date on which he is served with any summons, complaint, process, notice, demand, claim or pleading, deliver the original or a true copy thereof to the corporation counsel of the city of New York. Upon such delivery the corporation counsel of the city of New York shall assume control of the representation of such person in connection with such claim, demand, suit, action or proceeding. Such person shall cooperate fully with the corporation counsel of the city of New York or any other person designated to assume such defense in respect of such representation or defense.

b. Upon service upon the city of New York of a final judgment against the city of New York not subject to further appeal, requiring the payment of money to any such system or fund by any person saved harmless pursuant to this section, the city shall not later than ninety days thereafter pay the amount of such judgment to such system or fund. If such city fails to make payment within such time period, the city comptroller shall establish a special fund to pay such judgment and thereafter shall deposit in such fund the proceeds of all payments to the city of New York of city personal income taxes, to the extent not otherwise required by law or for essential services as determined by the emergency financial control board. Essential services shall include but not be limited to provision for the payment of pension benefits. Nothing herein contained shall be deemed to limit any other rights to or remedies for the payment of pension benefits.

c. Payment by the city of New York pursuant to this subdivision in satisfaction of any such judgment of any amount in excess of ten million dollars may be paid in level installments of principal and interest aggregating not less than ten million dollars per year over a period of not more than twenty years, with interest at a rate of six per centum per annum on the unpaid balance, so long as such payment in installments is not so long deferred as to materially impair the ability of the system on behalf of which a judgment has been rendered to pay pension benefits when due. Enforcement of any judgment against a person indemnified hereunder shall be stayed. Payment by the city of New York in accordance with this subdivision shall be made from such special fund except to the extent that such city makes all or part of such payments from other funds available to it.

§ 3. The city retirement systems and funds shall continue as separate and distinct bodies corporate with the power to borrow money, and pledge as collateral therefor such assets as they may deem advisable for

the purpose of purchasing, in their discretion, obligations of the state, the city of New York or the municipal assistance corporation for the city of New York, and such other powers as may be conferred upon them by law.

All assets of the city retirement systems and funds, including to the extent not otherwise provided by law, all dividends, interest and other income therefrom, are and shall hereafter continue to be held in trust for the sole and exclusive purpose of providing for pension benefits and such benefits, if any, as may be payable pursuant to variable supplements programs for members and beneficiaries of such system or fund, including the defraying of administrative expenses (1) to the extent that such expenses have been authorized by the city of New York and (2) if the city of New York shall not have provided the funds to pay such expenses as they fall due. No creditor of the city of New York shall have any claim against the assets of such system or fund, by virtue of his status as such creditor; provided, however, this sentence shall not be interpreted to deny to a pensioner or beneficiary of a city retirement system or fund any causes of action against the city or a retirement system or fund by virtue of his status as such pensioner or beneficiary.

The moneys and investments of each city retirement system or fund if held by the comptroller of the city of New York shall not be commingled with any other moneys or investments held by such comptroller.

§ 4. Section one hundred seventy-five of the retirement and social security law is hereby amended by adding thereto a new subdivision, to be subdivision three, to read as follows:

3. The provisions of this section shall not be applicable to purchases made by the New York city employees' retirement system, the board of education retirement system of the city of New York, the teachers' retirement system of the city of New York, the New York city police pension funds and fire department pension funds in obligations of the municipal assistance corporation for the city of New York and obligations of the city of New York from the municipal assistance corporation for the city of New York and the city of New York after November twenty-third, nineteen hundred seventy-five, but nothing herein contained shall be deemed to diminish the indemnification provided for purchases made by the New York city employees' retirement system, the board of education retirement system of the city of New York, the New York city police pension funds and fire department pension funds in obligations of the municipal assistance corporation for the city of New York and obligations of the city of New York from the municipal assistance corporation for the city of New York and the city of New York on and after September ninth, nineteen hundred seventy-five, but prior to November twenty-third, nineteen hundred seventy-five, in accordance with the provisions of this section.

§ 5. This act shall take effect immediately, except that the provisions of sections one through three shall be retroactive to and shall be deemed to have been in full force and effect from and after November twenty-third, nineteen hundred seventy-five, and such provisions shall terminate on December thirty-first, nineteen hundred eighty, provided, however, that nothing herein contained shall be deemed to diminish the indemnification provided by section two of this act for investment and sales made in accordance with the provisions of this act during the period com-

deletions by ~~strikes~~

Ch. 390 LAWS OF NEW YORK 1975

mening November twenty-third, nineteen hundred seventy-five, and ending on December thirty-first, nineteen hundred eighty.

Fiscal Note.—There will be no cost to any such city as a result of the enactment of this legislation.

Source: The Senate Committee on Finance and the Assembly Committee on Ways and Means.

New York City—Bonds and Notes—Issuance, Etc.

CHAPTER 891

An Act to amend the public authorities law, in relation to the issuance of obligations by the municipal assistance corporation for the city of New York and in relation to increasing the monetary limitation on certain outstanding amounts paid by the corporation to the city of New York for operating expenses and increasing the amount of short-term obligations that may be issued until June thirtieth, nineteen hundred seventy-six by the city of New York and by such municipal assistance corporation.

Approved and effective Dec. 5, 1975.

Passed on Message of necessity. See Const. art. IX, § 2(b)(2), and McKinney's Legislative Law § 44.

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

Section 1. Subdivision two of section three thousand thirty-three of the public authorities law, as amended by chapter eight hundred sixty-eight of the laws of nineteen hundred seventy-five, is hereby amended to read as follows:

2. Subject to the provisions of any contract with noteholders or bondholders, the corporation shall not issue bonds and notes in an aggregate principal amount exceeding five billion two hundred fifty million dollars, excluding bonds and notes issued to refund outstanding bonds and notes.

§ 2. Section three thousand thirty-seven of such law, as amended by chapter eight hundred eighty-nine of the laws of nineteen hundred seventy-five, is hereby amended to read as follows:

§ 3037. Payments to or purchases of obligations of the city

In the event that the mayor from time to time certifies to the corporation an amount required by the city to enable it to pay, at maturity, the principal of and interest on any short-term obligations of the city, or to pay operating expenses of the city, the corporation may (i) pay to the city, or (ii) purchase from the city obligations hereafter issued by the city in an amount equivalent to, part or all of such certified amount. Moneys paid to the city pursuant to clause (i) or (ii) of this section shall be held in trust for the payment of short-term obligations or shall be used to pay operating expenses of the city. Any obligations issued by the city and purchased by the corporation pursuant to this section shall mature on a date not later than fifteen years from the original date of issue of such obligations. The corporation shall not make any payment to the city, or purchase any obligations from the city, pursuant to this section unless the city shall have agreed to observe the conditions set forth in section three thousand thirty-eight of this chapter, subject to such modifications as are permitted thereunder. The outstanding amounts paid to the city for operating expenses pursuant to clause (i) and clause (ii) of this section shall not exceed two