S T A T E O F N E W Y O R K

2866--A

2011-2012 Regular Sessions

I N S E N A T E

February 2, 2011

Introduced by Sens. LANZA, ADDABBO, AVELLA, GOLDEN, KLEIN, SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Cities -- recommitted to the Committee on Cities in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general municipal law and the municipal home rule law, in relation to establishing limitations upon real property tax levies in cities with a population of one million or more

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 3-d to read as follows:

S 3-D. LIMITATION UPON REAL PROPERTY TAX LEVIES BY CITIES HAVING A POPULATION OF ONE MILLION OR MORE. 1. UNLESS OTHERWISE PROVIDED BY LAW, THE AMOUNT OF REAL PROPERTY TAXES THAT MAY BE LEVIED BY OR ON BEHALF OF ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE SHALL NOT EXCEED THE TAX LEVY LIMITATION ESTABLISHED PURSUANT TO THIS SECTION.

2. WHEN USED IN THIS SECTION:

(A) "ALLOWABLE LEVY GROWTH FACTOR" SHALL BE THE LESSER OF: (I) ONE AND TWO ONE-HUNDREDTHS; OR (II) THE SUM OF ONE PLUS THE INFLATION FACTOR; PROVIDED, HOWEVER, THAT IN NO CASE SHALL THE LEVY GROWTH FACTOR BE LESS THAN ONE.

(B) "APPROVED CAPITAL EXPENDITURES" MEANS THE EXPENDITURES ASSOCIATED WITH CAPITAL PROJECTS THAT HAVE BEEN APPROVED BY THE QUALIFIED VOTERS OF THE LOCAL GOVERNMENT.

(C) "AVAILABLE CARRYOVER" MEANS THE SUM OF THE AMOUNT BY WHICH THE TAX LEVY FOR THE PRIOR FISCAL YEAR WAS BELOW THE TAX LEVY LIMIT FOR SUCH FISCAL YEAR, IF ANY, BUT NO MORE THAN ONE AND ONE-HALF PERCENT OF THE TAX LEVY LIMIT FOR SUCH FISCAL YEAR.

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

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(D) "CAPITAL TAX LEVY" MEANS THE TAX LEVY NECESSARY TO SUPPORT CAPITAL EXPENDITURES, IF ANY.

(E) "COMING FISCAL YEAR" MEANS THE FISCAL YEAR OF THE LOCAL GOVERNMENT FOR WHICH A TAX LEVY LIMITATION SHALL BE DETERMINED PURSUANT TO THIS SECTION.

(F) "INFLATION FACTOR" MEANS THE QUOTIENT OF: (I) THE AVERAGE OF THE NATIONAL CONSUMER PRICE INDEXES DETERMINED BY THE UNITED STATES DEPARTMENT OF LABOR FOR THE TWELVE-MONTH PERIOD ENDING SIX MONTHS PRIOR TO THE START OF THE COMING FISCAL YEAR MINUS THE AVERAGE OF THE NATIONAL CONSUMER PRICE INDEXES DETERMINED BY THE UNITED STATES DEPARTMENT OF LABOR FOR THE TWELVE-MONTH PERIOD ENDING SIX MONTHS PRIOR TO THE START OF THE PRIOR FISCAL YEAR, DIVIDED BY: (II) THE AVERAGE OF THE NATIONAL CONSUMER PRICE INDEXES DETERMINED BY THE UNITED STATES DEPARTMENT OF LABOR FOR THE TWELVE-MONTH PERIOD ENDING SIX MONTHS PRIOR TO THE START OF THE PRIOR FISCAL YEAR, WITH THE RESULT EXPRESSED AS A DECIMAL TO FOUR PLACES.

(G) "LOCAL GOVERNMENT" MEANS A CITY HAVING A POPULATION OF ONE MILLION OR MORE.

(H) "PRIOR FISCAL YEAR" MEANS THE FISCAL YEAR OF THE LOCAL GOVERNMENT IMMEDIATELY PRECEDING THE COMING FISCAL YEAR.

(I) "TAX LEVY LIMITATION" MEANS THE AMOUNT OF TAXES A LOCAL GOVERNMENT IS AUTHORIZED TO LEVY PURSUANT TO THIS SECTION, PROVIDED, HOWEVER, THAT THE TAX LEVY LIMIT SHALL NOT INCLUDE THE LOCAL GOVERNMENT'S APPROVED CAPITAL TAX LEVY, IF ANY.

3. (A) BEGINNING WITH THE FISCAL YEAR THAT BEGINS IN TWO THOUSAND TWELVE, NO LOCAL GOVERNMENT SHALL ADOPT A BUDGET THAT REQUIRES A TAX LEVY THAT IS GREATER THAN THE TAX LEVY LIMITATION FOR THE COMING FISCAL YEAR.

(B) THE STATE COMPTROLLER SHALL CALCULATE THE TAX LEVY LIMITATION FOR EACH LOCAL GOVERNMENT BY THE ONE HUNDRED TWENTIETH DAY PRECEDING THE COMMENCEMENT OF EACH LOCAL GOVERNMENT'S FISCAL YEAR, AND SHALL NOTIFY EACH LOCAL GOVERNMENT OF THE TAX LEVY LIMITATION SO DETERMINED.

(C) THE TAX LEVY LIMITATION APPLICABLE TO THE COMING FISCAL YEAR SHALL BE DETERMINED AS FOLLOWS:

(I) ASCERTAIN THE TOTAL AMOUNT OF TAXES LEVIED FOR THE PRIOR FISCAL YEAR.

(II) ADD ANY PAYMENTS IN LIEU OF TAXES THAT WERE RECEIVABLE IN THE PRIOR FISCAL YEAR.

(III) SUBTRACT THE APPROVED CAPITAL TAX LEVY FOR THE PRIOR FISCAL YEAR, IF ANY.

(IV) SUBTRACT THE LEVY ATTRIBUTABLE TO A LARGE LEGAL SETTLEMENT OF A TORT ACTION EXCLUDED FROM THE LEVY LIMITATION IN THE PRIOR FISCAL YEAR, IF ANY.

(V) MULTIPLY THE RESULT BY THE ALLOWABLE LEVY GROWTH FACTOR.

(VI) SUBTRACT ANY PAYMENTS IN LIEU OF TAXES RECEIVABLE IN THE COMING FISCAL YEAR.

(VII) ADD THE AVAILABLE CARRYOVER, IF ANY.

(D) IN THE EVENT THE CITY COUNCIL OF A LOCAL GOVERNMENT HAS APPROVED A LEGAL SETTLEMENT OF A TORT ACTION AGAINST THE GOVERNMENT, THE ANNUAL COSTS OF WHICH EXCEED TEN PERCENT OF THE PROPERTY TAXES LEVIED BY THE LOCAL GOVERNMENT IN THE PRIOR FISCAL YEAR, THE STATE COMPTROLLER, UPON APPLICATION BY THE LOCAL GOVERNMENT, MAY ADJUST THE TAX LEVY LIMITATION FOR THE COMING FISCAL YEAR APPLICABLE TO SUCH LOCAL GOVERNMENT, BY ADDING THE ANNUAL COSTS OF SUCH SETTLEMENT TO THE TAX LEVY LIMITATION.

(E) THE STATE COMPTROLLER SHALL DETERMINE THE PORTION OF THE TAX LEVY OF EACH LOCAL GOVERNMENT THAT IS ATTRIBUTABLE TO ANY INCREASE OR

DECREASE OVER THE PRIOR YEAR IN THE COST OF THE LOCAL GOVERNMENT SHARE OF DIRECT CASH ASSISTANCE TO PERSONS ELIGIBLE FOR THE FEDERAL-STATE-LOCAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES PROGRAM OR THE STATE-LOCAL SAFETY NET ASSISTANCE PROGRAM AND SHALL ADJUST THE TAX LEVY LIMITATION FOR SUCH LOCAL GOVERNMENT TO REFLECT SUCH CHANGE.

4. A LOCAL GOVERNMENT MAY ADOPT A BUDGET THAT REQUIRES A TAX LEVY THAT IS GREATER THAN THE TAX LEVY LIMITATION FOR THE COMING FISCAL YEAR ONLY IF THE CITY COUNCIL OF SUCH LOCAL GOVERNMENT FIRST ENACTS, BY A TWO-THIRDS VOTE OF THE TOTAL VOTING POWER OF SUCH CITY COUNCIL, A LOCAL LAW TO OVERRIDE SUCH LIMITATION FOR SUCH COMING FISCAL YEAR ONLY.

5. IN THE EVENT A LOCAL GOVERNMENT'S ACTUAL TAX LEVY FOR A GIVEN FISCAL YEAR EXCEEDS THE MAXIMUM ALLOWABLE LEVY AS ESTABLISHED PURSUANT TO THIS SECTION DUE TO CLERICAL OR TECHNICAL ERRORS, THE LOCAL GOVERNMENT SHALL PLACE THE EXCESS AMOUNT OF THE LEVY IN RESERVE IN ACCORDANCE WITH SUCH REQUIREMENTS AS THE STATE COMPTROLLER MAY PRESCRIBE, AND SHALL USE SUCH FUNDS AND ANY INTEREST EARNED THEREON TO OFFSET THE TAX LEVY FOR THE ENSUING FISCAL YEAR.

S 2. Paragraphs j and k of subdivision 2 of section 23 of the municipal home rule law are relettered k and l, and a new paragraph j is added to read as follows:

J. OVERRIDES THE TAX LEVY LIMITATION APPLICABLE FOR THE COMING FISCAL YEAR IN ACCORDANCE WITH SECTION THREE-D OF THE GENERAL MUNICIPAL LAW.

S 3. This act shall take effect immediately and shall first apply to the levy of taxes by local governments for the fiscal year that begins in 2013.