

4729

2013-2014 Regular Sessions

I N   S E N A T E

April 19, 2013

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Introduced by COMMITTEE ON RULES -- (at request of the State Comptroller) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the local finance law, in relation to temporary alternative methods of financing storm relief expenses

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Section 26.10 of the local finance law, as added by chapter  
2     599 of the laws of 1973, paragraph a and subdivisions 1, 2 and 3 of  
3     paragraph b as amended by chapter 157 of the laws of 2006 and subdivisions 4, 5 and 6 of paragraph b, subdivisions 1, 2, 3 and 7 of paragraph  
4     c as amended by chapter 87 of the laws of 1996, is amended to read as  
5     follows:  
6     S 26.10 Temporary alternative methods of financing [flood-relief]  
7     STORM RELIEF expenses. a. Definitions. [1. With respect to any municipality which has a calendar fiscal year which commenced on the first day  
8     of January, two thousand five, the] AS USED IN THIS SECTION, THE terms  
9     "extraordinary expenses [for flood] OF STORM relief" and "such extraordinary expenses"[, as used in this section,] shall mean [the] expenses  
10    incurred BY A MUNICIPALITY, SCHOOL DISTRICT OR DISTRICT CORPORATION  
11    BEFORE THE FIRST DAY OF JANUARY, TWO THOUSAND FOURTEEN, for [flood]  
12    STORM relief projects [involving the] NECESSITATED BY DAMAGE CAUSED BY  
13    THE STORM COMMONLY KNOWN AS SANDY ON OR SHORTLY AFTER OCTOBER  
14    TWENTY-NINTH, TWO THOUSAND TWELVE. THE TERM "STORM RELIEF PROJECTS"  
15    SHALL MEAN THE REPAIR OR RECONSTRUCTION OF public thoroughfares,  
16    [public] BUILDINGS, places, and projects of such municipality [during  
17    any or all of the months of such year], SCHOOL DISTRICT OR DISTRICT  
18    CORPORATION, in excess of the normal expenses which would have been  
19    incurred for such purposes during such periods as determined by the  
20    finance board of such municipality [and also any interest payments on  
21    revenue anticipation notes issued in anticipation of the receipt of  
22    ]  
23    ] is old law to be omitted.  
24

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

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1 moneys from the state or federal government pursuant to any state or  
2 federal disaster relief act], SCHOOL DISTRICT OR DISTRICT CORPORATION.  
3 In making any such determination, the finance board shall not include as  
4 a part of such extraordinary expenses the salaries and wages of regular  
5 employees, except for overtime work and work on Sundays and holidays.  
6 SUCH EXTRAORDINARY EXPENSES MAY INCLUDE ANY INTEREST PAYMENTS ON REVENUE  
7 ANTICIPATION NOTES ISSUED IN ANTICIPATION OF THE RECEIPT OF MONEYS FROM  
8 THE STATE OR FEDERAL GOVERNMENT ON ACCOUNT OF SUCH STORM PURSUANT TO ANY  
9 STATE OR FEDERAL DISASTER RELIEF ACT.

10 [2. With respect to any municipality or school district which has a  
11 fiscal year which commenced in the year two thousand five on or after  
12 the first day of March in such year, the terms "extraordinary expenses  
13 for flood relief projects" and "such extraordinary expenses", as used in  
14 this section, shall mean the expense incurred for flood relief projects  
15 involving the public thoroughfares, public places and projects of such  
16 municipality or school district during such fiscal year, in excess of  
17 the amounts appropriated for such purposes in the annual budget for such  
18 fiscal year, or, if no such appropriations were made, then in excess of  
19 the average of all expenditures for such purposes during each of the  
20 five preceding fiscal years prior to the fiscal year commencing in the  
21 year two thousand five, as determined by the finance board of such muni-  
22 cipality or school district.]

23 b. The financing of [flood] STORM relief expenses by the issuance of  
24 serial bonds.

25 1. The finance board of a municipality [which has a fiscal year which  
26 commenced on the first day of January, two thousand five], SCHOOL  
27 DISTRICT OR DISTRICT CORPORATION may authorize the issuance of serial  
28 bonds [in the] ON OR BEFORE DECEMBER THIRTY-FIRST two thousand [six  
29 fiscal year] THIRTEEN to provide for the payment of all or part of the  
30 extraordinary expenses of [flood] STORM relief [incurred during any or  
31 all of the months of two thousand five], to reimburse any fund or  
32 account of the [municipality] ISSUER from which moneys to pay such  
33 extraordinary expenses have been advanced or to replenish any fund or  
34 account of the [municipality] ISSUER from which such extraordinary  
35 expenses have been paid, or any combination of such purposes, notwith-  
36 standing that there may have been lack of statutory authority for any  
37 such advance or payment from such fund or account. The period of proba-  
38 ble usefulness of such objects or purposes shall be five years. Any such  
39 serial bonds shall have a maximum maturity of over two years, but the  
40 date of final maturity of any such issue shall not extend beyond [the  
41 first day of March in the year two thousand eleven as to counties and  
42 towns and shall not extend beyond] the thirty-first day of December, two  
43 thousand [eleven, as to other municipalities] EIGHTEEN.

44 2. [The finance board of a municipality or school district which has a  
45 fiscal year which commenced in the year two thousand five on or after  
46 the first day of March in such year may authorize the issuance of serial  
47 bonds in the two thousand six fiscal year, or in its next succeeding  
48 fiscal year, to provide for the payment of all or part of the extraor-  
49 dinary expenses of flood relief incurred in the two thousand five fiscal  
50 year, to reimburse any fund or account of the municipality or school  
51 district from which moneys to pay such extraordinary expenses have been  
52 advanced or to replenish any fund or account of the municipality or  
53 school district from which such extraordinary expenses have been paid,  
54 or any combination of such purposes, notwithstanding that there may have  
55 been lack of statutory authority for any such advance or payment from  
56 such fund or account. The period of probable usefulness of such objects

1 or purposes shall be five years. Any such serial bonds shall have a  
2 maximum maturity of over two years, but the date of final maturity of  
3 any such issue shall not extend beyond the thirty-first day of December,  
4 two thousand eleven.

5 3.] No provision of subdivision one [or two] of this paragraph shall  
6 be deemed to prohibit the issuance of serial bonds for the purpose of  
7 financing any portion of such extraordinary expenses described in such  
8 [subdivisions] SUBDIVISION which heretofore have been or hereafter shall  
9 be financed by the issuance of budget notes or for the purpose of  
10 redeeming any such notes.

11 [4.] 3. Except as provided in this section, such serial bonds and any  
12 bond anticipation notes in anticipation thereof, shall be authorized,  
13 sold and issued in the manner provided by this chapter. Any bond antic-  
14 ipation notes issued in anticipation of such bonds shall, for the  
15 purpose of determining the power of the issuer to contract indebtedness  
16 and to raise taxes upon real estate, be deemed to be serial bonds of an  
17 issue having a maximum maturity of more than two years as described in  
18 paragraph A of section five and in section ten of article eight of the  
19 state constitution and for the purposes of (1) subdivision one-a of  
20 section 136.00 of this chapter, (2) section two hundred thirty-three of  
21 the county law, (3) section 5-514 of the village law, (4) any general or  
22 special law applicable to counties, cities, villages [and], school  
23 districts OR DISTRICT CORPORATIONS which relates to the raising of taxes  
24 on real estate to provide for the payment of the interest on and the  
25 principal of indebtedness, and (5) all laws relating to the financial  
26 reports, debt statements and real estate tax margin computations of such  
27 municipalities [or], school districts OR DISTRICT CORPORATIONS. The  
28 chief fiscal officer of any municipality [or], school district OR  
29 DISTRICT CORPORATION issuing or renewing such bond anticipation notes  
30 shall immediately after the issuance or renewal thereof notify the state  
31 comptroller of such issuance or renewal. The state comptroller may  
32 prescribe the form of any such notice and shall furnish such forms to  
33 municipalities [and], school districts AND DISTRICT CORPORATIONS for the  
34 purpose of making any such report.

35 [5.] 4. Capital notes may not be issued to finance any object or  
36 purpose for which serial bonds are authorized to be issued pursuant to  
37 this paragraph. The provisions of this paragraph shall not affect the  
38 power of any municipality [or], school district OR DISTRICT CORPORATION  
39 described in paragraph a of this section to finance all or part of any  
40 such extraordinary expenses pursuant to the provisions of section 29.00  
41 of this chapter and paragraph c of this section.

42 [6.] 5. Section 104.10 of this chapter shall not be applicable in  
43 relation to, or as the result of, the adoption of a bond resolution  
44 authorizing the issuance of serial bonds pursuant to this paragraph. The  
45 provisions of section 10.00, paragraph a of section 21.00 and any other  
46 section of this chapter, or the provisions of any general, special or  
47 local law, which would restrict, limit or prohibit the issuance of such  
48 bonds (except those enacted to conform with the state constitution) are,  
49 to the extent that this section is utilized by a municipality [or],  
50 school district OR DISTRICT CORPORATION, suspended and made ineffective  
51 insofar as necessary to effectuate the purposes of this section.

52 c. The financing of [flood] STORM relief expenses by the issuance of  
53 budget notes. 1. If any municipality or school district described in  
54 paragraph a of this section has heretofore issued budget notes pursuant  
55 to the provisions of subdivision two or three of paragraph a of section  
56 29.00 of this chapter to provide for the payment of extraordinary

1 expenses of [flood] STORM relief, [as defined in this section,] the  
2 finance board, by resolution, may determine that such notes shall be  
3 deemed to have been issued pursuant to the provisions of subdivision one  
4 of paragraph a of such section and that such notes so issued shall not  
5 thereafter be considered in determining the power of such municipality  
6 or school district to issue budget notes pursuant to such subdivision  
7 two or three.

8 2. If any municipality [or], school district OR DISTRICT CORPORATION  
9 described in paragraph a of this section has heretofore issued budget  
10 notes pursuant to the provisions of subdivision one, two or three of  
11 paragraph a, or paragraph b, of section 29.00 of this chapter, to  
12 provide for the payment of extraordinary expenses of [flood] STORM  
13 relief, [as defined in this section,] the finance board may determine  
14 that the provisions of paragraph j of such section shall not be applica-  
15 ble in relation to the maturity of such notes and (a) that such notes  
16 shall mature in equal annual installments in two different fiscal years,  
17 but the final maturity of such notes shall not extend beyond the close  
18 of the second fiscal year immediately succeeding the year of their  
19 issue, or (b) if the fiscal procedures applicable to such municipality  
20 [or], school district OR DISTRICT CORPORATION will enable the necessary  
21 budgetary appropriations for debt service to be made and such appropri-  
22 ations to become available, that such notes shall mature in three equal  
23 annual installments in three different fiscal years, but the final matu-  
24 rity of any such notes shall not exceed three years in accordance with  
25 the provisions of paragraph a of section 11.00 of this chapter which  
26 prescribes a period of probable usefulness of three years for objects or  
27 purposes financed by the issuance of budget notes. Such budget notes  
28 which mature in three equal annual installments, as aforesaid, shall,  
29 for the purpose of determining the power of the issuer to contract  
30 indebtedness and to raise taxes on real estate, be deemed to be serial  
31 bonds of an issue having a maximum maturity of more than two years as  
32 described in paragraph A of section five and in section ten of article  
33 eight of the state constitution and for the purposes of (1) paragraph  
34 one-a of section 136.00 of this chapter, (2) section two hundred thir-  
35 ty-three of the county law, (3) section 5-514 of the village law, (4)  
36 any general or special law applicable to counties, cities, villages  
37 [and], school districts OR DISTRICT CORPORATIONS which relates to the  
38 raising of taxes on real estate to provide for the payment of the inter-  
39 est on and the principal of indebtedness, and (5) all laws relating to  
40 financial reports, debt statements and real estate tax margin computa-  
41 tions of such municipalities [or], school districts OR DISTRICT CORPO-  
42 RATIONS. If the finance board determines that such budget notes shall  
43 mature in three equal annual installments, as aforesaid, the chief  
44 fiscal officer of such municipality [or], school district OR DISTRICT  
45 CORPORATION immediately after the adoption of the resolution making such  
46 determination shall file a copy of the resolution with the state comp-  
47 troller and shall immediately after the issuance or renewal of such  
48 notes notify the state comptroller of such issuance or renewal. The  
49 state comptroller may prescribe the form of any such notice and shall  
50 furnish such forms to municipalities [or], school districts OR DISTRICT  
51 CORPORATIONS for the purpose of making any such report.

52 3. Notwithstanding any of the provisions of section 29.00 of this  
53 chapter, the finance board of a municipality or a school district  
54 described in paragraph a of this section may authorize the issuance of  
55 budget notes pursuant to subdivision one of paragraph a, or, in the case  
56 of a municipality, paragraph b of such section 29.00 of this chapter to

1 provide for the payment of all or part of the extraordinary expenses of  
2 [flood] STORM relief, [as defined in this section,] to reimburse any  
3 fund or account of the municipality or school district from which moneys  
4 to pay such extraordinary expenses have been advanced or to replenish  
5 any fund or account of the municipality or school district from which  
6 such extraordinary expenses have been paid, or any combination of such  
7 purposes, notwithstanding that there may have been lack of statutory  
8 authority for any such advance or payment from such fund or account. The  
9 finance board may determine that such notes may mature in the manner  
10 provided in paragraph j of section 29.00 of this chapter, or, if the  
11 fiscal procedures applicable to such municipality or school district  
12 will enable the necessary budgetary appropriations for debt service to  
13 be made and such appropriations to become available, that such notes  
14 shall mature in two equal annual installments in two different fiscal  
15 years, but the final maturity of such notes shall not extend beyond the  
16 close of the second fiscal year immediately succeeding the year of their  
17 issue.

18 4. [If a municipality which had a calendar fiscal year which commenced  
19 on the first day of January, nineteen hundred seventy-two, or the first  
20 day of January, nineteen hundred seventy-three, issued budget notes in  
21 such year pursuant to the provisions of section 29.00 of this chapter to  
22 finance the payment of expenses of flood relief in such fiscal years and  
23 if such budget notes, under the provisions of paragraph j of such  
24 section, could not be renewed after the close of its fiscal year which  
25 would end in the year next succeeding the year of issuance, then and in  
26 such event the finance board of such municipality may determine that the  
27 provisions of paragraph j of such section shall not be applicable in  
28 relation to the maturity of such notes and that such notes shall mature  
29 in equal annual installments in the two years next succeeding the year  
30 of issuance.

31 5. If a municipality which had a calendar fiscal year, which commenced  
32 on the first day of January, nineteen hundred seventy-two or the first  
33 day of January, nineteen hundred seventy-three, authorized the issuance  
34 of budget notes in such years pursuant to the provisions of section  
35 29.00 of this chapter to finance the payment of expenses of flood relief  
36 in such years and if such notes were not issued in the years nineteen  
37 hundred seventy-two or nineteen hundred seventy-three, but were or are  
38 to be issued in the years nineteen hundred seventy-three or nineteen  
39 hundred seventy-four, and if such budget notes, under the provisions of  
40 paragraph j of such section, could not be renewed after the close of its  
41 fiscal year which would end in the year next succeeding the year of  
42 issuance, then and in any such event the finance board of such munici-  
43 pality may determine that the provisions of paragraph j of such section  
44 shall not be applicable in relation to the maturity of such notes and  
45 that such notes shall mature in equal annual installments in the two  
46 years next succeeding the year of issuance.

47 6. Any resolution of a finance board of a municipality making a deter-  
48 mination pursuant to subdivisions one, two, three, four or five of this  
49 paragraph may be adopted by a majority vote of the finance board,  
50 notwithstanding the provisions of paragraph d of section 40.00 of this  
51 chapter.

52 7.] The provisions of subdivision four of paragraph c of section 40.00  
53 of this chapter and of any other section of this chapter and the  
54 provisions of any general, special or local law which would restrict,  
55 limit or prohibit the renewal of budget notes as provided in this para-  
56 graph (except those enacted to conform with the state constitution),

1 are, to the extent that this section is utilized by a municipality [or  
2 a], school district OR DISTRICT CORPORATION, suspended and made ineffec-  
3 tive insofar as necessary to effectuate the objects and purposes of this  
4 section.

5 d. Separability. If any clause, sentence, subdivision, paragraph, or  
6 part of this section be adjudged by any court of competent jurisdiction  
7 to be invalid, such judgment shall not affect, impair or invalidate the  
8 remainder thereof, but shall be confined in its operation to the clause,  
9 sentence, subdivision, paragraph, or part thereof directly involved in  
10 the controversy in which such judgment shall have been rendered.

11 S 2. This act shall take effect immediately.