

5137

2013-2014 Regular Sessions

I N S E N A T E

May 10, 2013

Introduced by Sen. FLANAGAN -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the general municipal law, in relation to the repair reserve funds for municipal corporations, school districts, board of cooperative educational services, district corporations and improvement districts

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

1 Section 1. Section 6-d of the general municipal law, as added by chap-
2 ter 383 of the laws of 1950, the section heading and subdivisions 5 and
3 6 as amended by chapter 693 of the laws of 1952, subdivision 1 as
4 amended by chapter 828 of the laws of 1961, subdivision 2 as amended by
5 chapter 740 of the laws of 1957, paragraph (b) of subdivision 3 and
6 subdivision 4 as amended by chapter 140 of the laws of 1996 and subdivi-
7 sion 7 as amended by chapter 424 of the laws of 2001, is amended to read
8 as follows:

9 S 6-d. Repair reserve funds for municipal corporations, school
10 districts, BOARD OF COOPERATIVE EDUCATIONAL SERVICES, district corpo-
11 rations and improvement districts. 1. The governing board of any munici-
12 pal corporation, school district, BOARD OF COOPERATIVE EDUCATIONAL
13 SERVICES, district corporation, or town or county improvement district,
14 may establish a special fund which shall be known as the repair reserve
15 fund of such municipal corporation, school district, BOARD OF COOPER-
16 ATIVE EDUCATIONAL SERVICES, district corporation or improvement
17 district. There may be paid into such fund an amount as may be provided
18 therefor by budgetary appropriation or such revenues as are not required
19 by law to be paid into any other fund or account.

20 2. In cases of emergency, moneys in such fund may be expended pursuant
21 to a resolution approved by not less than two-thirds of the members of
22 the governing body of such municipal corporation, school district, BOARD
23 OF COOPERATIVE EDUCATIONAL SERVICES, district corporation or improvement

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

LBD09637-01-3

1 district providing that not less than one-half of the moneys so expended
2 shall be repaid in the fiscal year immediately following the fiscal year
3 in which such moneys were expended and the total amount shall be repaid
4 not later than the last day of the second fiscal year succeeding the
5 fiscal year in which the moneys were expended.

6 Prior to the adoption of any other resolution, act, ordinance or local
7 law by the governing board of such municipal corporation, school
8 district, BOARD OF COOPERATIVE EDUCATIONAL SERVICES, district corpo-
9 ration or improvement district, appropriating money from such fund, the
10 governing board shall cause to be published in the official newspaper or
11 newspapers, if any, or otherwise in a newspaper or newspapers designated
12 for such purpose, a notice stating in substance that it is proposed to
13 appropriate a specified amount from the repair reserve fund for a
14 particular purpose, and that a public hearing on such proposed appropri-
15 ation will be held at a time and place stated therein. At least five
16 days shall elapse between the publication of such notice and the date
17 specified for the hearing. The hearing shall be held at the time and
18 place so specified.

19 3. Moneys in such fund may be appropriated only:

20 a. For repairs of capital improvements or equipment, which repairs are
21 of a type not recurring annually or at shorter intervals.

22 b. In the case of a municipal corporation, to a capital reserve fund
23 established pursuant to section six-c of this article or to a contingen-
24 cy and tax stabilization reserve fund established pursuant to section
25 six-e of this article.

26 c. In the case of a fire district, to a capital reserve fund estab-
27 lished pursuant to section six-g OF THIS ARTICLE.

28 d. In the case of a school district, OR BOARD OF COOPERATIVE EDUCA-
29 TIONAL SERVICES to a reserve fund established pursuant to section thir-
30 ty-six hundred fifty-one of the education law.

31 4. The moneys in such fund shall be deposited and secured in the
32 manner provided by section ten of this article. The moneys in such fund
33 so deposited shall be accounted for separate and apart from all other
34 funds of the municipal corporation, school district, BOARD OF COOPER-
35 ATIVE EDUCATIONAL SERVICES, district corporation or improvement
36 district, in the same manner as provided in subdivision ten of section
37 six-c of this article. The governing board or the chief fiscal officer
38 of such municipal corporation, school district, BOARD OF COOPERATIVE
39 EDUCATIONAL SERVICES, district corporation or improvement district, if
40 the governing board shall delegate such duty to him, may invest the
41 moneys in such fund in the manner provided in section eleven of this
42 article. Any interest earned or capital gains realized on the moneys so
43 deposited or invested shall accrue to and become part of such fund.

44 5. The members of the governing board of such municipal corporation,
45 school district, BOARD OF COOPERATIVE EDUCATIONAL SERVICES, district
46 corporation or improvement district are hereby declared trustees of such
47 fund and shall be subject to all the duties and responsibilities imposed
48 by law on trustees, and such duties and responsibilities may be enforced
49 by such municipal corporation, school district, district corporation or
50 improvement district, as the case may be, or by any board, commission,
51 agency, officer or taxpayer thereof.

52 6. The members of the governing board of such municipal corporation,
53 school district, BOARD OF COOPERATIVE EDUCATIONAL SERVICES or district
54 corporation shall be guilty of a misdemeanor if they:

55 a. Authorize a withdrawal from a repair reserve fund for any other
56 purpose except as provided in this section.

1 b. Expend any money withdrawn from a repair reserve fund for a purpose
2 other than that as provided in this section.

3 7. Notwithstanding the foregoing provisions of this section, in any
4 town which is located wholly or partly within the Adirondack park and
5 has within its boundaries state lands subject to taxation assessed at
6 more than thirty per centum of the total taxable assessed valuation of
7 town as determined from the assessment rolls of the town as completed
8 from time to time, or in any district corporation or improvement
9 district situated in whole or in part in any such town, a repair reserve
10 fund shall not be established unless the state comptroller, on behalf of
11 the state, shall consent thereto, and in any such town or district
12 corporation or improvement district no appropriation shall be made from
13 a repair reserve fund unless the state comptroller, on behalf of the
14 state, shall consent thereto.

15 8. Moneys of a municipal corporation, school district, BOARD OF COOP-
16 ERATIVE EDUCATIONAL SERVICES or district corporation which, upon June
17 thirtieth, nineteen hundred fifty, constitute a repair reserve fund of
18 such municipal corporation, school district, BOARD OF COOPERATIVE EDUCA-
19 TIONAL SERVICES or district corporation, shall continue to so constitute
20 a special fund and be known as the repair reserve fund of such municipal
21 corporation, school district, BOARD OF COOPERATIVE EDUCATIONAL SERVICES
22 or district corporation. From and after such date, payments to, and
23 appropriations from, such fund shall be subject to the foregoing
24 provisions of this section.

25 S 2. This act shall take effect immediately.