

10879

I N A S S E M B L Y

April 27, 2010

Introduced by M. of A. SKARTADOS -- read once and referred to the  
Committee on Cities

AN ACT to authorize the city of Newburgh, in the county of Orange, to  
finance a certain deficit by the issuance of bonds

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

1 Section 1. The city of Newburgh, in the county of Orange, is hereby  
2 authorized to issue serial bonds on or before December 31, 2011 in an  
3 aggregate principal amount not to exceed ten million dollars  
4 (\$10,000,000) for the specific object or purpose of liquidating the  
5 accumulated deficits in the general fund, the special revenue fund and  
6 the capital projects funds of such city for the fiscal year ending  
7 December 31, 2010. In anticipation of the issuance of the bonds author-  
8 ized to be issued by this act, the issuance and sale of bond antic-  
9 ipation notes are hereby authorized.

10 S 2. Notwithstanding any provision of this act to the contrary, the  
11 city of Newburgh shall not issue any bonds for the purpose of liquidat-  
12 ing the projected deficits unless and until the existence of the defi-  
13 cits and the amounts thereof are reviewed and determined by the state  
14 comptroller. The city of Newburgh shall prepare a report detailing the  
15 amount and cause of such deficits and submit such report together with  
16 the city's independent audit report for its last completed fiscal year,  
17 if any such audit report has been or is to be prepared, and such other  
18 information as the state comptroller may deem necessary, to the state  
19 comptroller, as well as the chairs of the senate finance committee and  
20 the assembly ways and means committee, at least thirty days prior to the  
21 issuance of any bonds pursuant to this act. Within thirty days after  
22 receiving such report, the state comptroller shall perform such reviews  
23 as may be necessary to determine the amount of such deficits and report  
24 the same to the chairs of the senate finance committee and the assembly  
25 ways and means committee, the city manager and the city council of the  
26 city of Newburgh. Bonds to liquidate each such deficit shall not be  
27 issued in an amount exceeding such deficit as determined by the state  
28 comptroller. Nothing provided in this act shall prevent the city of

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

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1 Newburgh from authorizing the issuance of bonds or bond anticipation  
2 notes, and issuing bond anticipation notes, prior to the determination  
3 of the state comptroller of the amount of such deficits. In the event  
4 bond anticipation notes are issued in an amount in excess of the amounts  
5 determined by the state comptroller, the city of Newburgh shall redeem  
6 from funds other than the proceeds of the bonds or bond anticipation  
7 notes, such bond anticipation notes in the amount by which the amount of  
8 bond anticipation notes exceeds the amount of such deficits as deter-  
9 mined by the state comptroller.

10 S 3. It is hereby determined that the financing of the deficits  
11 described in this act is a purpose of the city of Newburgh for which  
12 indebtedness may be incurred, the period of probable usefulness of which  
13 is hereby determined to be ten years, computed from the date of such  
14 bonds or from the date of the first bond anticipation note issued in  
15 anticipation of the sale of such bonds, whichever date is earlier. Such  
16 bonds and/or bond anticipation notes shall be general obligations of the  
17 city of Newburgh to which the faith and credit of such city is pledged,  
18 and the city shall make an annual appropriation sufficient to pay the  
19 principal of and interest on such obligations as the same shall become  
20 due.

21 S 4. Except as otherwise provided in this act, the provisions of the  
22 local finance law shall be applicable to the authorization, sale and  
23 issuance of the bonds and bond anticipation notes authorized to be  
24 issued by this act; provided, however, that no resolution authorizing  
25 the issuance of such bonds or notes shall be subject to either mandatory  
26 or permissive referendum.

27 S 5. (a) For each fiscal year occurring during the time bonds and/or  
28 bond anticipation notes issued pursuant to this act are outstanding, the  
29 city manager of the city of Newburgh shall prepare a quarterly report of  
30 summarized budget data depicting overall trends of actual revenues and  
31 budget expenditures for the entire budget rather than individual line  
32 items. Such budgetary reports shall compare revenue estimates and appro-  
33 priations as set forth in such budget with the actual revenues and  
34 expenditures made to date. All such quarterly budgetary reports shall be  
35 accompanied by recommendations of the city manager setting forth any  
36 remedial action necessary or desirable to resolve any unfavorable budget  
37 variance including the over-estimation of revenues and the under-estima-  
38 tion of expenditures. Each such quarterly budgetary report shall be  
39 completed within thirty days after the end of each quarter and shall be  
40 submitted to each member of the city council of the city of Newburgh,  
41 the director of the division of the budget, the state comptroller, and  
42 the chairs of the senate finance committee and the assembly ways and  
43 means committee.

44 (b) For each fiscal year occurring during the time bonds and/or bond  
45 anticipation notes issued pursuant to this act are outstanding, the city  
46 manager of the city of Newburgh shall also prepare a quarterly trial  
47 balance of general and special fund ledger accounts. Each such quarterly  
48 trial balance shall be prepared in accordance with generally accepted  
49 accounting principles. Each such quarterly trial balance shall be  
50 completed within thirty days after the end of each quarterly period and  
51 shall be submitted to each member of the city council of the city of  
52 Newburgh, the director of the division of the budget, the state comp-  
53 troller, and the chairs of the senate finance committee and the assembly  
54 ways and means committee.

55 (c) For the fiscal year beginning January 1, 2011 and for each fiscal  
56 year thereafter during which such debt or any debt incurred to refund

1 such debt is outstanding, the chief executive officer or other officer  
2 or officers responsible for the preparation of the tentative budget  
3 shall submit the tentative budget for the next succeeding fiscal year to  
4 the state comptroller no later than thirty days before the last date on  
5 which the budget must be finally adopted. The state comptroller shall  
6 examine such proposed budget and make such recommendations as deemed  
7 appropriate thereon to the city council of the city of Newburgh no later  
8 than ten days before the last date on which the budget must be finally  
9 adopted. Such recommendations shall be made after examination into the  
10 estimates of revenues and expenditures of the city of Newburgh. The city  
11 council of the city of Newburgh, no later than five days prior to the  
12 adoption of the budget, shall review any such recommendations and may  
13 make adjustments to its proposed budget consistent with any recommenda-  
14 tions made by the state comptroller. Any recommendations that such city  
15 council rejects shall be explained in writing to the state comptroller.  
16 The action or inaction of the state comptroller under this section shall  
17 not be construed to affect the legal validity of the budget of the city  
18 of Newburgh nor to affect the powers or duties of such city with respect  
19 to the local budget; provided, however, that the city of Newburgh may  
20 not issue bonds for any object or purpose unless and until adjustments  
21 to its proposed budget, consistent with any recommendations made by the  
22 state comptroller, are made, or any such recommendations that are  
23 rejected have been explained in writing to the state comptroller.

24 (d) Within ninety days of the issuance of any debt pursuant to this  
25 act and for each fiscal year thereafter during which such debt or any  
26 debt incurred to refund such debt is outstanding, the chief executive  
27 officer or other officer or officers responsible for the preparation of  
28 the tentative budget of the city of Newburgh, within thirty days after  
29 the final adoption of the budget for the next succeeding fiscal year,  
30 shall prepare a three-year financial plan covering the next succeeding  
31 fiscal year and the two fiscal years thereafter. The financial plan  
32 shall, at a minimum, contain the information required to be provided in  
33 a three-year financial plan as prescribed by subdivision 10 of section  
34 54 of the state finance law. Copies of the financial plan shall be  
35 provided to the chief executive and chief fiscal officers of the city of  
36 Newburgh, the director of the budget, the state comptroller, the chair  
37 of the assembly ways and means committee and the chair of the senate  
38 finance committee. This financial plan requirement shall not apply to  
39 the extent the city of Newburgh is subject to a different multi-year  
40 financial plan requirement under state law.

41 (e) For each fiscal year occurring during the time bonds and/or bond  
42 anticipation notes issued pursuant to this act are outstanding, the  
43 chief fiscal officer of the city of Newburgh shall notify the state  
44 comptroller at least fifteen days prior to the issuance of any bonds or  
45 notes or entering into any installment purchase contract and the state  
46 comptroller may review and make recommendations regarding the afforda-  
47 bility to the city of Newburgh of any such proposed issuance or  
48 contract. The state comptroller may require the submission by the city  
49 of Newburgh of such information as the state comptroller shall deem  
50 necessary to complete his or her review.

51 S 6. To facilitate the marketing of the bonds and/or bond anticipation  
52 notes authorized to be issued by this act, the city of Newburgh may,  
53 notwithstanding any limitations on the private sales of bonds otherwise  
54 provided by law, and subject to approval by the state comptroller of the  
55 terms and conditions of such sales, arrange for the underwriting or  
56 other sale of its bonds and/or bond anticipation notes at private sale

1 upon negotiated terms and conditions which may include reasonable under-  
2 writing or placement fees or discounts. The costs of such underwriting  
3 or sale shall be deemed preliminary costs for purposes of section 11.00  
4 of the local finance law.

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

11 S 8. This act shall take effect immediately.