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

5729

2009-2010 Regular Sessions

I N A S S E M B L Y

February 19, 2009

Introduced by M. of A. HAYES, CALHOUN, CORWIN, GIGLIO, FINCH, HAWLEY, RABBITT, RAIA, TEDISCO, TOBACCO, WALKER -- Multi-Sponsored by -- M. of A. ALFANO, AMEDORE, BACALLES, BARCLAY, BARRA, BURLING, BUTLER, CONTE, CROUCH, DUPREY, ERRIGO, FITZPATRICK, KOLB, McDONOUGH, MILLER, MOLINARO, OAKS, O'MARA, QUINN, SALADINO, SAYWARD, SCOZZAFAVA, THIELE, TOWNSEND -- read once and referred to the Committee on Ways and Means

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing an amendment to section 4 of article 7 of the constitution, in relation to reforming the state budget process

Section 1. Resolved (if the Senate concur), That section 4 of article 7 of the constitution be amended to read as follows:

S 4. The legislature may not alter an appropriation bill submitted by the governor except to strike out or reduce items therein, but it may add thereto items of appropriation provided that such additions are stated separately and distinctly from the original items of the bill and refer each to a single object or purpose. None of the restrictions of this section, however, shall apply to appropriations for the legislature or judiciary.

Such an appropriation bill shall when passed by both houses be a law immediately without further action by the governor, except that appropriations for the legislature and judiciary and separate items added to the governor's bills by the legislature shall be subject to approval of the governor as provided in section 7 of article IV.

UPON THE FAILURE OF BOTH HOUSES TO FINALLY ACT WITHIN SEVENTY-TWO HOURS FROM THE BEGINNING OF THE FISCAL YEAR ON ALL APPROPRIATION BILLS SUBMITTED BY THE GOVERNOR IN ACCORDANCE WITH SECTION THREE OF THIS ARTICLE, A DEFAULT BUDGET SHALL BE LAW FOR SUCH FISCAL YEAR AS PROVIDED IN THIS SECTION. THE DEFAULT BUDGET SHALL BE COMPRISED OF ALL APPROPRIATION BILLS ACTED UPON BY BOTH HOUSES AND WHICH BECAME LAW FOR THE IMMEDIATELY PRECEDING FISCAL YEAR OR THE DEFAULT BUDGET FOR THE IMMEDIATELY PRECEDING FISCAL YEAR IF A DEFAULT BUDGET BECAME LAW FOR SUCH FISCAL YEAR AND ALL LAWS GOVERNING THE APPORTIONMENT AND ALLOCATION

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

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APPROPRIATIONS AND THE TRANSFER AND THE LOAN OF FUNDS FOR THE IMMEDIATELY PRECEDING FISCAL YEAR SHALL CONTINUE TO BE LAW FOR THE FISCAL YEAR FOR WHICH THE DEFAULT BUDGET IS A LAW, PROVIDED, HOWEVER, THAT IN NO EVENT SHALL AGGREGATE DISBURSEMENTS AUTHORIZED BY APPROPRIATIONS CONTAINED IN THE DEFAULT BUDGET FOR SUCH FISCAL YEAR EXCEED AGGREGATE DISBURSEMENTS MADE IN THE IMMEDIATELY PRECEDING FISCAL YEAR.

IN THE EVENT THAT A DEFAULT BUDGET BECOMES LAW FOR A FISCAL YEAR AND A DETERMINATION IS MADE BY THE GOVERNOR THAT, FOR THE FISCAL YEAR FOR WHICH THE DEFAULT BUDGET IS A LAW, MONEYS AND RECEIPTS AVAILABLE FOR THE FISCAL YEAR ARE LESS THAN MONEYS AND RECEIPTS AVAILABLE FOR THE IMMEDIATELY PRECEDING FISCAL YEAR, THE GOVERNOR SHALL HAVE THE FOLLOWING POWERS:

(A) THE GOVERNOR MAY TRANSFER, IN EXCESS OF ANY LIMITATION OTHERWISE PROVIDED BY LAW, ANY APPROPRIATION OR PORTION THEREOF FOR ANY OBJECT OR PURPOSE TO ANOTHER OBJECT OR PURPOSE ONLY TO MEET CONTRACTUAL REQUIREMENTS FOR WHICH APPROPRIATIONS CONTAINED IN THE DEFAULT BUDGET ARE NOT SUFFICIENT TO MEET SUCH REQUIREMENTS;

(B) THE GOVERNOR MAY REDUCE BY A UNIFORM PERCENTAGE ALL APPROPRIATIONS FROM THE GENERAL FUND OR PORTIONS THEREOF NOT NECESSARY TO MEET CONTRACTUAL REQUIREMENTS OR OTHER REQUIREMENTS ESTABLISHED BY STATE OR FEDERAL LAW;

(C) THE GOVERNOR MAY MODIFY THE OPERATION OF ANY LAW GOVERNING THE APPORTIONMENT AND THE ALLOCATION OF APPROPRIATIONS OR PART THEREOF IF THE OPERATION OF SUCH LAW OR PART THEREOF REQUIRES DISBURSEMENTS FOR SUCH OBJECT OR PURPOSE REQUIRED BY THE OPERATION OF LAW FOR THE IMMEDIATELY PRECEDING FISCAL YEAR. THE OPERATION OF ANY SUCH LAW OR PART THEREOF SHALL ONLY BE MODIFIED SUCH THAT SUCH MODIFICATION SHALL RESULT IN REQUIRED DISBURSEMENTS FOR AN OBJECT OR PURPOSE DURING THE FISCAL YEAR WHICH IS LESS THAN THE DISBURSEMENTS FOR SUCH OBJECT OR PURPOSE THAT WOULD OTHERWISE BE REQUIRED BY THE OPERATION OF LAW WITHOUT SUCH MODIFICATION, PROVIDED, HOWEVER, THAT SUCH MODIFICATION SHALL NOT RESULT IN DISBURSEMENTS FOR AN OBJECT OR PURPOSE WHICH ARE LESS THAN THE DISBURSEMENTS FOR SUCH OBJECT OR PURPOSE REQUIRED BY LAW FOR THE IMMEDIATELY PRECEDING FISCAL YEAR. ANY SUCH LAW WHICH PROVIDES FOR THE ALLOCATION OR APPORTIONMENT OF APPROPRIATIONS FOR AN OBJECT OR PURPOSE BETWEEN OR AMONG ENTITIES MAY BE MODIFIED BY THE GOVERNOR ONLY SUCH THAT THE REQUIRED REDUCTION IN DISBURSEMENTS RESULTING FROM SUCH MODIFICATION RESULTS IN A UNIFORM PERCENTAGE REDUCTION TO ALL AFFECTED ENTITIES.

ANY DETERMINATION MADE BY THE GOVERNOR PURSUANT TO THIS SECTION THAT, FOR A FISCAL YEAR FOR WHICH A DEFAULT BUDGET IS LAW, MONEYS AND RECEIPTS AVAILABLE FOR THE FISCAL YEAR ARE LESS THAN MONEYS AND RECEIPTS AVAILABLE FOR THE IMMEDIATELY PRECEDING FISCAL YEAR SHALL ONLY BE MADE WITHIN FIFTEEN DAYS AFTER THE DATE ON WHICH A DEFAULT BUDGET BECOMES LAW AND THE ESTIMATE OF MONEYS AND RECEIPTS AVAILABLE USED IN ANY SUCH DETERMINATION SHALL BE BASED ON A CONSENSUS FORECAST OR OTHER FORECAST OF SUCH ESTIMATES TO THE EXTENT PROVIDED ACCORDING TO PROCEDURES ESTABLISHED BY LAW. ON MAKING SUCH A DETERMINATION THE GOVERNOR SHALL NOTIFY BOTH HOUSES OF THE LEGISLATURE OF HIS OR HER DETERMINATION AND ALL MODIFICATIONS AUTHORIZED BY THIS SECTION THAT WILL BE MADE TO APPROPRIATIONS OR TO THE OPERATION OF LAWS FOR THE FISCAL YEAR.

S 2. Resolved (if the Senate concur), That the foregoing amendment be referred to the first regular legislative session convening after the next succeeding general election of members of the assembly, and, in conformity with section 1 of article 19 of the constitution, be published for 3 months previous to the time of such election.