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

10637

I N A S S E M B L Y

April 13, 2010

Introduced by M. of A. MORELLE -- read once and referred to the Committee on Ways and Means

AN ACT to amend the state finance law and the legislative law, in relation to enacting a balanced budget requirement and creating the New York state governmental accounting review board

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

Section 1. The state finance law is amended by adding a new article 3-A to read as follows:

ARTICLE 3-A

BUDGETING ACCORDING TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES

SECTION 35. DEFINITIONS.

36. DEVELOPMENT OF THE EXECUTIVE BUDGET SUBMISSION AND ENACTED BUDGET.

37. NEW YORK STATE GOVERNMENTAL ACCOUNTING REVIEW BOARD.

S 35. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING WORDS AND TERMS SHALL HAVE THE FOLLOWING MEANINGS UNLESS THE CONTEXT SHALL INDICATE ANOTHER OR DIFFERENT MEANING OR INTENT.

1. "BOARD" MEANS NEW YORK STATE GOVERNMENTAL ACCOUNTING REVIEW BOARD PURSUANT TO SECTION THIRTY-SEVEN OF THIS ARTICLE.

2. "REVENUES" MEAN ALL TAXES, RENTS, FEES, CHARGES, PAYMENTS, ALL PROCEEDS FROM BORROWINGS AND OTHER INCOME AND RECEIPTS PAID OR PAYABLE TO OR FOR THE STATE'S TREASURY.

3. "GENERALLY ACCEPTED ACCOUNTING PRINCIPLES" MEANS THE SET OF ACCOUNTING PRINCIPLES FOR FINANCIAL REPORTING ESTABLISHED BY THE FINANCIAL ACCOUNTING STANDARDS ADVISORY BOARD AND GOVERNED BY THE AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS FOR FEDERAL REPORTING ENTITIES.

4. "EXECUTIVE BUDGET SUBMISSION" MEANS THE DOCUMENT SUBMITTED BY THE GOVERNOR TO THE LEGISLATURE PURSUANT TO SECTION TWO OF ARTICLE SEVEN OF THE STATE CONSTITUTION.

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

LBD16545-02-0

5. "ENACTED BUDGET" MEANS THE DOCUMENT PASSED BY BOTH HOUSES OF THE LEGISLATURE PURSUANT TO SECTION FOUR OF ARTICLE SEVEN OF THE STATE CONSTITUTION.

S 36. DEVELOPMENT OF THE EXECUTIVE BUDGET SUBMISSION AND ENACTED BUDGET. 1. FOR FISCAL YEARS BEGINNING ON AND AFTER APRIL FIRST, TWO THOUSAND ELEVEN, THE EXECUTIVE BUDGET SUBMISSION AND THE ENACTED BUDGET COVERING ALL EXPENDITURES OTHER THAN CAPITAL ITEMS SHALL BE PREPARED AND BALANCED SO THE RESULTS THEREOF WOULD NOT SHOW A DEFICIT WHEN REPORTED IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

2. THE GOVERNOR, THE LEGISLATURE AND THE NEW YORK STATE GOVERNMENTAL ACCOUNTING REVIEW BOARD SHALL CONFER CONCERNING THE REQUIREMENT TO BALANCE THE BUDGET, AS WELL AS THE PROJECTED EFFECT ON THE BUDGETS BY ANY CHANGE IN GENERALLY ACCEPTED ACCOUNTING PRINCIPLES OR CHANGE IN THE APPLICATION OF GENERALLY ACCEPTED ACCOUNTING PRINCIPLES TO THE STATE. THE GOVERNOR AND/OR THE LEGISLATURE MAY PETITION THE BOARD TO EXEMPT EITHER THE EXECUTIVE BUDGET SUBMISSION OR THE ENACTED BUDGET FROM THE PROVISIONS OF THIS SECTION.

S 37. NEW YORK STATE GOVERNMENTAL ACCOUNTING REVIEW BOARD. 1. THERE IS HEREBY CREATED THE NEW YORK STATE GOVERNMENTAL ACCOUNTING REVIEW BOARD. THE BOARD SHALL BE A GOVERNMENTAL AGENCY AND INSTRUMENTALITY AS IS SET FORTH IN THIS ARTICLE.

2. THE BOARD SHALL HAVE THE FOLLOWING FUNCTIONS:

A. TO CONFER WITH THE GOVERNOR AND THE LEGISLATURE CONCERNING THE REQUIREMENT TO BALANCE THE BUDGET AS PROVIDED IN SECTION THIRTY-SIX OF THIS ARTICLE, THE PROJECTED EFFECT ON THE BUDGETS BY ANY CHANGE IN GENERALLY ACCEPTED ACCOUNTING PRINCIPLES, AND CHANGE IN THE APPLICATION OF GENERALLY ACCEPTED ACCOUNTING PRINCIPLES TO THE STATE BUDGET;

B. TO HEAR PETITIONS FROM THE GOVERNOR OR LEGISLATURE WITH RELATION TO MODIFYING OR EXEMPTING THE EXECUTIVE BUDGET SUBMISSION OR THE ENACTED BUDGET FROM THE BALANCED BUDGET REQUIREMENT OF SECTION THIRTY-SIX OF THIS ARTICLE OR FROM THE REQUIREMENTS OF ANY NEW OR EXISTING GOVERNMENTAL ACCOUNTING STANDARDS, BOARD STATEMENTS, INTERPRETATIONS, TECHNICAL BULLETINS, AND CONCEPT STATEMENTS; AND

C. TO DETERMINE WHETHER IMMEDIATE COMPLIANCE WITH THE PROVISIONS OF SECTION THIRTY-SIX OF THIS ARTICLE WILL HAVE A MATERIAL EFFECT ON STATE BUDGETS OVER A TIME PERIOD INSUFFICIENT TO ACCOMMODATE THE EFFECT WITHOUT A SUBSTANTIAL ADVERSE IMPACT ON THE DELIVERY OF ESSENTIAL SERVICES, AND, UPON SUCH DETERMINATION, TO AUTHORIZE AND APPROVE A METHOD OF PHASING THE REQUIREMENTS OF THIS SECTION INTO SUCH BUDGETS OVER SUCH REASONABLY EXPEDITIOUS TIME PERIOD AS THE BOARD DEEMS APPROPRIATE.

3. THE BOARD SHALL BE COMPRISED OF FIVE MEMBERS, ONE OF WHOM WILL SERVE AS CHAIR; WHO ARE NOMINATED BY THE GOVERNOR AND APPOINTED WITH ADVICE AND CONSENT OF THE SENATE. ALL OF THE APPOINTED MEMBERS SHALL BE RESIDENTS OF THE STATE. SUCH APPOINTED MEMBERS SHALL SERVE A TERM OF FIVE YEARS. ALL APPOINTED MEMBERS SHALL HAVE ACADEMIC OR BUSINESS EXPERIENCE IN GOVERNMENTAL ACCOUNTING STANDARDS AND GENERALLY ACCEPTED ACCOUNTING PRINCIPLES. THE BOARD SHALL ACT BY A MAJORITY QUORUM VOTE OF THE ENTIRE BOARD. THE BOARD SHALL MAINTAIN A RECORD OF ITS PROCEEDINGS IN SUCH FORM AS IT MAY DETERMINE, BUT SUCH RECORD SHALL INDICATE ATTENDANCE AND ALL VOTES CAST BY EACH MEMBER.

4. NOTWITHSTANDING ANY INCONSISTENT PROVISIONS OF LAW, NO OFFICER OR EMPLOYEE OF THE STATE, OR POLITICAL SUBDIVISION OF THE STATE, ANY GOVERNMENTAL ENTITY OPERATING ANY PUBLIC SCHOOL OR COLLEGE OR OTHER PUBLIC AGENCY OR INSTRUMENTALITY OR UNIT OF GOVERNMENT WHICH EXERCISES GOVERNMENTAL POWERS UNDER THE LAWS OF THE STATE, SHALL FORFEIT HIS OFFICE OR EMPLOYMENT BY REASON OF HIS ACCEPTANCE OR APPOINTMENT AS A

MEMBER, REPRESENTATIVE, OFFICER, EMPLOYEE OR AGENT OF THE BOARD NOR SHALL SERVICE AS SUCH MEMBER, OFFICER, EMPLOYEE OR AGENT OF THE BOARD BE DEEMED INCOMPATIBLE OR IN CONFLICT WITH SUCH OFFICE OR EMPLOYMENT.

5. THE MEMBERS OF THE BOARD SHALL SERVE WITHOUT SALARY OR PER DIEM ALLOWANCE BUT SHALL BE ENTITLED TO REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF OFFICIAL DUTIES UNDER THIS ACT, PROVIDED HOWEVER THAT SUCH MEMBERS AND REPRESENTATIVES ARE NOT, AT THE TIME SUCH EXPENSES ARE INCURRED, PUBLIC EMPLOYEES OTHERWISE ENTITLED TO SUCH REIMBURSEMENT.

6. ALL AGENCIES, AUTHORITIES, AND INSTITUTIONS OF THE STATE SHALL COOPERATE WITH AND PROVIDE SUCH ASSISTANCE TO THE BOARD AS THE BOARD MAY REQUEST.

7. THE CHAIR, IN CONSULTATION WITH THE BOARD, MAY HIRE OR APPOINT AN EXECUTIVE DIRECTOR FOR THE BOARD IF DEEMED NECESSARY.

S 2. Section 22 of the state finance law is amended by adding a new subdivision 17 to read as follows:

17. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, BUDGETS SUBMITTED PURSUANT TO THIS SECTION SHALL INCLUDE:

(A) A DESCRIPTION OF ALL OF THE EXPENDITURES ESTIMATED TO BE MADE BEFORE THE CLOSE OF THE CURRENT FISCAL YEAR AND ALL OF THE EXPENDITURES PROPOSED TO BE MADE DURING THE ENSUING FISCAL YEAR, BOTH IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AS DEFINED IN ARTICLE THREE-A OF THE STATE FINANCE LAW; AND

(B) A DESCRIPTION OF ALL THE REVENUES ESTIMATED TO ACCRUE BEFORE THE CLOSE OF THE CURRENT FISCAL YEAR AND DURING THE ENSUING FISCAL YEAR, INCLUSIVE OF ANY REVENUES WHICH ARE EXPECTED TO RESULT FROM THE PROPOSED LEGISLATION WHICH THE GOVERNOR DEEMS NECESSARY TO PROVIDE RECEIPTS SUFFICIENT TO MEET PROPOSED DISBURSEMENTS, ALL IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AS DEFINED IN ARTICLE THREE-A OF THE STATE FINANCE LAW.

S 3. Paragraph (a) of subdivision 2 of section 54 of the legislative law, as added by chapter 1 of the laws of 2007, is amended to read as follows:

(a) The legislature shall enact a budget for the upcoming fiscal year that it determines is balanced [in the general fund].

S 4. Subdivision 2 of section 54 of the legislative law is amended by adding a new paragraph (d) to read as follows:

(D) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, BUDGETS SUBMITTED PURSUANT TO THIS SECTION SHALL INCLUDE:

(I) ALL OF THE EXPENDITURES ESTIMATED TO BE MADE BEFORE THE CLOSE OF THE CURRENT FISCAL YEAR AND ALL OF THE EXPENDITURES PROPOSED TO BE MADE DURING THE ENSUING FISCAL YEAR, BOTH IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AS DEFINED IN ARTICLE THREE-A OF THE STATE FINANCE LAW; AND

(II) A DESCRIPTION OF ALL OF THE REVENUES ESTIMATED TO ACCRUE BEFORE THE CLOSE OF THE CURRENT FISCAL YEAR AND DURING THE ENSUING FISCAL YEAR, INCLUSIVE OF ANY REVENUES WHICH ARE EXPECTED TO RESULT FROM THE PROPOSED LEGISLATION WHICH THE LEGISLATURE DEEMS NECESSARY TO PROVIDE RECEIPTS SUFFICIENT TO MEET PROPOSED DISBURSEMENTS, ALL IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AS DEFINED IN ARTICLE THREE-A OF THE STATE FINANCE LAW.

S 5. Separability clause. If any part or provision of this section or the application thereof to any person is adjudged by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such judgment shall not affect or impair any other part or provision or the

application thereof to any other person, but shall be confined to such part or provision.

S 6. This act shall take effect immediately, provided that if this act shall take effect after April 1, 2011, it shall be deemed to have been in effect on and after April 1, 2011.