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

341

2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

Introduced by Sen. KRUGER -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the executive law, in relation to creating the New York state community service loan board and making an appropriation therefor

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

Section 1. The executive law is amended by adding a new article 26-C to read as follows:

ARTICLE 26-C

NEW YORK STATE COMMUNITY SERVICE LOAN BOARD

SECTION 751. DEFINITIONS.
752. NEW YORK STATE COMMUNITY SERVICE LOAN BOARD.
753. PURPOSES OF THE BOARD.
754. GENERAL POWERS OF THE BOARD.
755. SPECIAL POWERS OF THE BOARD.
756. COOPERATION OF OTHER STATE AGENCIES.
757. DETERMINATION OF ELIGIBILITY FOR PAYMENT OF INTEREST ON MONEY OWED TO ELIGIBLE ORGANIZATIONS.

S 751. DEFINITIONS. AS USED IN THIS ARTICLE THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "BOARD" MEANS THE NEW YORK STATE COMMUNITY SERVICE LOAN BOARD CREATED BY THIS ARTICLE.

2. "ELIGIBLE ORGANIZATION" MEANS ANY NOT-FOR-PROFIT AGENCY OR LOCAL GOVERNMENT ENTITY PREVIOUSLY UNDER CONTRACT AND IN THE PROCESS OF RENEWING, ESTABLISHING OR PERFORMING A SUBSEQUENT CONTRACT TO PERFORM SERVICES FOR A STATE AGENCY. SAID AGENCY OR LOCAL GOVERNMENT AGENCY MAY NOT HAVE AN ANNUAL OPERATING BUDGET WHICH IS IN EXCESS OF ONE MILLION FIVE HUNDRED THOUSAND DOLLARS.

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

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3. "SHORT TERM LOAN" MEANS A NO-INTEREST LOAN MADE BY THE BOARD TO AN ELIGIBLE ORGANIZATION PURSUANT TO ANY TERMS OR CONDITIONS WHICH MAY BE IMPOSED BY THE BOARD.

S 752. NEW YORK STATE COMMUNITY SERVICE LOAN BOARD. 1. THE NEW YORK STATE COMMUNITY SERVICE LOAN BOARD IS HEREBY CREATED TO HAVE AND EXERCISE THE POWERS, DUTIES AND PREROGATIVES PROVIDED BY THE PROVISIONS OF THIS ARTICLE. THE BOARD SHALL CONSIST OF SEVEN MEMBERS TO BE APPOINTED AS FOLLOWS: ONE MEMBER SHALL BE APPOINTED BY THE GOVERNOR AND ONE MEMBER SHALL BE APPOINTED BY THE STATE COMPTROLLER, ONE MEMBER SHALL BE APPOINTED BY THE MAJORITY LEADER OF THE SENATE, ONE MEMBER SHALL BE APPOINTED BY THE MINORITY LEADER OF THE SENATE, ONE MEMBER SHALL BE APPOINTED BY THE SPEAKER OF THE ASSEMBLY AND ONE MEMBER SHALL BE APPOINTED BY THE MINORITY LEADER OF THE ASSEMBLY. THE SECRETARY OF STATE SHALL SERVE AS A MEMBER AND SHALL BE THE CHAIRPERSON OF THE BOARD. THE SECRETARY OF STATE SHALL APPOINT A DESIGNEE TO ACT IN THE PLACE OF THE SECRETARY IN HIS OR HER ABSENCE. SUCH DESIGNEE SHALL HAVE ALL THE POWERS GIVEN TO THE SECRETARY PURSUANT TO THIS ARTICLE. THE BOARD SHALL BE CREATED AND ADMINISTERED WITHIN THE NEW YORK STATE DEPARTMENT OF STATE.

2. THE MEMBERS OF THE BOARD SHALL POSSESS SUFFICIENT EXPERTISE IN THE AREAS OF HOUSING, SOCIAL SERVICES, MENTAL HEALTH AND FISCAL MANAGEMENT OF NOT-FOR-PROFIT AGENCIES. THE MEMBERS OF THE BOARD SHALL SERVE WITHOUT SALARY BUT SHALL BE ENTITLED TO REASONABLE REIMBURSEMENT FOR ACTUAL COSTS INCURRED IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES PURSUANT TO THIS SECTION, PROVIDED HOWEVER THAT SUCH MEMBERS ARE NOT, AT THE TIME SUCH EXPENSES ARE INCURRED, PUBLIC EMPLOYEES OR PUBLIC OFFICERS OTHERWISE ENTITLED TO SUCH REIMBURSEMENT.

3. MEMBERS WHO ARE NEITHER PUBLIC OFFICERS NOR PUBLIC EMPLOYEES MAY ENGAGE IN PRIVATE EMPLOYMENT SUBJECT TO THE LIMITATIONS CONTAINED IN SECTIONS SEVENTY-THREE AND SEVENTY-FOUR OF THE PUBLIC OFFICERS LAW.

4. THE SECRETARY OF STATE OR AUTHORIZED REPRESENTATIVE MUST BE PRESENT AT ALL TIMES IN ORDER THAT THE BOARD MAY CONDUCT ITS BUSINESS. IN ADDITION TO CASTING HIS OR HER VOTE, THE SECRETARY, OR AUTHORIZED REPRESENTATIVE, SHALL CAST ONE PROXY VOTE FROM EACH MEMBER ABSENT FROM AN ANNOUNCED MEETING OF THE BOARD. THE SECRETARY SHALL EXERCISE THE POWER TO CAST PROXY VOTES ON ANY AND ALL MATTERS THAT COME BEFORE THE BOARD.

5. NOTWITHSTANDING ANY INCONSISTENT PROVISIONS OF THIS OR ANY OTHER LAW, GENERAL, SPECIAL OR LOCAL, NO OFFICER OR EMPLOYEE OF THE STATE, OR OF ANY CIVIL DIVISION THEREOF, SHALL BE DEEMED TO HAVE FORFEITED OR SHALL FORFEIT HIS OR HER OFFICE OR EMPLOYMENT OR ANY BENEFITS PROVIDED UNDER THE RETIREMENT AND SOCIAL SECURITY LAW BY REASON OF HIS OR HER ACCEPTANCE OF MEMBERSHIP ON THE BOARD; PROVIDED, HOWEVER, A MEMBER WHO HOLDS SUCH OTHER PUBLIC OFFICE OR EMPLOYMENT SHALL RECEIVE NO ADDITIONAL COMPENSATION FOR SERVICES RENDERED PURSUANT TO THIS ARTICLE, BUT SHALL BE ENTITLED TO REIMBURSEMENT FOR HIS OR HER ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF SUCH SERVICES UP TO A MAXIMUM OF TWENTY-FIVE DOLLARS PER DIEM.

6. BY MARCH FIFTEENTH OF EACH YEAR, THE CHAIRPERSON OF THE BOARD SHALL SUBMIT TO THE GOVERNOR AND THE LEGISLATURE, A REPORT OF THE PREVIOUS YEAR'S ACTIVITIES OF THE BOARD INCLUDING, BUT NOT LIMITED TO, THE NUMBER OF LOAN APPLICATIONS, NAMES OF ELIGIBLE ORGANIZATIONS RECEIVING LOANS TOGETHER WITH THE AMOUNT AND PURPOSE OF THE LOAN, ASSETS AND LIABILITIES OF THE BOARD AND FUND BALANCES.

7. THE BOARD SHALL MAKE EVERY EFFORT TO EFFICIENTLY CARRY OUT ITS PURPOSES AND SHALL USE THE STAFF AND TECHNICAL SERVICES OF THE OFFICE OF THE SECRETARY OF STATE, AND WHEN NECESSARY, SHALL USE THE STAFF OF THE

APPROPRIATE STATE AGENCY AS THE DESIGNATED CONTRACT AGENCY FOR WHICH A LOAN IS BEING APPLIED.

S 753. PURPOSES OF THE BOARD. THE BOARD SHALL PROVIDE SHORT TERM LOANS TO ELIGIBLE NOT-FOR-PROFIT AGENCIES AND LOCAL GOVERNMENT ENTITIES OUT OF MONIES APPROPRIATED IN THE GENERAL FUND TO THE CREDIT OF THE STATE PURPOSES ACCOUNT.

S 754. GENERAL POWERS OF THE BOARD. EXCEPT AS OTHERWISE LIMITED BY THIS ARTICLE, THE BOARD SHALL HAVE THE POWER:

1. TO MAKE AND ALTER BY-LAWS FOR ITS ORGANIZATION AND INTERNAL MANAGEMENT, AND RULES AND REGULATIONS GOVERNING THE EXERCISE OF ITS POWERS AND THE FULFILLMENT OF ITS PURPOSES UNDER THIS ARTICLE;

2. TO MAKE LOANS TO ELIGIBLE ORGANIZATIONS;

3. TO ENTER INTO CONTRACTS AND TO EXECUTE ALL INSTRUMENTS NECESSARY OR CONVENIENT OR DESIRABLE FOR THE PURPOSES OF THE BOARD OR TO CARRY OUT ANY POWERS EXPRESSLY GIVEN IT IN THIS ARTICLE;

4. TO APPOINT SUCH OFFICERS AND EMPLOYEES AS IT MAY REQUIRE FOR THE PERFORMANCE OF ITS DUTIES, AND TO FIX AND DETERMINE THEIR QUALIFICATIONS, DUTIES AND COMPENSATION;

5. TO INVEST MONIES DEEMED BY THE BOARD AS REASONABLE, BUT IN NO EVENT SHALL INVESTMENTS EVER EXCEED TEN PERCENT OF THE TOTAL AMOUNT OF THE FUND;

6. TO MAINTAIN SUCH ACCOUNTS AS ARE NECESSARY FOR THE PURPOSES OF THE BOARD AND AS THE BOARD MAY AUTHORIZE, PERMIT MONIES IN SUCH ACCOUNTS TO BE PAID OUT ON CHECKS ISSUED BY A DESIGNATED OFFICER OR EMPLOYEE SUBJECT TO THE PERIODIC AUDIT OF THE STATE COMPTROLLER AND HIS OR HER LEGALLY AUTHORIZED REPRESENTATIVES;

7. TO ACCEPT ANY GIFTS OR GRANTS OR LOANS OF FUNDS OR PROPERTY AND TO COMPLY, SUBJECT TO THE PROVISIONS OF THIS ARTICLE, WITH THE TERMS AND CONDITIONS THEREOF; AND

8. TO DO ALL THINGS NECESSARY, CONVENIENT OR DESIRABLE TO CARRY OUT ITS PURPOSES AND FOR THE EXERCISE OF THE POWERS GRANTED IN THIS ARTICLE.

S 755. SPECIAL POWERS OF THE BOARD. 1. THE BOARD IS HEREBY AUTHORIZED, UPON THE FILING OF AN APPLICATION WHICH SHALL NOT EXCEED TWO PAGES IN LENGTH BY ANY ELIGIBLE ORGANIZATION, TO MAKE SHORT TERM LOANS TO SAID ORGANIZATIONS FOR THE FOLLOWING PURPOSES:

(A) TO ENABLE THE ELIGIBLE ORGANIZATION TO CONTINUE ITS DAY-TO-DAY OPERATIONS;

(B) TO PAY EMPLOYEE SALARIES; AND

(C) TO ALLOW IT TO MEET ANY AND ALL FINANCIAL OBLIGATIONS NOT OTHERWISE PROHIBITED BY STATUTE OR THE ORIGINAL GRANT SPECIFICATIONS.

2. IN NO EVENT SHALL ANY SHORT TERM LOAN EXCEED TEN PERCENT OF THE ANTICIPATED YEARLY GRANT NOR SHALL IT EXCEED THE SUM OF SIXTY THOUSAND DOLLARS.

3. AN APPLICATION FOR A SHORT TERM LOAN SHALL BE ACCOMPANIED BY DOCUMENTATION FROM THE APPROPRIATE STATE AGENCY EVIDENCING AN OBLIGATION ON THE PART OF THE STATE AGENCY TO PAY MONIES TO AN ELIGIBLE ORGANIZATION.

4. PRIOR TO ENTERING INTO A LOAN AGREEMENT WITH AN ELIGIBLE BORROWER, THE CORPORATION SHALL REQUIRE PROOF OF THE ELIGIBLE BORROWER'S RELATIONSHIP WITH THE STATE OF NEW YORK, THE STATE'S INDEBTEDNESS TO THE ELIGIBLE BORROWER AND THAT THE ELIGIBLE BORROWER REQUIRES THE SHORT TERM LOAN IN ORDER TO CARRY OUT ITS OPERATIONS DUE TO THE LACK OF FUNDS FROM ANY OTHER SOURCE.

5. IN THE EVENT AN ELIGIBLE BORROWER HAS AGREED UPON REPAYMENT TERMS AND NOT ENTERED INTO AN AGREEMENT WITH THE BOARD WHEREBY THE AMOUNT OF ITS SHORT TERM LOAN WOULD REDUCE ITS TOTAL GRANT AMOUNT BY THAT SAME

VALUE, AND FAILS TO MEET ITS REPAYMENT OBLIGATION PURSUANT TO THIS ARTICLE, THE BOARD IS EMPOWERED TO COLLECT THE OUTSTANDING BALANCE DIRECTLY FROM THE STATE AGENCY AND THE AMOUNT OF THE OUTSTANDING BALANCE SHALL BE DEDUCTED FROM THE AMOUNT OF THE GRANT.

6. ELIGIBLE BORROWERS WHICH FAIL TO REPAY ANY LOAN OBLIGATIONS SHALL BE INELIGIBLE FOR ANY GRANT FROM ANY STATE AGENCY FOR A PERIOD OF TWO YEARS.

S 756. COOPERATION OF OTHER STATE AGENCIES. THE GOVERNOR SHALL DESIGNATE AGENCIES, STATE DEPARTMENTS, DIVISIONS, BOARDS, BUREAUS AND COMMISSIONS FROM WHICH, TO THE MAXIMUM EXTENT FEASIBLE, THE BOARD SHALL BE ENTITLED TO REQUEST AND RECEIVE AND SHALL UTILIZE AND BE PROVIDED WITH SUCH FACILITIES, RESOURCES AND DATA AS IT MAY REASONABLY REQUEST TO PROPERLY CARRY OUT ITS POWERS AND DUTIES HEREUNDER.

S 757. DETERMINATION OF ELIGIBILITY FOR PAYMENT OF INTEREST ON MONEY OWED TO ELIGIBLE ORGANIZATIONS. EACH STATE AGENCY WHICH IS REQUIRED TO FULFILL A GRANT OBLIGATION TO AN ELIGIBLE ORGANIZATION AND WHICH FAILS TO MAKE SUCH PAYMENT SHALL MAKE AN INTEREST PAYMENT TO THE VOLUNTARY AGENCY REVOLVING LOAN FUND ON THE TOTAL AMOUNT OF THE GRANT TO BE AWARDED. INTEREST SHALL BE COMPUTED AT THE RATE EQUAL TO THE RATE SET BY THE COMMISSIONER OF TAXATION AND FINANCE FOR CORPORATE TAXES PURSUANT TO PARAGRAPH ONE OF SUBSECTION (E) OF SECTION ONE THOUSAND NINETY-SIX OF THE TAX LAW AND SHALL ACCRUE FROM THE DATE WHICH THE AGENCY REASONABLY COULD HAVE PAID THE GRANT, AS SHALL BE DETERMINED BY THE BOARD. INTEREST PAYMENTS SHALL BE PAID INTO THE FUND.

S 2. The sum of one hundred thousand dollars ($100,000), or so much thereof as may be necessary, is hereby appropriated to the department of state out of any moneys in the state treasury in the general fund to the credit of the state purposes account, not otherwise appropriated, and made immediately available, for the purpose of carrying out the provisions of this act. Such moneys shall be payable on the audit and warrant of the comptroller on vouchers certified or approved by the secretary of state in the manner prescribed by law.

S 3. This act shall take effect on the first of October next succeeding the date on which it shall have become a law.