

3674

2009-2010 Regular Sessions

I N S E N A T E

March 27, 2009

Introduced by Sens. FLANAGAN, HANNON, LAVALLE, MORAHAN, VOLKER -- read twice and ordered printed, and when printed to be committed to the Committee on Cultural Affairs, Tourism, Parks and Recreation

AN ACT creating the rebuild and renew New York state parks bond act of 2009; to amend the parks, recreation and historic preservation law, in relation to implementing such bond act; and to amend the state finance law, in relation to creating the rebuild and renew New York state parks bond fund

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

1 Section 1. 1. Short title. This section shall be known and may be
2 cited as the "rebuild and renew New York state parks bond act of 2009".
3 2. Creation of a state debt. The creation of a state debt to an amount
4 not exceeding in the aggregate up to five hundred million dollars
5 (\$500,000,000) is hereby authorized to provide moneys for the purposes
6 of improving, enhancing, preserving and restoring the quality of the
7 state's parks infrastructure by the planning and design, construction,
8 reconstruction, replacement, improvement, reconditioning, rehabilitation
9 and preservation of the lands and facilities of the office of parks,
10 recreation and historic preservation as well as the land and facilities
11 within the jurisdiction of the office of parks, recreation and historic
12 preservation.
13 3. Bonds of the state. The state comptroller is hereby authorized and
14 empowered to issue and sell bonds of the state up to the amount of five
15 hundred million dollars (\$500,000,000) for the purpose of this act,
16 subject to the provisions of article 5 of the state finance law. The
17 aggregate principal amount of such bonds shall not exceed five hundred
18 million dollars (\$500,000,000) excluding bonds issued to refund or
19 otherwise repay bonds heretofore issued for such purpose; provided,
20 however, that upon any such refunding or repayment, the total aggregate
21 principal amount of outstanding bonds may be greater than five hundred

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

LBD06735-01-9

1 million dollars (\$500,000,000) only if the present value of the aggregate debt service of the refunding or repayment bonds to be issued shall not exceed the present value of the aggregate debt service of the bonds to be refunded or repaid. The method for calculating present value shall be determined by law.

6 4. Use of moneys received. The moneys received by the state from the sale of bonds sold pursuant to this act shall be expended in the following amounts, pursuant to annual appropriations:

9 a. for the planning and design, construction, reconstruction, replacement, improvement, reconditioning, rehabilitation and preservation, of existing projects of the office of parks, recreation and historic preservation that have not been completed, three hundred million dollars (\$300,000,000);

14 b. for the remediation of the former Kings Park psychiatric center campus, ten million dollars (\$10,000,000); and

16 c. to be allocated pursuant to a formula to be determined by the commissioner of parks, recreation and historic preservation, in consultation with the director of the budget, one hundred ninety million dollars (\$190,000,000).

20 S 2. The parks, recreation and historic preservation law is amended by adding a new article 18 to read as follows:

ARTICLE 18

IMPLEMENTATION OF THE REBUILD AND RENEW NEW YORK STATE PARKS BOND ACT OF 2009

25 SECTION 18.01. EXPENDITURE OF MONEYS.

26 18.03. DEFINITIONS.

27 18.05. POWERS AND DUTIES OF THE COMMISSIONER.

28 18.07. CONTRACTS FOR PARKS INFRASTRUCTURE PROJECTS.

29 18.09. MAINTENANCE OF RECORDS.

30 18.11. CONSISTENCY WITH FEDERAL TAX LAW.

31 18.13. COMPLIANCE WITH OTHER LAW.

32 S 18.01 EXPENDITURE OF MONEYS. 1. IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE AUTHORIZING THE CREATION OF GENERAL OBLIGATION DEBT IN THE AMOUNT OF FIVE HUNDRED MILLION DOLLARS (\$500,000,000), THE MONEYS RECEIVED BY THE STATE FROM THE SALE OF BONDS AND/OR NOTES SHALL BE EXPENDED FOR USES ELIGIBLE PURSUANT TO THIS ARTICLE PURSUANT TO ANNUAL APPROPRIATIONS AS FOLLOWS:

38 A. FOR THE PLANNING AND DESIGN, CONSTRUCTION, RECONSTRUCTION, REPLACEMENT, IMPROVEMENT, RECONDITIONING, REHABILITATION AND PRESERVATION, OF EXISTING PROJECTS OF THE OFFICE THAT HAVE NOT BEEN COMPLETED, THREE HUNDRED MILLION DOLLARS (\$300,000,000);

42 B. FOR THE REMEDIATION OF THE FORMER KINGS PARK PSYCHIATRIC CENTER CAMPUS, TEN MILLION DOLLARS (\$10,000,000); AND

44 C. TO BE ALLOCATED PURSUANT TO A FORMULA TO BE DETERMINED BY THE COMMISSIONER, IN CONSULTATION WITH THE DIRECTOR OF THE BUDGET, ONE HUNDRED NINETY MILLION DOLLARS (\$190,000,000).

47 2. PROGRAM DISTRIBUTION. A. THE MONEYS RECEIVED BY THE STATE FROM THE SALE OF BONDS SOLD PURSUANT TO THIS ARTICLE FOR USES ELIGIBLE PURSUANT TO PARAGRAPH A OF SUBDIVISION FOUR OF SECTION ONE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND NINE THAT ADDED THIS ARTICLE SHALL BE EXPENDED FOR THE FOLLOWING PARKS PROGRAMS, PURSUANT TO ANNUAL APPROPRIATIONS: THREE HUNDRED MILLION DOLLARS (\$300,000,000) FOR THE PLANNING AND DESIGN, CONSTRUCTION, RECONSTRUCTION, REPLACEMENT, IMPROVEMENT, RECONDITIONING, REHABILITATION AND PRESERVATION, OF EXISTING PROJECTS OF THE OFFICE THAT HAVE NOT BEEN COMPLETED.

1 B. THE MONEYS RECEIVED BY THE STATE FROM THE SALE OF BONDS SOLD PURSU-
2 ANT TO THIS ARTICLE FOR USES ELIGIBLE PURSUANT TO PARAGRAPH B OF SUBDI-
3 VISION FOUR OF SECTION ONE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND
4 NINE THAT ADDED THIS ARTICLE SHALL BE EXPENDED FOR THE FOLLOWING PARKS
5 PROGRAMS, PURSUANT TO ANNUAL APPROPRIATIONS: TEN MILLION DOLLARS
6 (\$10,000,000) FOR THE REMEDIATION OF THE FORMER KINGS PARK PSYCHIATRIC
7 CENTER CAMPUS.

8 C. THE MONEYS RECEIVED BY THE STATE FROM THE SALE OF BONDS SOLD PURSU-
9 ANT TO THIS ARTICLE FOR USES ELIGIBLE PURSUANT TO PARAGRAPH C OF SUBDI-
10 VISION FOUR OF SECTION ONE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND
11 NINE THAT ADDED THIS ARTICLE SHALL BE EXPENDED FOR THE FOLLOWING PARKS
12 PROGRAMS, PURSUANT TO ANNUAL APPROPRIATIONS: ONE HUNDRED NINETY MILLION
13 DOLLARS (\$190,000,000) TO BE ALLOCATED PURSUANT TO A FORMULA TO BE
14 DETERMINED BY THE COMMISSIONER, IN CONSULTATION WITH THE DIRECTOR OF THE
15 BUDGET.

16 S 18.03 DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS
17 SHALL HAVE THE FOLLOWING MEANINGS:

18 1. "PARKS INFRASTRUCTURE PROJECT" SHALL MEAN A PROJECT UNDERTAKEN WITH
19 FUNDS PROVIDED IN WHOLE OR IN PART BY THIS ARTICLE, FOR THOSE PARKS
20 PROGRAMS SET FORTH IN PARAGRAPH A OF SUBDIVISION ONE OF SECTION 18.01 OF
21 THIS ARTICLE.

22 2. "COMMISSIONER" SHALL MEAN THE COMMISSIONER OF PARKS, RECREATION AND
23 HISTORIC PRESERVATION OF THE STATE OF NEW YORK.

24 3. "OFFICE" SHALL MEAN THE OFFICE OF PARKS, RECREATION AND HISTORIC
25 PRESERVATION OF THE STATE OF NEW YORK.

26 4. "FEDERAL ASSISTANCE" SHALL MEAN FUNDS AVAILABLE FROM THE FEDERAL
27 GOVERNMENT FOR ANY PARKS INFRASTRUCTURE PROJECT.

28 5. "BOND PROCEEDS" SHALL MEAN MONEYS RECEIVED BY THE STATE FROM THE
29 SALE OF BONDS AND/OR NOTES SOLD PURSUANT TO THIS ARTICLE FOR USES SET
30 FORTH IN PARAGRAPH A OF SUBDIVISION FOUR OF SECTION ONE OF THE CHAPTER
31 OF THE LAWS OF TWO THOUSAND NINE THAT ADDED THIS ARTICLE.

32 S 18.05 POWERS AND DUTIES OF THE COMMISSIONER. IN ADDITION TO OTHER
33 POWERS PROVIDED FOR IN LAW, THE COMMISSIONER IS HEREBY AUTHORIZED:

34 1. TO PROVIDE FOR THE ACCOMPLISHMENT OF ANY AUTHORIZED PARKS INFRAS-
35 TRUCTURE PROJECT, WITHIN THE LIMITATIONS OF APPROPRIATIONS AVAILABLE
36 THEREFOR, PURSUANT TO A CONTRACT BETWEEN THE COMMISSIONER AND ANY
37 PERSON, FIRM, CORPORATION, AGENCY OR OTHER ENTITY, PRIVATE OR GOVERN-
38 MENTAL, UNDERTAKING SUCH PROJECT.

39 2. TO UTILIZE FEDERAL MONEYS AVAILABLE OR WHICH MAY BECOME AVAILABLE
40 TO THE STATE IN THE FORM OF FEDERAL ASSISTANCE FOR THE PURPOSE OF EFFEC-
41 TUATING THE PROVISIONS OF THIS ARTICLE.

42 3. TO ENTER INTO CONTRACTS WITH ANY PERSON, FIRM, CORPORATION, AGENCY
43 OR OTHER ENTITY, PRIVATE OR GOVERNMENTAL, FOR THE PURPOSE OF EFFECTUAT-
44 ING THE PROVISIONS OF THIS ARTICLE.

45 4. TO APPROVE VOUCHERS FOR THE PAYMENT OF STATE FINANCIAL ASSISTANCE
46 TO ANY PERSON, FIRM, CORPORATION OR AGENCY, PRIVATE OR GOVERNMENTAL,
47 PURSUANT TO CONTRACTS FOR THE ACCOMPLISHMENT OF PARKS INFRASTRUCTURE
48 PROJECTS.

49 5. TO PROMULGATE SUCH RULES AND REGULATIONS, AND TO DEVELOP SUCH FORMS
50 AND PROCEDURES AS HE OR SHE MAY DEEM APPROPRIATE TO EFFECTUATE THE
51 PROVISIONS OF THIS ARTICLE, INCLUDING BUT NOT LIMITED TO REQUIREMENTS
52 FOR THE FORM, CONTENT AND SUBMISSION OF APPLICATIONS BY ANY PERSON,
53 FIRM, CORPORATION, AGENCY OR OTHER ENTITY, PRIVATE OR GOVERNMENTAL, FOR
54 THE PURPOSE OF EFFECTUATING THE PROVISIONS OF THIS ARTICLE.

1 6. TO PERFORM SUCH OTHER AND ADDITIONAL ACTS AS HE OR SHE DEEMS NECES-
2 SARY OR DESIRABLE TO EFFECTIVELY CARRY OUT THE PROVISIONS OF THIS ARTI-
3 CLE.

4 S 18.07 CONTRACTS FOR PARKS INFRASTRUCTURE PROJECTS. ANY CONTRACT
5 BETWEEN THE COMMISSIONER AND ANY PERSON, FIRM, CORPORATION, AGENCY OR
6 OTHER ENTITY, PRIVATE OR GOVERNMENTAL MAY INCLUDE SUCH PROVISIONS AS MAY
7 BE AGREED UPON BY THE PARTIES THERETO, AND SHALL INCLUDE, IN SUBSTANCE,
8 THE FOLLOWING:

9 1. AN ESTIMATE OF THE REASONABLE COST OF THE PROJECT AS DETERMINED BY
10 THE COMMISSIONER;

11 2. AN AGREEMENT BY THE COMMISSIONER TO PAY TO THE PERSON, FIRM, CORPO-
12 RATION, AGENCY OR OTHER ENTITY, PRIVATE OR GOVERNMENTAL DURING THE
13 PROGRESS OF CONSTRUCTION OR FOLLOWING COMPLETION OF CONSTRUCTION AN
14 AMOUNT AS MAY BE AGREED UPON BY THE PARTIES;

15 3. AN AGREEMENT BY THE PERSON, FIRM, CORPORATION, AGENCY OR OTHER
16 ENTITY, PRIVATE OR GOVERNMENTAL:

17 A. TO PROCEED EXPEDITIOUSLY WITH AND COMPLETE THE PROJECT AS APPROVED
18 BY THE COMMISSIONER,

19 B. TO APPLY FOR AND/OR MAKE REASONABLE EFFORTS TO SECURE FEDERAL OR
20 PRIVATE ASSISTANCE, IF ANY, FOR THE PROJECT.

21 S 18.09 MAINTENANCE OF RECORDS. IN CONNECTION WITH EACH CONTRACT, THE
22 COMMISSIONER SHALL KEEP ADEQUATE RECORDS OF THE AMOUNT OF THE PAYMENT BY
23 THE STATE, THE AMOUNT OF FEDERAL OR PRIVATE ASSISTANCE, IF ANY, RECEIVED
24 BY THE PERSON, FIRM, CORPORATION, AGENCY OR OTHER ENTITY, PRIVATE OR
25 GOVERNMENTAL, FOR THE PROJECT, AND OF ALL MONEYS EXPENDED BY THE PERSON,
26 FIRM, CORPORATION, AGENCY OR OTHER ENTITY, PRIVATE OR GOVERNMENTAL, FOR
27 SUCH PROJECT. THE COMMISSIONER SHALL HAVE AUTHORITY TO CARRY OUT, OR TO
28 CAUSE TO BE CARRIED OUT, AUDITS OF SUCH CONTRACTS AND RECORDS PURSUANT
29 TO RULES AND REGULATIONS PROMULGATED BY THE COMMISSIONER.

30 S 18.11 CONSISTENCY WITH FEDERAL TAX LAW. ALL ACTIONS TAKEN PURSUANT
31 TO THIS ARTICLE SHALL BE REVIEWED FOR CONSISTENCY WITH PROVISIONS OF THE
32 FEDERAL INTERNAL REVENUE CODE AND REGULATIONS THEREUNDER, IN ACCORDANCE
33 WITH PROCEDURES ESTABLISHED IN CONNECTION WITH THE ISSUANCE OF ANY TAX
34 EXEMPT BONDS PURSUANT TO THIS ARTICLE, TO PRESERVE THE TAX EXEMPT STATUS
35 OF SUCH BONDS.

36 S 18.13 COMPLIANCE WITH OTHER LAW. EVERY RECIPIENT OF FUNDS TO BE MADE
37 AVAILABLE PURSUANT TO THIS ARTICLE SHALL COMPLY WITH ALL APPLICABLE
38 STATE, FEDERAL AND LOCAL LAWS.

39 S 3. The state finance law is amended by adding a new section 97-j to
40 read as follows:

41 S 97-J. REBUILD AND RENEW NEW YORK STATE PARKS BOND FUND. 1. THERE IS
42 HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE
43 COMMISSIONER OF TAXATION AND FINANCE A SPECIAL FUND TO BE KNOWN AS THE
44 "REBUILD AND RENEW NEW YORK STATE PARKS BOND FUND".

45 2. THE COMPTROLLER SHALL ESTABLISH AT LEAST THREE SEPARATE AND
46 DISTINCT ACCOUNTS WITHIN THE REBUILD AND RENEW NEW YORK STATE PARKS BOND
47 FUND AS FOLLOWS, WHICH SHALL INCLUDE THE FOLLOWING: (A) AN ACCOUNT
48 CONTAINING ALL MONEYS RECEIVED BY THE STATE FROM THE SALE OF BONDS
49 AND/OR NOTES FOR USES ELIGIBLE PURSUANT TO PARAGRAPH A OF SUBDIVISION
50 FOUR OF SECTION ONE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND NINE THAT
51 ADDED THIS SECTION; (B) AN ACCOUNT CONTAINING ALL MONEYS RECEIVED BY THE
52 STATE FROM THE SALE OF BONDS AND/OR NOTES FOR USES ELIGIBLE PURSUANT TO
53 PARAGRAPH B OF SUBDIVISION FOUR OF SECTION ONE OF THE CHAPTER OF THE
54 LAWS OF TWO THOUSAND NINE THAT ADDED THIS SECTION; AND (C) AN ACCOUNT
55 CONTAINING ALL MONEYS RECEIVED BY THE STATE FROM THE SALE OF BONDS
56 AND/OR NOTES FOR USES ELIGIBLE PURSUANT TO PARAGRAPH C OF SUBDIVISION

1 FOUR OF SECTION ONE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND NINE THAT
2 ADDED THIS SECTION.

3 3. MONEYS IN ANY ACCOUNT OF THIS FUND, FOLLOWING APPROPRIATION BY THE
4 LEGISLATURE AND ALLOCATION BY THE DIRECTOR OF THE BUDGET, SHALL BE
5 AVAILABLE ONLY FOR REIMBURSEMENT OF EXPENDITURES MADE FROM APPROPRI-
6 ATIONS FROM THE CAPITAL PROJECTS FUND FOR THE PURPOSE OF THIS FUND, AS
7 SET FORTH IN ARTICLE EIGHTEEN OF THE PARKS, RECREATION AND HISTORIC
8 PRESERVATION LAW.

9 4. NO MONEYS RECEIVED BY THE STATE FROM THE SALE OF BONDS AND/OR NOTES
10 SOLD PURSUANT TO ARTICLE EIGHTEEN OF THE PARKS, RECREATION AND HISTORIC
11 PRESERVATION LAW SHALL BE EXPENDED FOR ANY PROJECT UNTIL FUNDS THEREFOR
12 HAVE BEEN ALLOCATED PURSUANT TO THE PROVISIONS OF THIS SECTION AND
13 COPIES OF THE APPROPRIATE CERTIFICATES OF APPROVAL FILED WITH THE CHAIR
14 OF THE SENATE FINANCE COMMITTEE, THE CHAIR OF THE ASSEMBLY WAYS AND
15 MEANS COMMITTEE AND THE STATE COMPTROLLER.

16 S 4. The comptroller is authorized to receive, hold and disburse funds
17 deposited with the comptroller by any public or private source pursuant
18 to an agreement entered pursuant to this act for a project financed in
19 part from the proceeds of bonds and/or notes issued pursuant to this
20 act. Any such private funds deposited with the comptroller shall not be
21 deemed funds of the state and, notwithstanding section 4 of the state
22 finance law, the comptroller may disburse such funds, without an appro-
23 priation thereof, if such disbursement is consistent with such agree-
24 ment.

25 S 5. It is the intent of the governor of the state of New York, the
26 temporary president of the senate and the speaker of the assembly to
27 enter into at least one memorandum of understanding with respect to the
28 implementation of paragraph c of subdivision 1 of section 18.01 of the
29 parks, recreation and historic preservation law, no later than June 1,
30 2010. Nothing herein shall preclude the governor of the state of New
31 York and the temporary president of the senate and the speaker of the
32 assembly from agreeing to prepare additional memoranda of understanding
33 as may be needed to implement this act. Any memoranda of understanding
34 prepared pursuant to this section shall be consistent with the
35 provisions of article 18 of the parks, recreation and historic preserva-
36 tion law and shall include at a minimum projects for which funds are
37 committed pursuant to an appropriation contained in a chapter of the
38 laws of 2009.

39 S 6. Severability clause. If any clause, sentence, paragraph, subdivi-
40 sion, section or part of this act shall be adjudged by any court of
41 competent jurisdiction to be invalid, such judgment shall not affect,
42 impair, or invalidate the remainder thereof, but shall be confined in
43 its operation to the clause, sentence, paragraph, subdivision, section
44 or part thereof directly involved in the controversy in which such judg-
45 ment shall have been rendered. It is hereby declared to be the intent of
46 the legislature that this act would have been enacted even if such
47 invalid provisions had not been included herein.

48 S 7. This act shall take effect immediately, provided that the
49 provisions of section one of this act shall not take effect unless and
50 until this act shall have been submitted to the people at the general
51 election to be held in November 2009 and shall have been approved by a
52 majority of all votes cast for and against it at such election. Upon
53 approval by the people, section one of this act shall take effect imme-
54 diately. The ballots to be furnished for the use of voters upon
55 submission of this act shall be in the form prescribed by the election
56 law and the proposition or question to be submitted shall be printed

1 thereon in substantially the following form, namely "To promote and
2 assure the preservation, renewal and improvement of the state's parks
3 for the benefit of the people of the state, shall section one of a chap-
4 ter of the laws of two thousand nine, enacting and constituting the
5 "REBUILD AND RENEW NEW YORK STATE PARKS BOND ACT OF 2009" authorizing
6 the creation of a state debt in the amount of five hundred million
7 dollars (\$500,000,000) for the construction, improvement, reconditioning
8 and preservation of parks infrastructure and facilities, be approved?"