

S. 2

A. 2

Twentieth Extraordinary Session

S E N A T E - A S S E M B L Y

November 10, 2009

IN SENATE -- Introduced by Sen. STEWART-COUSINS -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

IN ASSEMBLY -- Introduced by COMMITTEE ON RULES -- (at request of M. of A. Hoyt, Weinstein) -- (at request of the Governor) -- read once and referred to the Committee on Codes

AN ACT to amend the insurance law, in relation to municipal cooperative health benefit plans, a study of community rating and the provision of claims experience to a municipality (Part A); to amend the general municipal law and the highway law, in relation to mutual aid (Part B); to amend the public health law, in relation to the composition of county and part-county boards of health (Part C); to amend the general municipal law, in relation to purchasing requirements (Part D); to amend the public authorities law and the local finance law, in relation to authorizing certain bonds to be issued or purchased by the municipal bond bank agency (Part E); and to amend the civil practice law and rules, in relation to treating public and private defendants equally when considering the impact of collateral source payments in tort claims for personal injury, property damage or wrongful death; to amend the general obligations law, in relation to protecting parties to the settlement of a tort claim from certain unwarranted lien, reimbursement and subrogation claims; and to repeal certain provisions of the civil practice law and rules relating to collateral source payments (Part F)

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

1 Section 1. Each component of this act is wholly contained within a
2 Part identified as Parts A through F. The effective date for each
3 particular provision contained within such Part is set forth in the last
4 section of such Part. Any provision in any section contained within a

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

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1 Part, including the effective date of the Part, which makes reference to
2 a section "of this act", when used in connection with that particular
3 component, shall be deemed to mean and refer to the corresponding
4 section of the Part in which it is found. Section three of this act sets
5 forth the general effective date of this act.

6 PART A

7 Section 1. Subsection (d) of section 3231 of the insurance law, as
8 added by chapter 501 of the laws of 1992, is amended to read as follows:

9 (d) (1) Notwithstanding any other provision of this chapter to the
10 contrary, no policy form subject to this section shall be issued or
11 delivered, nor any insurance contract entered into, unless and until the
12 insurer has filed with the superintendent a schedule of premiums, not to
13 exceed twelve months in duration, to be paid under the policy forms and
14 obtained the superintendent's approval thereof. The superintendent may
15 refuse such approval if he or she finds that such premiums are exces-
16 sive, inadequate, or unfairly discriminatory. The superintendent may
17 consider the financial condition of such insurer in approving or disap-
18 proving any premium. In determining whether to approve the schedule of
19 premiums filed, the superintendent shall, subject to the provisions of
20 section three thousand two hundred thirty-three of this article, consid-
21 er the prior experience of the insurer's community pool and the insur-
22 er's projections relating to claim costs, utilization and administrative
23 expenses and shall not adjust the insurer's rates based upon the rates
24 approved for other insurers.

25 (2) AN INSURER SHALL PROVIDE SPECIFIC CLAIMS EXPERIENCE TO A MUNICIPAL
26 CORPORATION, AS DEFINED IN SUBSECTION (F) OF SECTION FOUR THOUSAND SEVEN
27 HUNDRED TWO OF THIS CHAPTER, COVERED BY THE INSURER UNDER A COMMUNITY
28 RATED POLICY WHEN THE MUNICIPAL CORPORATION REQUESTS ITS CLAIMS EXPERI-
29 ENCE FOR PURPOSES OF FORMING OR JOINING A MUNICIPAL COOPERATIVE HEALTH
30 BENEFIT PLAN CERTIFIED PURSUANT TO ARTICLE FORTY-SEVEN OF THIS CHAPTER.
31 NOTWITHSTANDING THE FORGOING PROVISIONS, NO INSURER SHALL BE REQUIRED TO
32 PROVIDE MORE THAN THREE YEARS' CLAIMS EXPERIENCE TO A MUNICIPAL CORPO-
33 RATION MAKING THIS REQUEST.

34 S 2. Subsection (d) of section 4317 of the insurance law, as added by
35 chapter 501 of the laws of 1992, is amended to read as follows:

36 (d) (1) This section shall also apply to contracts issued to a group
37 defined in subsection (c) of section four thousand two hundred thirty-
38 five OF THIS CHAPTER, including but not limited to an association or
39 trust of employers, if the group includes one or more member employers
40 or other member groups which have fifty or fewer employees or members
41 exclusive of spouses and dependents.

42 (2) A CORPORATION SHALL PROVIDE SPECIFIC CLAIMS EXPERIENCE TO A MUNIC-
43 IPAL CORPORATION, AS DEFINED IN SUBSECTION (F) OF SECTION FOUR THOUSAND
44 SEVEN HUNDRED TWO OF THIS CHAPTER, COVERED BY THE CORPORATION UNDER A
45 COMMUNITY RATED CONTRACT WHEN THE MUNICIPAL CORPORATION REQUESTS ITS
46 CLAIMS EXPERIENCE FOR PURPOSES OF FORMING OR JOINING A MUNICIPAL COOPER-
47 ATIVE HEALTH BENEFIT PLAN CERTIFIED PURSUANT TO ARTICLE FORTY-SEVEN OF
48 THIS CHAPTER. NOTWITHSTANDING THE FOREGOING PROVISIONS, NO CORPORATION
49 SHALL BE REQUIRED TO PROVIDE MORE THAN THREE YEARS' CLAIMS EXPERIENCE TO
50 A MUNICIPAL CORPORATION MAKING THIS REQUEST.

51 S 3. Paragraph 2 of subsection (a) of section 4704 of the insurance
52 law, as added by chapter 689 of the laws of 1994, is amended to read as
53 follows:

(2) except for any plan that provided medical, surgical and hospital services on or before January first, nineteen hundred ninety-three pursuant to a municipal cooperation agreement, the number of municipal corporations participating in the municipal cooperative health benefit plan shall be at least [five] THREE;

S 4. The superintendent of insurance shall order a study of the impact to the community rated health insurance market of allowing a public entity, as defined in paragraph 51 of subsection (a) of section 107 of the insurance law, with fifty or fewer employees to join with public entities with more than fifty employees to purchase health insurance coverage under experience rated policies. The study shall be performed by a member of the American academy of actuaries. The study shall be completed and a report submitted by September 1, 2010 to the governor, the superintendent of insurance, the temporary president of the senate and the speaker of the assembly.

S 5. The superintendent of insurance shall conduct a study of the impact of the reserve requirements established in section 4706 of the insurance law on municipal cooperative health benefit plans and provide recommendation for changes to such requirements. The study shall be completed and a report submitted to the governor, the temporary president of the senate and the speaker of the assembly by October 1, 2009.

S 6. This act shall take effect immediately.

PART B

Section 1. Section 99-r of the general municipal law, as amended by chapter 165 of the laws of 2008, is amended to read as follows:

S 99-r. Contracts for services. Notwithstanding any other provisions of law to the contrary, the governing board of any municipal corporation may enter into agreements and/or contracts with any state agency including any department, board, bureau, commission, division, office, council, committee, or officer of the state, whether permanent or temporary, or a public benefit corporation or public authority, or a soil and water conservation district, and any unit of the state university of New York, pursuant to and consistent with sections three hundred fifty-five and sixty-three hundred one of the education law within or without such municipal corporation to provide OR RECEIVE fuel, equipment, maintenance and repair, supplies, water supply, street sweeping or maintenance, sidewalk maintenance, RIGHT-OF-WAY MAINTENANCE, STORM WATER AND OTHER drainage, sewage disposal, LANDSCAPING, MOWING, or any other services of government. Such state agency, soil and water conservation district, or unit of the state university of New York, within the limits of any specific statutory appropriation authorized and made available therefor by the legislature or by the governing body responsible for the operation of such state agency, soil and water conservation district, or unit of the state university of New York may contract with any municipal corporation for such services as herein provided. Any such contract may be entered into by direct negotiations and shall not be subject to the provisions of section one hundred three of this chapter.

S 2. Section 10 of the highway law is amended by adding a new subdivision 46 to read as follows:

46. HAVE THE AUTHORITY TO ENTER INTO AGREEMENTS AND/OR CONTRACTS TO PROVIDE OR RECEIVE SERVICES PURSUANT TO SECTION NINETY-NINE-R OF THE GENERAL MUNICIPAL LAW UPON SUCH TERMS AND CONDITIONS AS DEEMED APPROPRIATE BY THE COMMISSIONER OR COMMISSIONER'S DESIGNEE.

1 S 3. Section 12 of the highway law, as amended by chapter 1110 of the
2 laws of 1971, subdivision 2 as amended by chapter 249 of the laws of
3 1972, subdivision 2-a as added by chapter 568 of the laws of 1986 and
4 subdivision 7 as added by chapter 691 of the laws of 1971, is amended to
5 read as follows:

6 S 12. Commissioner [of transportation] to provide for maintenance,
7 repair, and for control of snow and ice; roads and driveways on state
8 lands. 1. The maintenance and repair of improved state highways in towns
9 and incorporated villages, exclusive, however, of the cost of maintain-
10 ing and repairing bridges having a span in excess of twenty feet shall
11 be under the direct supervision and control of the commissioner [of
12 transportation] and he OR SHE shall be responsible therefor. The cost of
13 such maintenance and repair shall be borne wholly by the state and be
14 paid from moneys appropriated therefor by the legislature. Such mainte-
15 nance and repair may be done in the discretion of the commissioner
16 either directly by the department [of transportation] or by contract
17 awarded to the lowest responsible bidder at a public letting after due
18 advertisement, and under such rules and regulations as the commissioner
19 [of transportation] may prescribe. The commissioner [of transportation]
20 shall also have the power to adopt such system as may seem expedient so
21 that each section of such highways shall be effectively and economically
22 preserved, maintained and repaired.

23 2. The maintenance of state highways shall include the control of snow
24 and ice on such highways or any parts thereof, as the commissioner [of
25 transportation] may deem to be necessary to provide reasonable passage
26 and movement of vehicles over such highways. The commissioner [of trans-
27 portation] is authorized also to erect snow fences at suitable
28 locations. The work of such control of snow and ice may be done by any
29 municipality which for the purposes of this section shall include only a
30 county, city, town or village. The governing board or body of any such
31 municipality and the commissioner [of transportation] are hereby author-
32 ized to enter into an agreement for the performance of the work of such
33 control of snow and ice upon such terms, rules and regulations as may be
34 deemed by the commissioner [of transportation] to be for the best inter-
35 est of the public. Such agreement may provide for periodic payments
36 based upon a percentage of the estimated total cost. Any agreement
37 authorized by this subdivision shall be for a term of [three] UP TO FIVE
38 years and at the expiration of [each] THE year PRECEDING THE LAST YEAR
39 of the term specified in the agreement, as such term may be extended as
40 herein provided, the municipality shall notify the commissioner either
41 (a) that it requests, with the approval of the commissioner, that the
42 term of the agreement be extended for [one year] A SPECIFIED TERM OF UP
43 TO FIVE YEARS or (b) it intends not to extend the agreement and such
44 agreement shall expire at the end of the term. If the municipality fails
45 to notify the commissioner as herein provided, it shall be deemed that
46 the municipality intends not to extend the agreement. SUCH AGREEMENT
47 MAY BE TERMINATED DURING THE SPECIFIED TERM PROVIDED THE MUNICIPALITY
48 SHALL NOTIFY THE COMMISSIONER EIGHTEEN MONTHS PRIOR TO SUCH TERMINATION.
49 If any such agreement expires, a new agreement between the commissioner
50 and a municipality may be entered into for a term of [three] UP TO FIVE
51 years, with extended term or terms upon notification as above provided.
52 Whenever the commissioner shall deem the work of control of snow and ice
53 by any municipality to be inadequate or unsatisfactory according to the
54 terms of any such agreement, he OR SHE may, by official order to be
55 filed in [his office] THE DEPARTMENT, and by filing a certified copy
56 thereof in the office of the department of state, cancel said agreement,

1 and the payments thereunder provided by the state shall cease; whereupon
2 the commissioner may carry out the work of control of snow and ice. The
3 official order provided in this subdivision shall become effective at
4 the expiration of five days after the commissioner shall mail a certi-
5 fied copy thereof to the clerk or other official who performs related
6 duties in such municipality. The governing board or body of any such
7 municipality is authorized to appropriate such sum as it deems necessary
8 to enable such municipality to perform the terms of such agreement. The
9 work of such control of snow and ice may be done by any of the methods
10 provided in subdivision one of this section for the work of maintenance
11 and repair, or by a combination of such methods. Any county is hereby
12 authorized to enter into a contract with another municipality located
13 within the same county for the performance of the work of such control
14 of snow and ice as a subcontractor under any agreement with the commis-
15 sioner [of transportation] as such agreement is hereinbefore provided.
16 Moneys received by a county under the terms of any agreement authorized
17 by this subdivision shall be credited to the fund from which moneys were
18 appropriated to enable the county to perform the terms of such agree-
19 ment. Moneys so received by a town shall be credited to the highway
20 fund. Moneys so received by a city or village shall be credited to the
21 general fund.

22 2-a. (a) Except as provided hereafter the state shall indemnify and
23 hold harmless such municipalities for any and all liability for damages
24 for personal injury, injury to property or wrongful death for losses
25 arising from or occasioned by the manner of performance of the functions
26 under any agreement with a municipality for the control of snow and ice
27 pursuant to this section.

28 (b) In no event shall the state be obligated to defend or indemnify
29 such municipality, in any action, proceeding, claim or demand arising
30 out of the actual operation of an insured vehicle or vehicle subject to
31 self-insurance while engaged in the operation of snow and ice control
32 functions under such agreement.

33 (c) The municipality shall be entitled to representation by the attor-
34 ney general in any claim described in paragraph (a) of this subdivision,
35 provided, however, that the municipality shall be entitled to itself
36 defend any such action, proceeding, claim or demand whenever the attor-
37 ney general determines, based upon his investigation and review of the
38 facts and circumstances of the case that representation by the attorney
39 general would be inappropriate, or whenever a court of competent juris-
40 diction determines that a conflict of interest exists and that the muni-
41 cipality is entitled to be separately represented. Whenever the muni-
42 cipality is entitled to defend the action itself, the state shall
43 reimburse the municipality for any and all costs and expenses, includ-
44 ing, but not limited to, counsel fees and disbursements.

45 (d) The state shall indemnify and save harmless such municipality in
46 the amount of any judgment obtained against such municipality in any
47 state or federal court on any claim described in paragraph (a) of this
48 subdivision, or in the amount of any settlement of such claim, or shall
49 pay such judgment or settlement; provided, however, that the act or
50 omission from which such judgment or settlement arose occurred while the
51 municipality was acting within the scope of its functions for control of
52 snow and ice; provided, further, that no stipulation of settlement of
53 any such action, proceeding, claim or demand shall be made or executed
54 without approval of the attorney general and of the commissioner [of
55 transportation] or his designee. Payment of any claim made pursuant to
56 settlement shall not exceed the sum of fifty thousand dollars. Nothing

1 herein shall authorize the state to indemnify or save harmless with
2 respect to punitive or exemplary damages.

3 (e) The duty to defend or indemnify and save harmless prescribed by
4 this subdivision shall be conditioned upon (i) delivery to the attorney
5 general or an assistant attorney general at the office of the department
6 of law located in Albany or New York city and by delivery to the commis-
7 sioner [of transportation] or his designee a copy of any claim, summons,
8 complaint, process, notice, demand or other pleading within ten days
9 after such municipality is served with such document and (ii) the full
10 cooperation of the municipality in the defense of such action, proceed-
11 ing, claim or demand and in the defense of any action, proceeding, claim
12 or demand against the state based upon the same act or omission, and in
13 the prosecution of any appeal.

14 (f) The benefits of this subdivision shall inure only to such munici-
15 palities and shall not enlarge or diminish the rights of any other party
16 nor shall any provision of this subdivision be construed to effect,
17 alter or repeal any provision of the workers' compensation law.

18 (g) This subdivision shall not in any way affect the obligation of any
19 claimant to give notice to the state under section ten of the court of
20 claims act or any other provision of law.

21 (h) The provisions of this subdivision shall not be construed to
22 impair, alter, limit or modify the rights and obligations of any insurer
23 under any insurance agreement.

24 (i) Except as otherwise specifically provided in this subdivision, the
25 provisions of this subdivision shall not be construed in any way to
26 impair, alter, limit, modify, abrogate or restrict any immunity avail-
27 able to or conferred upon any unit, entity, officer or employee of the
28 state or municipality or any other level of government, or any right to
29 defense and indemnification provided for any governmental officer or
30 employee by, in accordance with, or by reason of, any other provision of
31 state or federal statutory or common law.

32 3. The commissioner [of transportation] shall have the power to
33 purchase (a) materials for such maintenance and repair, except where
34 such work is done by contract, and to contract for the delivery thereof
35 at convenient intervals along such highways, and (b) equipment and
36 appliances that he may deem necessary to carry out the provisions of
37 this section. Any municipality, acting by and through its authorized
38 official, is hereby empowered to rent its machinery, tools, equipment,
39 and storage space, to the state, acting by and through the commissioner
40 [of transportation], for the purpose of such control of snow and ice
41 upon such terms and at such rate as may be agreed between the munici-
42 pality and the commissioner [of transportation]. Notwithstanding the
43 provisions of any general, special or local law or of any charter, the
44 governing board or body of any such municipality is hereby authorized to
45 sell such machinery, tools and equipment to the state, acting by and
46 through the commissioner [of transportation], for the purposes of this
47 section and without competitive bidding or other limitation or
48 restriction provided in any general, special or local law or of any
49 charter, and the commissioner [of transportation], may, upon approval by
50 the state comptroller and the state commissioner of general services,
51 purchase such machinery, tools and equipment from any such municipality
52 as herein provided.

53 4. Whenever funds therefor are made available, the commissioner [of
54 transportation] shall have power to acquire for the state, by purchase,
55 or by appropriation through the procedure described in section thirty of
56 this chapter, property for the purpose of storing, maintaining or proc-

1 essing construction and maintenance supplies, material or equipment and
2 for the purpose of providing, erecting and maintaining offices for
3 department personnel and structures for storing, maintaining or process-
4 ing construction and maintenance materials or equipment.

5 5. Whenever a state highway has been constructed at a greater width
6 than that provided in the original plans, upon petition of a village, as
7 provided in sections forty-six and forty-seven OF THIS CHAPTER, or upon
8 petition of a town or county, as provided in sections forty-eight,
9 forty-nine, or fifty-nine OF THIS CHAPTER, or whenever such highway has
10 been widened by a town or county under a permit granted as provided in,
11 or under conditions and regulations prescribed pursuant to section
12 fifty-two OF THIS CHAPTER, the additional width of pavement shall be
13 deemed to be a part of the highway and shall be maintained by the
14 commissioner [of transportation] as provided herein, but in no case
15 where any such highway has been widened as provided above, shall the
16 state be responsible for the maintenance of any curb or of any paved
17 gutter or paved shoulder, provided, however, that on any highway main-
18 tained by the state the commissioner shall have authority to clean any
19 pavement or paved gutter or repair any unpaved shoulder or unpaved
20 gutter outside of the pavement maintained by the state, where necessary
21 for the protection of such pavement.

22 6. Whenever the head of any state department having jurisdiction or
23 control over lands owned and occupied by the state, requests the commis-
24 sioner [of transportation] to maintain and to repair any road and drive-
25 way which is located on, over and across such lands, the commissioner
26 [of transportation] is, notwithstanding the provisions of any general,
27 special or local law, authorized to grant such request by his official
28 order therefor. Such official order shall contain a general description
29 of any such road and driveway. A certified copy of such official order
30 shall be filed by the commissioner [of transportation] in the office of
31 (a) the state department having jurisdiction or control over such lands,
32 and (b) the department of audit and control. Thereupon any such road
33 and driveway shall be maintained and repaired under the direct super-
34 vision and control of the commissioner [of transportation] in the same
35 manner as is provided in this section for the maintenance and repair of
36 improved state highways in towns and in incorporated villages.

37 7. Whenever the head of any state department, agency, institution or
38 public benefit corporation having jurisdiction or control over the lands
39 owned and occupied by the state or such department, agency, institution
40 or public benefit corporation requests the commissioner to construct,
41 reconstruct, and/or maintain any loop or peripheral roadway which is or
42 is to be located on, around, over, or across such lands, notwithstanding
43 the provisions of any general, special or local law, the commissioner is
44 authorized to grant such request and undertake such construction, recon-
45 struction and/or maintenance. Before undertaking the work of
46 construction, reconstruction and/or maintenance of such roadways, the
47 commissioner and the head of the state department, agency, institution
48 or public benefit corporation shall enter into a written agreement,
49 subject to the approval of the director of the budget, providing the
50 funds therefor, or reimbursement by such state department, agency,
51 institution or public benefit corporation of the funds therefor, includ-
52 ing all costs incurred by the department in connection with such
53 construction, reconstruction and/or maintenance. Where such loop or
54 peripheral roadway is to be constructed, reconstructed and/or maintained
55 on lands occupied by either the state university of New York or the
56 state university construction fund, both the state university of New

1 York and the state university construction fund shall be parties to such
2 agreement. Such roadway shall be constructed, or reconstructed, to
3 mutually agreeable standards, in the same manner as state highways are
4 constructed or reconstructed pursuant to this chapter. The maintenance
5 of such roadway shall be in the same manner as provided for state high-
6 ways in this chapter. If such a maintenance agreement extends for a
7 period greater than one year, the funds shall be made available for, or
8 reimbursed, on an annual basis. The head of such state department, agen-
9 cy, institution or public benefit corporation may terminate such mainte-
10 nance agreement upon six months written notice to the commissioner
11 making provision for the department [of transportation] to be reimbursed
12 for all costs incurred by such department up to such termination date.
13 In connection with the maintenance of such a roadway the commissioner
14 shall cause an official order to be issued therefor. Such official order
15 shall contain a general description of such roadway. A certified copy of
16 such official order shall be filed by the commissioner in the office of
17 the head of the state department, agency, institution or public benefit
18 corporation making such request for maintenance and with the department
19 of audit and control.

20 S 4. This act shall take effect immediately.

21

PART C

22 Section 1. Section 351 of the public health law, subdivision 1 as
23 amended by chapter 83 of the laws of 1975, is amended to read as
24 follows:

25 S 351. County or part-county health commissioner, PUBLIC HEALTH DIREC-
26 TOR OR COUNTY HEALTH DIRECTOR; appointment; compensation. 1. The board
27 of health of each county and part-county health district OR OTHER BODY
28 HAVING THE POWERS AND DUTIES OF A BOARD OF HEALTH OF A COUNTY OR
29 PART-COUNTY HEALTH DISTRICT or the county executive in those counties
30 where the county charter provides that said commissioner is to be
31 appointed by the county executive shall appoint a county health commis-
32 sioner, COUNTY HEALTH DIRECTOR OR, WHEN AUTHORIZED UNDER THE STATE SANI-
33 TARY CODE, PUBLIC HEALTH DIRECTOR; except, however,

34 (A) that the boards of health of not more than three county or part-
35 county health districts OR OTHER BODIES HAVING THE POWERS AND DUTIES OF
36 A BOARD OF HEALTH OF A COUNTY OR PART-COUNTY HEALTH DISTRICT may appoint
37 the same person to serve as county health commissioner, COUNTY HEALTH
38 DIRECTOR OR, WHEN AUTHORIZED BY THE STATE SANITARY CODE, PUBLIC HEALTH
39 DIRECTOR for said health districts, if the total population of health
40 districts is not in excess of one hundred fifty thousand according to
41 the latest federal decennial census, provided the approval of the
42 commissioner is obtained[.]; OR

43 [The] (B) THE board of health OR OTHER BODY HAVING THE POWERS AND
44 DUTIES OF A BOARD OF HEALTH OF A COUNTY OR PART-COUNTY HEALTH DISTRICT
45 of any county health district with a population of less than thirty-five
46 thousand [population] according to the latest federal decennial census
47 may appoint the same person employed by a contiguous county or part-
48 county health district to serve as county health commissioner, COUNTY
49 HEALTH DIRECTOR OR, WHEN AUTHORIZED BY THE STATE SANITARY CODE, PUBLIC
50 HEALTH DIRECTOR without regard to the total population of both health
51 districts, provided the approval of the commissioner is obtained.

52 [2.] THE COMMISSIONER SHALL PERIODICALLY REVIEW HIS OR HER DETERMI-
53 NATION TO ENSURE SUCH EMPLOYMENT OF THE SAME COUNTY HEALTH DIRECTOR,
54 DIRECTOR OF PUBLIC HEALTH OR COUNTY HEALTH COMMISSIONER CONTINUES TO

1 SERVE THE INTEREST OF PUBLIC HEALTH AND MAY TERMINATE HIS OR HER
2 APPROVAL AT HIS OR HER DISCRETION.

3 2. IF THE COMMISSIONER HAS APPROVED THE APPOINTMENT OF THE SAME PERSON
4 TO SERVE AS THE COUNTY COMMISSIONER OF HEALTH OR PUBLIC HEALTH DIRECTOR
5 OF MORE THAN ONE COUNTY OR PART-COUNTY HEALTH DISTRICT PURSUANT TO
6 SUBDIVISION ONE OF THIS SECTION, THEN DURING THE CONTINUATION OF SUCH
7 APPROVAL THE COMMISSIONER MAY ALSO AUTHORIZE THE SAME MEMBERS TO BE
8 APPOINTED TO THE BOARD OF HEALTH OF EACH RESPECTIVE HEALTH DISTRICT,
9 NOTWITHSTANDING THEIR RESIDENCY IN THE OTHER COUNTY.

10 3. ANY BOARDS OF HEALTH OR OTHER BODIES HAVING THE POWERS AND DUTIES
11 OF A BOARD OF HEALTH OF A COUNTY OR PART-COUNTY HEALTH DISTRICT HAVING
12 THE SAME MEMBERS SHALL ANNUALLY SUBMIT SUCH INFORMATION AND REPORTS
13 REGARDING THE EFFECT OF SUCH EMPLOYMENT ON ADMINISTRATION OF THE RESPEC-
14 TIVE HEALTH DISTRICTS AND THE PROVISION OF PUBLIC HEALTH SERVICES AS THE
15 COMMISSIONER MAY REQUIRE. THE COMMISSIONER SHALL USE SUCH INFORMATION IN
16 DETERMINING WHETHER SUCH COMMON MEMBERSHIP CONTINUES TO SERVE THE INTER-
17 EST OF PUBLIC HEALTH.

18 4. The county health commissioner OR PUBLIC HEALTH DIRECTOR shall
19 possess such qualifications for office as are prescribed in the sanitary
20 code.

21 [3.] 5. The county health commissioner OR PUBLIC HEALTH DIRECTOR shall
22 serve for a term of six years and shall not be removed during the term
23 for which he OR SHE shall have been appointed, except upon written
24 charges after a hearing and upon notice.

25 [4.] 6. The county health commissioner OR PUBLIC HEALTH DIRECTOR shall
26 receive such compensation as may be fixed by the board of supervisors
27 OR, IF THE COMMISSIONER'S APPROVAL HAS BEEN OBTAINED FOR THE EMPLOYMENT
28 OF THE SAME PERSON AS THE COUNTY HEALTH COMMISSIONER OR PUBLIC HEALTH
29 DIRECTOR PURSUANT TO SUBDIVISION ONE OF THIS SECTION, BY THE BOARDS OF
30 SUPERVISORS.

31 S 2. This act shall take effect immediately.

32

PART D

33 Section 1. Subdivision 1 of section 103 of the general municipal law,
34 as amended by chapter 741 of the laws of 2005, is amended to read as
35 follows:

36 1. Except as otherwise expressly provided by an act of the legislature
37 or by a local law adopted prior to September first, nineteen hundred
38 fifty-three, all contracts for public work involving an expenditure of
39 more than [twenty] THIRTY-FIVE thousand dollars and all purchase
40 contracts involving an expenditure of more than ten thousand dollars,
41 shall be awarded by the appropriate officer, board or agency of a poli-
42 tical subdivision or of any district therein including but not limited
43 to a soil conservation district, to the lowest responsible bidder
44 furnishing the required security after advertisement for sealed bids in
45 the manner provided by this section. In any case where a responsible
46 bidder's gross price is reducible by an allowance for the value of used
47 machinery, equipment, apparatus or tools to be traded in by a political
48 subdivision, the gross price shall be reduced by the amount of such
49 allowance, for the purpose of determining the low bid. In cases where
50 two or more responsible bidders furnishing the required security submit
51 identical bids as to price, such officer, board or agency may award the
52 contract to any of such bidders. Such officer, board or agency may, in
53 his or its discretion, reject all bids and readvertise for new bids in
54 the manner provided by this section. For purposes of this section,

1 "sealed bids", as that term applies to purchase contracts, shall include
2 bids submitted in an electronic format, provided that the governing
3 board of the political subdivision or district, by resolution, has
4 authorized the receipt of bids in such format. Submission in electronic
5 format may not, however, be required as the sole method for the
6 submission of bids. Bids submitted in an electronic format shall be
7 transmitted by bidders to the receiving device designated by the poli-
8 tical subdivision or district. Any method used to receive electronic
9 bids shall comply with article three of the state technology law, and
10 any rules and regulations promulgated and guidelines developed there-
11 under and, at a minimum, must (a) document the time and date of receipt
12 of each bid received electronically; (b) authenticate the identity of
13 the sender; (c) ensure the security of the information transmitted; and
14 (d) ensure the confidentiality of the bid until the time and date estab-
15 lished for the opening of bids. The timely submission of an electronic
16 bid in compliance with instructions provided for such submission in the
17 advertisement for bids and/or the specifications shall be the responsi-
18 bility solely of each bidder or prospective bidder. No political subdi-
19 vision or district therein shall incur any liability from delays of or
20 interruptions in the receiving device designated for the submission and
21 receipt of electronic bids.

22 S 2. This act shall take effect immediately, provided, however that
23 the amendments to subdivision 1 of section 103 of the general municipal
24 law made by section one of this act shall not affect the expiration of
25 such subdivision and shall be deemed to expire therewith.

26

PART E

27 Section 1. Section 2431 of the public authorities law is amended by
28 adding a new closing paragraph to read as follows:

29 IT IS FURTHER DECLARED TO BE IN THE PUBLIC INTEREST AND IT IS THE
30 POLICY OF THE STATE TO PROVIDE A MEANS BY WHICH A MUNICIPALITY IN THE
31 STATE CAN TAKE ADVANTAGE OF THE OPPORTUNITIES FOR BORROWING TO PROVIDE
32 FOR PUBLIC IMPROVEMENTS AFFORDED BY THE AMERICAN RECOVERY AND REINVEST-
33 MENT ACT OF 2009 AND TO DO SO BY AUTHORIZING A STATE INSTRUMENTALITY TO
34 BORROW MONEY AND USE THE PROCEEDS TO PURCHASE OBLIGATIONS ISSUED BY A
35 MUNICIPALITY UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009,
36 THEREBY RESULTING IN EFFICIENCIES AND INTEREST RATE SAVINGS TO THE MUNI-
37 CIPALITY.

38 S 2. Subdivisions 2, 3 and 10 of section 2432 of the public authori-
39 ties law, as amended by section 67 of part H of chapter 83 of the laws
40 of 2002, are amended, and two new subdivisions 25 and 26 are added to
41 read as follows:

42 (2) "Bonds" and "Notes". The bonds and notes, including any special
43 program bonds [and], special school purpose bonds, AND RECOVERY ACT
44 BONDS, respectively issued by the agency pursuant to this title. Bonds
45 and notes shall not include any tax lien collateralized securities
46 issued pursuant to this title.

47 (3) "Municipal Bond". A bond or note or evidence of debt payable from
48 any local revenues, including taxes, assessments and rents, which a
49 municipality may lawfully issue to finance local improvements and public
50 purposes, INCLUDING LOCAL ARRA BONDS, but does not include (a) any bond
51 or note or evidence of debt issued by any other state or any public body
52 or municipal corporation thereof, (b) any special program agreement, or
53 (c) any special school purpose agreement or any special school deficit
54 program agreement.

1 (10) "Debt Service Reserve Fund Requirement". With respect to any debt
2 service reserve fund created by section [two thousand four] TWENTY-FOUR
3 hundred thirty-nine of this title relating to bonds other than special
4 program bonds or special school purpose bonds or special school deficit
5 program bonds OR RECOVERY ACT BONDS, as of any particular date of compu-
6 tation, an amount of money equal to the greatest of the respective
7 amounts, for the then current or any succeeding calendar year, of annual
8 debt service payments required to be made to the agency on all municipal
9 bonds purchased with the proceeds of bonds which bonds are secured by
10 such debt service reserve fund, such annual debt service payments for
11 any calendar year being an amount of money equal to the aggregate of (a)
12 all interest payable during such calendar year on all municipal bonds
13 purchased by the agency and then outstanding on said date of computation
14 which are secured by such debt service reserve fund, plus (b) the prin-
15 cipal amount of all municipal bonds purchased by the agency and then
16 outstanding on said date of computation which mature during such calen-
17 dar year and are secured by such debt service reserve fund; and with
18 respect to any debt service reserve fund created by section [two thou-
19 sand four] TWENTY-FOUR hundred thirty-nine of this title relating to an
20 issue or issues of special program bonds or special school purpose bonds
21 or special school deficit program bonds OR RECOVERY ACT BONDS, such
22 amount as shall be determined by the agency.

23 (25) "RECOVERY ACT BONDS". AN ISSUE OF BONDS OF THE AGENCY, ALL OR A
24 PORTION OF THE PROCEEDS OF WHICH ARE USED TO PURCHASE LOCAL ARRA BONDS.

25 (26) "LOCAL ARRA BONDS". A MUNICIPAL BOND ISSUED TO FINANCE OR REFI-
26 NANCE PURPOSES ELIGIBLE, IN WHOLE OR IN PART, FOR SUBSIDIES OR TAX CRED-
27 ITS UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009.

28 S 3. Section 2434 of the public authorities law is amended by adding a
29 new subdivision 7-b to read as follows:

30 (7-B) TO ACQUIRE AND CONTRACT TO ACQUIRE LOCAL ARRA BONDS, AND TO
31 ENTER INTO ARRANGEMENTS WITH A MUNICIPALITY FOR THE PURCHASE OF ITS
32 LOCAL ARRA BONDS;

33 S 4. Subdivisions 1 and 2 of section 2435 of the public authorities
34 law, subdivision 1 as amended by chapter 346 of the laws of 1974, subdivi-
35 sion 2 as added by chapter 902 of the laws of 1972, are amended to
36 read as follows:

37 1. The agency may purchase, and contract to purchase, municipal bonds
38 from municipalities at such price or prices, upon such terms and condi-
39 tions and in such manner, not inconsistent with the provisions of the
40 local finance law, as the agency shall deem advisable; provided, howev-
41 er, that the average interest rate payable on all municipal bonds (taken
42 as a group) purchased with the proceeds of an issue of bonds shall equal
43 or exceed the interest rate on such issue of bonds[; and provided
44 further, however, that the]. THE agency shall not purchase the municipal
45 bonds of any municipality if (I) the aggregate principal amount thereof,
46 together with the aggregate principal balances of the municipal bonds of
47 such municipality then outstanding and held by the agency, exceed an
48 amount equal to ten percent of the aggregate principal amount of the
49 statutory authorization at the time for the issuance of bonds and notes,
50 as provided in section twenty-four hundred thirty-eight of this title,
51 and [the agency shall not purchase the municipal bonds of any municipi-
52 pality if] (II) the aggregate principal amount thereof exceeds an amount
53 equal to fifty percent of the aggregate principal amount of all municipi-
54 pal bonds proposed to be so purchased at the time; PROVIDED, HOWEVER,
55 THAT THIS SENTENCE SHALL NOT APPLY TO LOCAL ARRA BONDS.

1 2. The agency shall require as a condition of purchase of municipal
2 bonds from municipalities that each such municipality shall agree (i) to
3 pledge its full faith and credit for the payment of the principal of and
4 interest on such municipal bonds, (ii) to make annual appropriations for
5 amounts required for the payment of such principal and interest, and
6 (iii) if at any time the municipality fails to make the required appro-
7 priation to pay such principal and interest, or fails to make the
8 payment of the required principal and interest, the provisions of
9 section twenty-four hundred [and] thirty-six AND/OR TWENTY-FOUR HUNDRED
10 THIRTY-SIX-B of this title shall take effect. All municipalities selling
11 municipal bonds to the agency are hereby authorized to make and carry
12 out the agreements with the agency required in this subdivision.

13 S 5. The public authorities law is amended by adding a new section
14 2436-b to read as follows:

15 S 2436-B. LOCAL ARRA BONDS. (1) THE AGENCY MAY PURCHASE LOCAL ARRA
16 BONDS USING THE PROCEEDS OF RECOVERY ACT BONDS, SUBJECT TO THE
17 PROVISIONS OF THIS SECTION AND TO ANY OTHER PROVISION OF LAW APPLICABLE
18 TO THE MUNICIPALITY AND BONDS IT ISSUES, INCLUDING ANY DEBT LIMITATION
19 APPLICABLE TO THE MUNICIPALITY THAT ISSUED THE LOCAL ARRA BOND, AS WELL
20 AS TO THE OTHER PROVISIONS OF THIS TITLE. TO THE EXTENT THAT ANY SUCH
21 OTHER PROVISION OF LAW CONFLICTS WITH A PROVISION OF THIS SECTION, THE
22 PROVISION OF THIS SECTION SHALL CONTROL, EXCEPT AS OTHERWISE STATED.

23 (2) SUBJECT TO THE PROVISIONS OF THIS SECTION:

24 (A) LOCAL ARRA BONDS ISSUED BY A COUNTY, EXCEPT A COUNTY WHOLLY WITHIN
25 A CITY, MAY BE ADDITIONALLY SECURED BY A PLEDGE TO THE AGENCY OF ITS
26 AVAILABLE COUNTY SALES TAX REVENUES SUBJECT TO THE PROVISIONS OF SUBDI-
27 VISION FIVE OF THIS SECTION.

28 (B) LOCAL ARRA BONDS ISSUED BY A CITY MAY BE ADDITIONALLY SECURED BY A
29 PLEDGE TO THE AGENCY OF ITS AVAILABLE CITY SALES TAX REVENUES OR ITS
30 AVAILABLE MORTGAGE RECORDING TAX REVENUES, OR BOTH SUBJECT TO THE
31 PROVISIONS OF SUBDIVISION FIVE OF THIS SECTION.

32 (C) LOCAL ARRA BONDS ISSUED BY A TOWN MAY BE ADDITIONALLY SECURED BY A
33 PLEDGE TO THE AGENCY OF ITS AVAILABLE MORTGAGE RECORDING TAX REVENUES
34 SUBJECT TO THE PROVISIONS OF SUBDIVISION FIVE OF THIS SECTION.

35 (D) LOCAL ARRA BONDS ISSUED BY A VILLAGE MAY BE ADDITIONALLY SECURED
36 BY A PLEDGE TO THE AGENCY OF ITS AVAILABLE MORTGAGE RECORDING TAX REVEN-
37 UES SUBJECT TO THE PROVISIONS OF SUBDIVISION FIVE OF THIS SECTION.

38 (3) (A) NOTHING CONTAINED IN THIS TITLE SHALL LIMIT THE RIGHT AND
39 OBLIGATIONS OF A MUNICIPALITY TO COMPLY WITH THE PROVISIONS OF ANY
40 EXISTING CONTRACT WITH OR FOR THE BENEFIT OF THE HOLDERS OF ANY OF ITS
41 OTHER BONDS, NOTES OR OTHER OBLIGATIONS.

42 (B) NOTHING CONTAINED IN THIS TITLE SHALL BE CONSTRUED TO LIMIT THE
43 POWER OF A MUNICIPALITY TO DETERMINE, FROM TIME TO TIME, WITHIN AVAIL-
44 ABLE FUNDS FOR THE MUNICIPALITY, THE PURPOSES FOR WHICH EXPENDITURES ARE
45 TO BE MADE BY THE MUNICIPALITY AND THE AMOUNTS OF SUCH EXPENDITURES.

46 (C) NOTHING CONTAINED IN THIS TITLE SHALL ALTER, LIMIT, MODIFY OR
47 IMPAIR THE RIGHT OF ANY SCHOOL DISTRICT OR OF ANY CITY, TOWN, OR VILLAGE
48 WITHIN A COUNTY TO RECEIVE FROM THE COUNTY NET COLLECTIONS, AS AUTHOR-
49 IZED BY SECTION TWELVE HUNDRED SIXTY-TWO OF THE TAX LAW OR OTHER APPLI-
50 CABLE PROVISION OF PART FOUR OF ARTICLE TWENTY-NINE OF THE TAX LAW OR BY
51 AN UNCONSOLIDATED STATE LAW THAT NOTWITHSTANDS SUCH PROVISION OF THE TAX
52 LAW, FROM THE COUNTY'S SALES AND COMPENSATING USE TAXES IMPOSED PURSUANT
53 TO THE AUTHORITY OF SUBPART B OF PART ONE OF ARTICLE TWENTY-NINE OF THE
54 TAX LAW. FURTHER, NOTHING CONTAINED IN THIS TITLE SHALL ALTER, LIMIT,
55 MODIFY OR IMPAIR THE RIGHT OF ANY CITY OR TOWN WITHIN A COUNTY TO
56 RECEIVE FROM THE COUNTY THE NET AMOUNT OF MORTGAGE RECORDING TAX REVEN-

1 UES IMPOSED BY SUBDIVISION ONE OF SECTION TWO HUNDRED FIFTY-THREE OF THE
2 TAX LAW, AS AUTHORIZED BY SUBDIVISION THREE OF SECTION TWO HUNDRED
3 SIXTY-ONE OF THE TAX LAW.

4 (D) THE AGENCY'S RECOVERY ACT BONDS SECURED BY PAYMENTS OF PRINCIPAL
5 AND INTEREST DUE WITH RESPECT TO LOCAL ARRA BONDS SHALL NOT BE A DEBT OF
6 EITHER THE STATE OR ANY MUNICIPALITY, AND NEITHER THE STATE NOR ANY
7 MUNICIPALITY SHALL BE LIABLE THEREON, NOR SHALL THEY BE PAYABLE OUT OF
8 ANY FUNDS OTHER THAN THOSE OF THE AGENCY; AND SUCH RECOVERY ACT BONDS
9 SHALL CONTAIN ON THE FACE THEREOF A STATEMENT TO SUCH EFFECT.

10 (E) SUBJECT TO THE PROVISIONS OF ANY CONTRACT WITH HOLDERS OF BONDS,
11 NOTES OR OTHER OBLIGATIONS, PROCEEDS OF RECOVERY ACT BONDS TO BE PAID TO
12 A MUNICIPALITY TO PURCHASE ITS LOCAL ARRA BONDS SHALL BE PAID TO THE
13 MUNICIPALITY AND SHALL NOT BE COMMINGLED WITH ANY OTHER MONEY OF THE
14 AGENCY.

15 (F) NOTHING CONTAINED IN THIS TITLE SHALL BE CONSTRUED TO CREATE A
16 DEBT OF THE STATE WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY
17 PROVISIONS. ANY PROVISION WITH RESPECT TO STATE AID SHALL BE DEEMED
18 EXECUTORY ONLY TO THE EXTENT OF MONEYS AVAILABLE, AND NO LIABILITY SHALL
19 BE INCURRED BY THE STATE BEYOND THE MONEYS AVAILABLE FOR THAT PURPOSE,
20 AND ANY PAYMENT TO BE MADE BY THE COMPTROLLER OF STATE AID IS SUBJECT TO
21 ANNUAL APPROPRIATION OF STATE AID BY THE STATE LEGISLATURE.

22 (G) NOTHING CONTAINED IN THIS TITLE SHALL BE DEEMED TO RESTRICT THE
23 RIGHT OF THE STATE TO AMEND, REPEAL, MODIFY, OR OTHERWISE ALTER ANY
24 PROVISION OF LAW RELATING TO STATE AID TO MUNICIPALITIES. THE AGENCY
25 SHALL INCLUDE IN ANY RESOLUTION, CONTRACT, OR AGREEMENT WITH HOLDERS OF
26 ITS BONDS, NOTES OR OTHER OBLIGATIONS A PROVISION WHICH STATES THAT NO
27 DEFAULT OCCURS AS A RESULT OF THE STATE'S EXERCISING ITS RIGHT TO AMEND,
28 REPEAL, MODIFY, OR OTHERWISE ALTER ANY PROVISION OF LAW RELATING TO
29 STATE AID TO MUNICIPALITIES.

30 (4) (A) A MUNICIPALITY MAY COVENANT AND AGREE THAT THE MUNICIPALITY
31 WILL NOT LIMIT, ALTER OR IMPAIR THE RIGHTS HEREBY VESTED IN THE AGENCY
32 TO FULFILL THE TERMS OF ANY AGREEMENTS MADE WITH HOLDERS OF THE AGENCY'S
33 RECOVERY ACT BONDS, THE PROCEEDS OF WHICH WERE USED TO PURCHASE THE
34 MUNICIPALITY'S LOCAL ARRA BONDS, SUCH HOLDERS PURSUANT TO THIS TITLE, OR
35 IN ANY WAY IMPAIR THE RIGHTS AND REMEDIES OF SUCH HOLDERS OR THE SECURI-
36 TY FOR SUCH BONDS, UNTIL SUCH BONDS, TOGETHER WITH THE INTEREST THEREON
37 AND ALL COSTS AND EXPENSES IN CONNECTION WITH ANY ACTION OR PROCEEDING
38 BY OR ON BEHALF OF SUCH HOLDERS, ARE FULLY PAID AND DISCHARGED. NOTHING
39 CONTAINED IN THIS TITLE SHALL BE DEEMED TO RESTRICT ANY RIGHT OF THE
40 MUNICIPALITY TO AMEND, MODIFY, REPEAL OR OTHERWISE ALTER ANY LOCAL LAWS,
41 ORDINANCES OR RESOLUTIONS IMPOSING OR RELATING TO TAXES OR FEES, OR
42 APPROPRIATIONS RELATING TO SUCH TAXES OR FEES, OR SETTING ASIDE OR ALLO-
43 CATING AND APPLYING, PAYING OR USING NET COLLECTIONS PURSUANT TO THE
44 AUTHORITY OF PART FOUR OF ARTICLE TWENTY-NINE OF THE TAX LAW OR PURSUANT
45 TO THE AUTHORITY OF ANY OTHER PROVISION OF STATE LAW THAT NOTWITHSTANDS
46 A PROVISION OF SUCH PART, SO LONG AS, AFTER GIVING EFFECT TO SUCH AMEND-
47 MENT, MODIFICATION OR OTHER ALTERATION, THE AGGREGATE AMOUNT AS THEN
48 PROJECTED BY THE MUNICIPALITY OF (I) SALES AND COMPENSATING USE TAXES
49 IMPOSED BY THE MUNICIPALITY PURSUANT TO THE AUTHORITY OF SUBPART B OF
50 PART ONE OF ARTICLE TWENTY-NINE OF THE TAX LAW (TO THE EXTENT THAT THE
51 MUNICIPALITY IS AUTHORIZED TO IMPOSE SUCH TAXES AND IS IMPOSING THEM AT
52 THE TIME IT ISSUES ITS LOCAL ARRA BONDS); AND (II) ALL SUCH NET
53 COLLECTIONS TO BE SET ASIDE OR TO BE ALLOCATED AND APPLIED, PAID OR USED
54 BY THE MUNICIPALITY PURSUANT TO THE AUTHORITY OF PART FOUR OF ARTICLE
55 TWENTY-NINE OF THE TAX LAW OR PURSUANT TO ANY OTHER PROVISION OF STATE
56 LAW THAT NOTWITHSTANDS A PROVISION OF SUCH PART FOUR DURING EACH OF THE

1 AGENCY'S FISCAL YEARS FOLLOWING THE EFFECTIVE DATE OF SUCH AMENDMENT,
2 MODIFICATION OR OTHER ALTERATION SHALL BE NOT LESS THAN TWO HUNDRED
3 PERCENT OF MAXIMUM ANNUAL DEBT SERVICE ON THE MUNICIPALITY'S LOCAL ARRA
4 BONDS THEN OUTSTANDING. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS
5 SECTION, A MUNICIPALITY THAT IMPOSES SALES AND COMPENSATING USE TAXES AT
6 THE TIME IT ISSUES LOCAL ARRA BONDS FURTHER AGREES THAT IT SHALL CONTIN-
7 UE TO IMPOSE SUCH TAXES DURING THE TIME SUCH BONDS ARE OUTSTANDING AT
8 THE MAXIMUM RATE AUTHORIZED THEREFOR, WITHOUT REGARD TO ANY ADDITIONAL
9 RATE, PROVIDED THAT ANY INCREASE IN THE RATE OF SUCH TAXES TO SATISFY
10 THIS OBLIGATION SHALL COMPLY WITH THE APPLICABLE PROVISIONS OF SUBPART B
11 OF PART ONE OF ARTICLE TWENTY-NINE OF THE TAX LAW.

12 (B) ANY SUCH AGREEMENT WITH A MUNICIPALITY MAY BE PLEDGED BY THE AGEN-
13 CY TO SECURE ITS RECOVERY ACT BONDS USED TO PURCHASE LOCAL ARRA BONDS
14 ISSUED BY THAT MUNICIPALITY AND MAY NOT BE MODIFIED THEREAFTER EXCEPT AS
15 PROVIDED BY THE TERMS OF THE PLEDGE OR SUBSEQUENT AGREEMENTS WITH THE
16 HOLDERS OF SUCH RECOVERY ACT BONDS.

17 (C) THE AGENCY SHALL NOT INCLUDE WITHIN ANY RESOLUTION, CONTRACT OR
18 AGREEMENT WITH HOLDERS OF RECOVERY ACT BONDS ANY PROVISION WHICH
19 PROVIDES THAT A DEFAULT OCCURS AS A RESULT OF A MUNICIPALITY EXERCISING
20 ITS RIGHT TO AMEND, MODIFY, REPEAL OR OTHERWISE ALTER SUCH TAXES, FEES
21 OR APPROPRIATIONS OR SUCH NET COLLECTIONS. NOTHING IN THIS TITLE SHALL
22 BE DEEMED TO OBLIGATE A MUNICIPALITY TO MAKE ANY PAYMENTS OR IMPOSE ANY
23 TAXES OR SET ASIDE OR ALLOCATE AND APPLY, PAY OR USE NET COLLECTIONS
24 PURSUANT TO THE AUTHORITY OF PART FOUR OF ARTICLE TWENTY-NINE OF THE TAX
25 LAW OR PURSUANT TO THE AUTHORITY OF AN UNCONSOLIDATED STATE LAW THAT
26 NOTWITHSTANDS A PROVISION OF SUCH PART; EXCEPT THAT A MUNICIPALITY SHALL
27 IMPOSE TAXES PURSUANT TO THE AUTHORITY OF SUBPART B OF PART ONE OF ARTI-
28 CLE TWENTY-NINE OF THE TAX LAW AT THE MAXIMUM RATE AUTHORIZED THEREFOR,
29 WITHOUT REGARD TO ANY ADDITIONAL RATE, PROVIDED THAT ANY INCREASE IN THE
30 RATE OF SUCH TAXES TO SATISFY THIS OBLIGATION SHALL COMPLY WITH THE
31 APPLICABLE PROVISIONS OF SUBPART B OF PART ONE OF ARTICLE TWENTY-NINE OF
32 THE TAX LAW.

33 (5) (A) IF A MUNICIPALITY FAILS TO PAY TO THE AGENCY ANY PRINCIPAL OR
34 INTEREST DUE ON ITS LOCAL ARRA BONDS SECURED BY A PLEDGE OF ITS AVAIL-
35 ABLE LOCAL SALES AND USE TAX REVENUES OR ITS AVAILABLE MORTGAGE RECORD-
36 ING TAX REVENUES, OR BOTH, AS DESCRIBED IN SUBDIVISION TWO OF THIS
37 SECTION, THE CHAIRMAN OF THE AGENCY SHALL NOTIFY THE COMPTROLLER IN
38 WRITING THAT SUCH MUNICIPALITY HAS FAILED TO MEET ITS OBLIGATIONS. SUCH
39 NOTICE SHALL SET FORTH IN DETAIL THE TERM, AMOUNT, INTEREST RATE, AND
40 PAYMENT SCHEDULE OF THE LOCAL ARRA BONDS IN DEFAULT, AND THE EXACT
41 AMOUNTS OF PRINCIPAL AND INTEREST DUE FROM SUCH MUNICIPALITY IN DEFAULT.
42 THE AGENCY SHALL PROVIDE A COPY OF SUCH NOTICE TO THE CHIEF FISCAL OFFI-
43 CER OF SUCH MUNICIPALITY IN DEFAULT AND, IN THE CASE OF A DEFAULT BY A
44 CITY, TOWN, OR VILLAGE WITH RESPECT TO LOCAL ARRA BONDS SECURED BY MORT-
45 GAGE RECORDING TAX REVENUES, ALSO TO THE CHIEF FISCAL OFFICER OF THE
46 COUNTY IN WHICH THE CITY, TOWN, OR VILLAGE IS LOCATED. THE AGENCY SHALL
47 PROVIDE SUCH NOTICE TO THE COMPTROLLER AT LEAST THIRTY DAYS PRIOR TO THE
48 DATE THAT THE COMPTROLLER IS EXPECTED TO WITHHOLD AND PAY OVER LOCAL
49 SALES AND USE TAX REVENUES TO THE AGENCY.

50 (B) UPON THE COMPTROLLER RECEIVING SUCH COMPLETE, CERTIFIED WRITTEN
51 NOTICE FROM THE AGENCY, THE COMPTROLLER SHALL, NOTWITHSTANDING ANY
52 PROVISION OF SECTION TWELVE HUNDRED SIXTY-ONE OF THE TAX LAW TO THE
53 CONTRARY, PAY TO THE AGENCY, ON OR BEFORE THE FIFTEENTH DAY OF EACH
54 MONTH, ALL OR A PORTION OF THE LOCAL SALES AND USE TAX REVENUES DUE THE
55 MUNICIPALITY IN DEFAULT, UNTIL THE AMOUNT CERTIFIED IN DEFAULT HAS BEEN
56 EXTINGUISHED. THE COMPTROLLER SHALL MAKE SUCH PAYMENTS TO THE AGENCY

ONLY OUT OF NET COLLECTIONS NOT OTHERWISE PLEDGED, REQUIRED TO BE INTERCEPTED OR OTHERWISE ENCUMBERED BY PROVISIONS OF LAW IN EFFECT IMMEDIATELY PRIOR TO THE DATE THE MUNICIPALITY'S LOCAL ARRA BONDS SECURED BY A PLEDGE AUTHORIZED BY THIS SECTION SHALL HAVE BEEN ISSUED.

(C) UPON RECEIVING SUCH COMPLETE, CERTIFIED WRITTEN NOTICE FROM THE AGENCY, THE CHIEF FISCAL OFFICER OF A COUNTY, NOTWITHSTANDING THE PROVISIONS OF SECTION TWO HUNDRED SIXTY-ONE OF THE TAX LAW, SHALL PAY OVER TO THE COMPTROLLER, THE NET AMOUNT OF MORTGAGE RECORDING TAX REVENUES IMPOSED BY SUBDIVISION ONE OF SECTION TWO HUNDRED FIFTY-THREE OF THE TAX LAW DUE TO THE CITY, TOWN, OR VILLAGE IN DEFAULT. THE CHIEF FISCAL OFFICER OF THE COUNTY SHALL CONTINUE TO MAKE THOSE PAYMENTS TO THE COMPTROLLER UNTIL THE AGENCY SENDS CERTIFIED NOTICE TO THE OFFICER AND TO THE COMPTROLLER THAT THE CITY OR TOWN IS NO LONGER IN DEFAULT. THE COMPTROLLER SHALL PAY TO THE AGENCY, ON OR BEFORE THE FIFTEENTH DAY OF EACH MONTH, ALL OR A PORTION OF THE MORTGAGE RECORDING TAX REVENUES RECEIVED FROM THE CHIEF FISCAL OFFICER OF THE COUNTY, UNTIL THE AMOUNT CERTIFIED IN DEFAULT HAS BEEN EXTINGUISHED.

(D) SUCH PAYMENTS BY THE COMPTROLLER TO THE AGENCY SHALL BE MADE ON ACCOUNT OF, AND FOR THE BENEFIT OF, THE MUNICIPALITY IN DEFAULT. IF SO REQUESTED BY THE AGENCY, AS INDICATED IN ITS CERTIFIED NOTICE TO THE COMPTROLLER, THE COMPTROLLER SHALL MAKE SUCH PAYMENTS TO A TRUSTEE PURSUANT TO AN INDENTURE FOR HOLDERS OF THE RECOVERY ACT BONDS ISSUED BY THE AGENCY THAT WERE USED TO PURCHASE THE MUNICIPALITY'S LOCAL ARRA BONDS IN DEFAULT. SUCH PAYMENTS BY THE COMPTROLLER ON BEHALF OF SUCH MUNICIPALITY SHALL BE APPLIED BY THE AGENCY OR, IF PAID DIRECTLY TO THE TRUSTEE, BY SUCH TRUSTEE, TO CURE THAT MUNICIPALITY'S DEFAULT. TO THE EXTENT THE COMPTROLLER MAKES ANY SUCH PAYMENT TO THE AGENCY OR TO SUCH A TRUSTEE, THE MUNICIPALITY'S DEFAULT SHALL BE CURED.

(E) THE COMPTROLLER SHALL NOT BE RESPONSIBLE FOR ANY INACCURACY IN THE AMOUNT OF SUCH PAYMENTS BASED UPON THE NOTICE FURNISHED BY THE AGENCY. THE COMPTROLLER SHALL NOT BE REQUIRED TO MAKE PAYMENTS UNDER THIS SUBDIVISION WHICH ARE GREATER THAN THE AMOUNTS OF LOCAL SALES AND USE TAX REVENUES DUE THE MUNICIPALITY, AS CERTIFIED TO THE COMPTROLLER BY THE COMMISSIONER OF TAXATION AND FINANCE AS PROVIDED IN SUBDIVISION (C) OF SECTION TWELVE HUNDRED SIXTY-ONE OF THE TAX LAW (SUBJECT TO THE LIMITATION IN PARAGRAPH (B) OF THIS SUBDIVISION), OR WHICH ARE GREATER THAN THE AMOUNT OF NET MORTGAGE RECORDING TAX REVENUES PAID TO THE COMPTROLLER BY THE CHIEF FISCAL OFFICER OF THE COUNTY. AFTER THE COMPTROLLER MAKES ANY PAYMENTS OF NET COLLECTIONS REQUIRED UNDER THIS SECTION, THE COMPTROLLER SHALL PAY ANY BALANCE OF NET COLLECTIONS DUE SUCH MUNICIPALITY TO SUCH MUNICIPALITY IN THE MANNER PROVIDED IN SUBDIVISION (C) OF SECTION TWELVE HUNDRED SIXTY-ONE OF THE TAX LAW OR OTHER APPLICABLE LAW. THE COMPTROLLER SHALL BE REQUIRED TO MAKE PAYMENTS UNDER THIS SECTION FOR ONLY SO LONG AS THE MUNICIPALITY IS IN DEFAULT AS CERTIFIED IN THE AGENCY'S NOTICE TO THE COMPTROLLER.

(F) THE AUTHORITY IN THIS SECTION TO WITHHOLD LOCAL SALES AND USE TAX REVENUES AND MORTGAGE RECORDING TAX REVENUES AND PAY THEM OVER TO THE AGENCY SHALL BE IN ADDITION TO THE STATE AID GUARANTY SET FORTH IN SECTION TWENTY FOUR HUNDRED THIRTY-SIX OF THIS TITLE; AND THE AGENCY MAY CERTIFY THAT EITHER OR BOTH REVENUE SOURCES MAY BE WITHHELD TO THE EXTENT NECESSARY TO SATISFY THE MUNICIPALITY'S UNMET OBLIGATIONS TO THE AGENCY.

(G) ANY WITHHOLDING OF REVENUES PURSUANT TO THIS SUBDIVISION OR STATE AID PURSUANT TO SECTION TWENTY-FOUR HUNDRED THIRTY-SIX OF THIS TITLE WITH RESPECT TO LOCAL ARRA BONDS SHALL BE MADE IN CONSULTATION WITH THE DIRECTOR OF THE BUDGET OF THE STATE; PROVIDED, HOWEVER, SUCH CONSULTA-

1 TION SHALL NOT DELAY OR OTHERWISE ADVERSELY AFFECT THE AGENCY'S RIGHT TO
2 RECEIVE TIMELY PAYMENT OF SUCH REVENUES AND/OR STATE AID.

3 (6) WHEN USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE
4 FOLLOWING MEANINGS UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

5 (A) "SALES AND COMPENSATING USE TAXES" MEANS TAXES IMPOSED BY A COUNTY
6 OR CITY PURSUANT TO THE AUTHORITY OF SUBPART B OF PART ONE OF ARTICLE
7 TWENTY-NINE OF THE TAX LAW.

8 (B) "NET COLLECTIONS" SHALL HAVE THE SAME MEANING AS IN SUBDIVISION
9 (F) OF SECTION TWELVE HUNDRED SIXTY-TWO OF THE TAX LAW.

10 (C) "COUNTY SALES TAX REVENUES" MEANS NET COLLECTIONS SET ASIDE FOR
11 COUNTY PURPOSES PURSUANT TO SUBDIVISION (A) OF SECTION TWELVE HUNDRED
12 SIXTY-TWO OF THE TAX LAW OR OTHER APPLICABLE PROVISION OF PART FOUR OF
13 ARTICLE TWENTY-NINE OF THE TAX LAW, FROM A COUNTY'S SALES AND COMPENSAT-
14 ING USE TAXES.

15 (D) "CITY SALES TAX REVENUES" MEANS NET COLLECTIONS FROM A CITY'S
16 SALES AND COMPENSATING USE TAXES.

17 (E) "MUNICIPALITY" MEANS MUNICIPALITY AS DEFINED IN PARAGRAPH ONE OF
18 SECTION 2.00 OF THE LOCAL FINANCE LAW.

19 (F) "LOCAL SALES AND USE TAX REVENUES" MEANS ANY OF THE TAX REVENUES
20 DEFINED IN PARAGRAPH (C) OR (D) OF THIS SUBDIVISION, OR ANY COMBINATION
21 OF THEM, AS THE CASE MAY BE.

22 (G) "SECURE" MEANS A PLEDGE OF SALES AND COMPENSATING USE TAXES OR
23 MORTGAGE RECORDING TAXES FOR THE PURPOSES OF DEFAULT BY A MUNICIPALITY
24 AS A RESULT OF A FAILURE TO PAY DEBT SERVICE ON ITS LOCAL ARRA BONDS.

25 S 6. Subdivision 5 of section 2437 of the public authorities law, as
26 amended by section 73 of part H of chapter 83 of the laws of 2002, is
27 amended to read as follows:

28 (5) Any bonds or notes of the agency other than special program bonds,
29 special school purpose bonds [or], special school deficit program bonds
30 OR RECOVERY ACT BONDS shall be sold at public sale and from time to time
31 upon such terms and at such prices as may be determined by the agency,
32 and the agency may pay all expenses, premiums and commissions which it
33 may deem necessary or advantageous in connection with the issuance and
34 sale thereof. Any special program bonds, special school purpose bonds
35 [or], special school deficit program bonds OR RECOVERY ACT BONDS shall
36 be sold at public or private sale and from time to time upon such terms
37 and at such prices as may be determined by the agency, and the agency
38 may pay all expenses, premiums and commissions which it may deem neces-
39 sary or advantageous in connection with the issuance and sale thereof
40 provided, however, that special program bonds relating to a special
41 program agreement entered for the purpose described in paragraph (b) of
42 subdivision one of section twenty-four hundred thirty-five-a of this
43 title shall be sold on or before June thirtieth, two thousand one. No
44 special program bonds, special school purpose bonds [or], special school
45 deficit program bonds, OR RECOVERY ACT BONDS of the agency may be sold
46 by the agency at private sale, however, unless such sale and the terms
47 thereof have been approved in writing by (a) the comptroller, where such
48 sale is not to the comptroller, or (b) the director of the budget, where
49 such sale is to the comptroller.

50 S 7. Subdivision 1 of section 2438 of the public authorities law, as
51 amended by section 24 of part A4 of chapter 58 of the laws of 2006, is
52 amended to read as follows:

53 (1) The agency shall not issue bonds and notes in an aggregate princi-
54 pal amount at any one time outstanding exceeding one billion dollars,
55 excluding tax lien collateralized securities, special school purpose
56 bonds, special school deficit program bonds, special program bonds

1 issued to finance the reconstruction, rehabilitation or renovation of an
2 educational facility pursuant to the provisions of subdivision (b) of
3 section sixteen of chapter six hundred five of the laws of two thousand,
4 special program bonds issued to finance the cost of a project for
5 design, reconstruction or rehabilitation of a school building pursuant
6 to the provisions of section fourteen of the city of Syracuse and the
7 board of education of the city school district of the city of Syracuse
8 cooperative school reconstruction act, RECOVERY ACT BONDS and bonds and
9 notes issued to refund outstanding bonds and notes.

10 S 8. Section 2442 of the public authorities law, as amended by chapter
11 203 of the laws of 2000, is amended to read as follows:

12 S 2442. Agreement of the state. (1) The state of New York does hereby
13 pledge to and agree with the holders of any bonds, notes or tax lien
14 collateralized securities issued under this title that the state will
15 not limit or alter the rights hereby vested in the agency to fulfill the
16 terms of any agreements made with the holders thereof, or in any way
17 impair the rights and remedies of such holders until such bond, notes or
18 tax lien collateralized securities together with the interest thereon,
19 with interest on any unpaid installments of interest, and all costs and
20 expenses in connection with any action or proceedings by or on behalf of
21 such holders, are fully met and discharged. The agency is authorized to
22 include this pledge and agreement of the state in any agreement with the
23 holders of such bonds, notes or tax lien collateralized securities.
24 NOTHING CONTAINED IN THIS TITLE SHALL BE DEEMED TO RESTRICT ANY RIGHT OF
25 THE STATE TO AMEND, MODIFY, REPEAL OR OTHERWISE ALTER (A) ANY PROVISION
26 OF LAW RELATING TO STATE AID, OR (B) STATUTES IMPOSING OR RELATING TO
27 TAXES OR FEES, OR (C) APPROPRIATIONS RELATING THERETO.

28 (2) THE AGENCY SHALL NOT INCLUDE WITHIN ANY RESOLUTION, CONTRACT OR
29 AGREEMENT WITH HOLDERS OF THE BONDS, NOTES OR OTHER OBLIGATIONS ISSUED
30 UNDER THIS TITLE ANY PROVISION WHICH PROVIDES THAT A DEFAULT OCCURS AS A
31 RESULT OF THE STATE EXERCISING ITS RIGHT TO AMEND, MODIFY, OR REPEAL OR
32 OTHERWISE ALTER (A) ANY PROVISION OF LAW RELATING TO STATE AID; OR (B)
33 STATUTES IMPOSING OR RELATING TO TAXES OR FEES, OR (C) APPROPRIATIONS
34 RELATING THERETO. NOTHING IN THIS TITLE SHALL BE DEEMED TO OBLIGATE THE
35 STATE TO MAKE ANY PAYMENTS OR IMPOSE ANY TAXES TO SATISFY THE DEBT
36 SERVICE OBLIGATIONS OF THE AGENCY.

37 S 9. Section 85.80 of the local finance law, as amended by chapter 777
38 of the laws of 1978, is amended to read as follows:

39 S 85.80 Authority for municipality or emergency financial control
40 board to file petition under federal statute. A municipality or its
41 emergency financial control board in addition to, or in lieu of, filing
42 a petition under this title, or the city of New York or the New York
43 state financial control board, may file any petition with any United
44 States district court or court of bankruptcy under any provision of the
45 laws of the United States, now or hereafter in effect, for the composi-
46 tion or adjustment of municipal indebtedness. Nothing contained in this
47 title shall be construed to limit the authorization granted by this
48 section. HOWEVER, NO MUNICIPALITY SHALL FILE ANY PETITION AUTHORIZED BY
49 THIS SECTION FOR SO LONG AS ITS LOCAL ARRA BONDS, AS DEFINED IN SECTION
50 TWENTY-FOUR HUNDRED THIRTY-TWO OF THE PUBLIC AUTHORITIES LAW, PURCHASED
51 BY THE STATE OF NEW YORK MUNICIPAL BOND BANK AGENCY AND SECURED BY ITS
52 PLEDGE OF TAX REVENUES PURSUANT TO THE AUTHORITY OF SECTION TWENTY-FOUR
53 HUNDRED THIRTY-SIX-B OF THE PUBLIC AUTHORITIES LAW REMAIN OUTSTANDING.

54 S 10. Subdivision 1 of section 51 of the public authorities law is
55 amended by adding a new paragraph m to read as follows:

1 M. STATE OF NEW YORK MUNICIPAL BOND BANK AGENCY FOR BONDS ISSUED
2 PURSUANT TO SECTION TWO THOUSAND FOUR HUNDRED THIRTY-SIX-B OF THIS CHAP-
3 TER

4 S 11. Section 51 of the public authorities law is amended by adding a
5 new subdivision 3-a to read as follows:

6 3-A. THE BOARD SHALL NOT APPROVE RECOVERY ACT BONDS APPLICATIONS
7 PROVIDED BY THE STATE OF NEW YORK MUNICIPAL BOND BANK AGENCY UNLESS THE
8 BOARD FINDS SUFFICIENT INTEREST RATE AND OTHER SAVINGS TO EACH PARTIC-
9 IPATING MUNICIPALITY.

10 S 12. Section 2976 of the public authorities law is amended by adding
11 a new subdivision 4 to read as follows:

12 4. THE PROVISIONS OF SUBDIVISIONS ONE AND TWO OF THIS SECTION SHALL
13 NOT APPLY TO RECOVERY ACT BONDS ISSUED BY THE STATE OF NEW YORK MUNICI-
14 PAL BOND BANK AGENCY IN CONNECTION WITH LOCAL AMERICAN RECOVERY AND
15 REINVESTMENT ACT PURSUANT TO SECTION TWO THOUSAND FOUR HUNDRED
16 THIRTY-SIX-B OF THIS CHAPTER.

17 S 13. This act shall take effect immediately.

18 PART F

19 Section 1. Subdivisions (a) and (b) of section 4545 of the civil prac-
20 tice law and rules are REPEALED.

21 S 2. Subdivision (c) of section 4545 of the civil practice law and
22 rules, as added by chapter 220 of the laws of 1986, is amended to read
23 as follows:

24 [(c)] (A) Actions for personal injury, injury to property or wrongful
25 death. In any action brought to recover damages for personal injury,
26 injury to property or wrongful death, where the plaintiff seeks to
27 recover for the cost of medical care, dental care, custodial care or
28 rehabilitation services, loss of earnings or other economic loss,
29 evidence shall be admissible for consideration by the court to establish
30 that any such past or future cost or expense was or will, with reason-
31 able certainty, be replaced or indemnified, in whole or in part, from
32 any collateral source [such as insurance (], except for life insur-
33 ance)], social security (except those benefits provided under title
34 XVIII of the social security act), workers' compensation or employee
35 benefit programs (except such collateral sources entitled by law to
36 liens against any recovery of the plaintiff)] AND THOSE PAYMENTS AS TO
37 WHICH THERE IS A STATUTORY RIGHT OF REIMBURSEMENT. If the court finds
38 that any such cost or expense was or will, with reasonable certainty, be
39 replaced or indemnified from any SUCH collateral source, it shall reduce
40 the amount of the award by such finding, minus an amount equal to the
41 premiums paid by the plaintiff for such benefits for the two-year period
42 immediately preceding the accrual of such action and minus an amount
43 equal to the projected future cost to the plaintiff of maintaining such
44 benefits. In order to find that any future cost or expense will, with
45 reasonable certainty, be replaced or indemnified by the collateral
46 source, the court must find that the plaintiff is legally entitled to
47 the continued receipt of such collateral source, pursuant to a contract
48 or otherwise enforceable agreement, subject only to the continued
49 payment of a premium and such other financial obligations as may be
50 required by such agreement. ANY COLLATERAL SOURCE DEDUCTION REQUIRED BY
51 THIS SUBDIVISION SHALL BE MADE BY THE TRIAL COURT AFTER THE RENDERING OF
52 THE JURY'S VERDICT. THE PLAINTIFF MAY PROVE HIS OR HER LOSSES AND
53 EXPENSES AT THE TRIAL IRRESPECTIVE OF WHETHER SUCH SUMS WILL LATER HAVE
54 TO BE DEDUCTED FROM THE PLAINTIFF'S RECOVERY.

1 S 3. Subdivision (d) of section 4545 of the civil practice law and
2 rules is relettered subdivision (b).

3 S 4. Subdivision (e) of rule 4111 of the civil practice law and rules
4 is REPEALED.

5 S 5. Subdivision (f) of rule 4111 of the civil practice law and rules,
6 as amended by chapter 100 of the laws of 1994, is relettered subdivision
7 (e) and amended to read as follows:

8 (e) Itemized verdict in certain actions. In an action brought to
9 recover damages for personal injury, injury to property or wrongful
10 death, which is not subject to [subdivisions] SUBDIVISION (d) [and (e)]
11 of this rule, the court shall instruct the jury that if the jury finds a
12 verdict awarding damages, it shall in its verdict specify the applicable
13 elements of special and general damages upon which the award is based
14 and the amount assigned to each element including, but not limited to,
15 medical expenses, dental expenses, loss of earnings, impairment of earn-
16 ing ability, and pain and suffering. Each element shall be further item-
17 ized into amounts intended to compensate for damages that have been
18 incurred prior to the verdict and amounts intended to compensate for
19 damages to be incurred in the future. In itemizing amounts intended to
20 compensate for future damages, the jury shall set forth the period of
21 years over which such amounts are intended to provide compensation. In
22 actions in which article fifty-A or fifty-B of this chapter applies, in
23 computing said damages, the jury shall be instructed to award the full
24 amount of future damages, as calculated, without reduction to present
25 value.

26 S 6. Subdivision (b) of section 4213 of the civil practice law and
27 rules, as separately amended by chapters 485 and 682 of the laws of
28 1986, is amended to read as follows:

29 (b) Form of decision. The decision of the court may be oral or in
30 writing and shall state the facts it deems essential. In [a medical,
31 dental or podiatric malpractice action or in an action against a public
32 employer or a public employee who is subject to indemnification by a
33 public employer with respect to such action or both, as such terms are
34 defined in subdivision (b) of section forty-five hundred forty-five, for
35 personal injury or wrongful death arising out of an injury sustained by
36 a public employee while acting within the scope of his public employment
37 or duties, and in] any [other] action brought to recover damages for
38 personal injury, injury to property, or wrongful death, a decision
39 awarding damages shall specify the applicable elements of special and
40 general damages upon which the award is based and the amount assigned to
41 each element, including but not limited to medical expenses, dental
42 expenses, podiatric expenses, loss of earnings, impairment of earning
43 ability, and pain and suffering. In a medical, dental or podiatric malp-
44 ractice action, [and in any other action brought to recover damages for
45 personal injury, injury to property, or wrongful death, each element
46 shall be further itemized into amounts intended to compensate for
47 damages which have been incurred prior to the decision and amounts
48 intended to compensate for damages to be incurred in the future. In
49 itemizing amounts intended to compensate for future damages, the court
50 shall set forth the period of years over which such amounts are intended
51 to provide compensation. In computing said damages, the court shall
52 award the full amount of future damages, as calculated, without
53 reduction to present value] COMMENCED ON OR AFTER JULY TWENTY-SIXTH, TWO
54 THOUSAND THREE, THE COURT'S DECISION AS TO FUTURE DAMAGES SHALL BE ITEM-
55 IZED IN ACCORDANCE WITH SUBDIVISION (D) OF RULE FORTY-ONE HUNDRED ELEVEN
56 OF THIS CHAPTER. IN ANY ACTION BROUGHT TO RECOVER DAMAGES FOR PERSONAL

1 INJURY, INJURY TO PROPERTY OR WRONGFUL DEATH, OTHER THAN A MEDICAL,
2 DENTAL OR PODIATRIC MALPRACTICE ACTION COMMENCED ON OR AFTER JULY TWEN-
3 TY-SIXTH, TWO THOUSAND THREE, THE COURT'S DECISION AS TO FUTURE DAMAGES
4 SHALL BE ITEMIZED IN ACCORDANCE WITH SUBDIVISION (E) OF RULE FORTY-ONE
5 HUNDRED ELEVEN OF THIS CHAPTER.

6 S 7. Section 5-101 of the general obligations law is amended by adding
7 a new subdivision 4 to read as follows:

8 4. AS USED IN SECTION 5-335 OF THIS ARTICLE, THE TERM "BENEFIT PROVID-
9 ER" MEANS ANY INSURER, HEALTH MAINTENANCE ORGANIZATION, HEALTH BENEFIT
10 PLAN, PREFERRED PROVIDER ORGANIZATION, EMPLOYEE BENEFIT PLAN OR OTHER
11 ENTITY WHICH PROVIDES FOR PAYMENT OR REIMBURSEMENT OF HEALTH CARE
12 EXPENSES, HEALTH CARE SERVICES, DISABILITY PAYMENTS, LOST WAGE PAYMENTS
13 OR ANY OTHER BENEFITS UNDER A POLICY OF INSURANCE OR CONTRACT WITH AN
14 INDIVIDUAL OR GROUP.

15 S 8. The general obligations law is amended by adding a new section
16 5-335 to read as follows:

17 S 5-335. LIMITATION OF NON-STATUTORY REIMBURSEMENT AND SUBROGATION
18 CLAIMS IN PERSONAL INJURY AND WRONGFUL DEATH ACTIONS. (A) WHEN A PLAIN-
19 TIFF SETTLES WITH ONE OR MORE DEFENDANTS IN AN ACTION FOR PERSONAL INJU-
20 RIES, MEDICAL, DENTAL, OR PODIATRIC MALPRACTICE, OR WRONGFUL DEATH, IT
21 SHALL BE CONCLUSIVELY PRESUMED THAT THE SETTLEMENT DOES NOT INCLUDE ANY
22 COMPENSATION FOR THE COST OF HEALTH CARE SERVICES, LOSS OF EARNINGS OR
23 OTHER ECONOMIC LOSS TO THE EXTENT THOSE LOSSES OR EXPENSES HAVE BEEN OR
24 ARE OBLIGATED TO BE PAID OR REIMBURSED BY A BENEFIT PROVIDER, EXCEPT FOR
25 THOSE PAYMENTS AS TO WHICH THERE IS A STATUTORY RIGHT OF REIMBURSEMENT.
26 BY ENTERING INTO ANY SUCH SETTLEMENT, A PLAINTIFF SHALL NOT BE DEEMED TO
27 HAVE TAKEN AN ACTION IN DEROGATION OF ANY NONSTATUTORY RIGHT OF ANY
28 BENEFIT PROVIDER THAT PAID OR IS OBLIGATED TO PAY THOSE LOSSES OR
29 EXPENSES; NOR SHALL A PLAINTIFF'S ENTRY INTO SUCH SETTLEMENT CONSTITUTE
30 A VIOLATION OF ANY CONTRACT BETWEEN THE PLAINTIFF AND SUCH BENEFIT
31 PROVIDER.

32 EXCEPT WHERE THERE IS A STATUTORY RIGHT OF REIMBURSEMENT, NO PARTY
33 ENTERING INTO SUCH A SETTLEMENT SHALL BE SUBJECT TO A SUBROGATION CLAIM
34 OR CLAIM FOR REIMBURSEMENT BY A BENEFIT PROVIDER AND A BENEFIT PROVIDER
35 SHALL HAVE NO LIEN OR RIGHT OF SUBROGATION OR REIMBURSEMENT AGAINST ANY
36 SUCH SETTLING PARTY, WITH RESPECT TO THOSE LOSSES OR EXPENSES THAT HAVE
37 BEEN OR ARE OBLIGATED TO BE PAID OR REIMBURSED BY SAID BENEFIT PROVIDER.

38 (B) THIS SECTION SHALL NOT APPLY TO A SUBROGATION CLAIM FOR RECOVERY
39 OF ADDITIONAL FIRST-PARTY BENEFITS PROVIDED PURSUANT TO ARTICLE
40 FIFTY-ONE OF THE INSURANCE LAW. THE TERM "ADDITIONAL FIRST-PARTY BENE-
41 FITS", AS USED IN THIS SUBDIVISION, SHALL HAVE THE SAME MEANING GIVEN IT
42 IN SECTION 65-1.3 OF TITLE 11 OF THE CODES, RULES AND REGULATIONS OF THE
43 STATE OF NEW YORK AS OF THE EFFECTIVE DATE OF THIS STATUTE.

44 S 9. This act shall take effect immediately and shall apply to all
45 actions and proceedings commenced on or after such date; provided,
46 however, that sections four through eight of this act shall also apply
47 to any action or proceeding which was commenced prior to such effective
48 date where, as of such date, either (a) a trial of the issues has not
49 yet commenced, or (b) the parties have not yet entered into a stipu-
50 lation of settlement.

51 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
52 sion, section or part of this act shall be adjudged by any court of
53 competent jurisdiction to be invalid, such judgment shall not affect,
54 impair, or invalidate the remainder thereof, but shall be confined in
55 its operation to the clause, sentence, paragraph, subdivision, section
56 or part thereof directly involved in the controversy in which such judg-

1 ment shall have been rendered. It is hereby declared to be the intent of
2 the legislature that this act would have been enacted even if such
3 invalid provisions had not been included herein.
4 S 3. This act shall take effect immediately provided, however, that
5 the applicable effective date of Parts A through F of this act shall be
6 as specifically set forth in the last section of such Parts.