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

10100

I N A S S E M B L Y

May 3, 2012

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

AN ACT to authorize the county of Rockland to finance a certain deficit by the issuance of bonds and to amend the tax law, in relation to authorizing the imposition of an additional rate of sales and compensating use taxes to fund such bonds

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

Section 1. The county of Rockland is hereby authorized to issue bonds on or before December 31, 2013 in an aggregate principal amount not to exceed eighty million dollars ($80,000,000) for the specific object or purpose of liquidating the projected accumulated deficit in the general fund of such county for the fiscal year ended December 31, 2011. In anticipation of the issuance of the bonds authorized to be issued by this act, the issuance and sale of bond anticipation notes are hereby authorized.

S 2. Notwithstanding any provision of this act to the contrary, the county of Rockland shall not issue any bonds for the purpose of liquidating the projected deficit unless and until the amounts thereof are reviewed and determined by the state comptroller. The county of Rockland shall prepare a report detailing the amount and cause of such deficit and submit such report together with the county's independent audit report for its last completed fiscal year, if any such audit report has been or is to be prepared, and such other information as the state comptroller may deem necessary, to the state comptroller, as well as the chairs of the senate finance committee and the assembly ways and means committee, at least 30 days prior to the issuance of any bonds pursuant to this act. Within 30 days after receiving such report, the state comptroller shall perform such reviews as may be necessary to determine the amount of such deficit and report the same to the chairs of the senate finance committee and the assembly ways and means committee, the county executive and the legislature of the county of Rockland. Bonds to liquidate such deficit shall not be issued in an amount exceeding such deficit as determined by the state comptroller. Nothing provided in this act

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

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shall prevent the county of Rockland from authorizing the issuance of bonds or bond anticipation notes, and issuing bond anticipation notes, prior to the determination of the state comptroller of the amount of such deficit. In the event bond anticipation notes are issued in an amount in excess of the amounts determined by the state comptroller, the county of Rockland shall redeem from funds other than the proceeds of the bonds or bond anticipation notes, such bond anticipation notes in the amount by which the amount of bond anticipation notes exceeds the amount of such deficit as determined by the state comptroller.

S 3. It is hereby determined that the financing of the deficit hereinbefore described is a purpose of the county of Rockland for which indebtedness may be incurred, the period of probable usefulness of which is hereby determined to be 10 years, computed from the date of such bonds or from the date of the first bond anticipation note issued in anticipation of the sale of such bonds, whichever date is earlier. Such bonds and/or bond anticipation notes shall be general obligations of the county of Rockland to which the faith and credit of the county is pledged, and the county shall make an annual appropriation sufficient to pay the principal of and interest on such obligations as the same shall be come due.

S 4. Except as provided in this act, the provisions of the local finance law shall be applicable to the authorization, sale and issuance of the bonds and bond anticipation notes authorized to be issued by this act.

S 5. (a) For each fiscal year occurring during the time bonds and/or bond anticipation notes issued pursuant to this act are outstanding, the county executive of the county of Rockland or such other officer or officers as he or she may designate shall prepare a quarterly report of summarized budget data depicting overall trends of actual revenues and budget expenditures for the entire budget rather than individual line items. Such budgetary reports shall compare revenue estimates and appropriations as set forth in such budget with the actual revenues and expenditures made to date. All such quarterly budgetary reports shall be accompanied by recommendations of the county executive of the county of Rockland setting forth any remedial action necessary or desirable to resolve any unfavorable budget variance including the over-estimation of revenues and the under-estimation of expenditures. Each such quarterly budgetary report shall be completed within 30 days after the end of each quarter and shall be submitted to the legislature of the county of Rockland, the director of the division of the budget, the state comptroller, and the chairs of the senate finance committee and the assembly ways and means committee.

(b) For each fiscal year occurring during the time bonds and/or bond anticipation notes issued pursuant to this act are outstanding, the county executive of the county of Rockland or such other officer or officers as he or she may designate shall also prepare a quarterly trial balance of general and special fund ledger accounts. Each such quarterly trial balance shall be prepared in accordance with generally accepted accounting principles. Each such quarterly trial balance shall be completed within 30 days after the end of each quarterly period and shall be submitted to each member of the legislature of the county of Rockland, the director of the division of the budget, the state comptroller, and the chairs of the senate finance committee and the assembly ways and means committee.

(c) For the fiscal year beginning January 1, 2012 and for each fiscal year thereafter during which such debt or any debt incurred to refund

such debt is outstanding, the county executive of the county of Rockland or other officer or officers responsible for the preparation of the tentative budget shall submit the tentative budget for the next succeeding fiscal year to the state comptroller simultaneously with submission of such budget to the county legislature on or before the 23rd day of October in accordance with the charter of the county. Submission of such budget to the state comptroller in electronic form shall be sufficient for compliance with this section. The state comptroller shall examine such proposed budget and make such recommendations as deemed appropriate thereon to the county legislature no more than 20 days after the date of submission of such budget to the state comptroller. Such recommendations shall be made after examination into the estimates of revenues and expenditures of the county of Rockland. The legislature of the county of Rockland, no later than 5 days prior to the adoption of the budget, shall review any such recommendations and may make adjustments to its proposed budget consistent with any recommendations made by the state comptroller. Any recommendations that the legislature rejects shall be explained in writing to the state comptroller. The action or inaction of the state comptroller under this section shall not be construed to affect the legal validity of the budget of the county of Rockland nor to affect the powers or duties of the county of Rockland with respect to the local budget; provided, however, that the county of Rockland may not issue bonds for any object or purpose unless and until adjustments to its proposed budget, consistent with any recommendations made by the state comptroller, are made, or any such recommendations that are rejected have been explained in writing to the state comptroller.

(d) Within 90 days of the issuance of any debt pursuant to this act and for each fiscal year thereafter, during which such debt or any debt incurred to refund such debt is outstanding, the county executive of the county of Rockland or other officer or officers responsible for the preparation of the tentative budget of the county of Rockland, within 30 days after the final adoption of the budget for the next succeeding fiscal year shall prepare a 3 year financial plan covering the next succeeding fiscal year and the 2 fiscal years thereafter. The financial plan shall, at a minimum, contain the information required to be provided in a 3-year financial plan as prescribed by subdivision 10 of section 54 of the state finance law. Copies of the financial plan shall be provided to the county executive and chief fiscal officer of the county of Rockland, the director of the budget, the state comptroller, the chair of the assembly ways and means committee and the chair of the senate finance committee. This financial plan requirement shall not apply to the extent the county of Rockland is subject to a different multi-year financial plan requirement under state or local law.

(e) For each fiscal year occurring during the time bonds and/or bond anticipation notes issued pursuant to this act are outstanding, the chief fiscal officer of the county of Rockland shall notify the state comptroller at least 15 days prior to the issuance of any bonds or notes or entering into any installment purchase contract and the state comptroller may review and make recommendations regarding the affordability to the county of Rockland of any such proposed issuance or contract. The state comptroller may require the submission by the county of Rockland of such information as the state comptroller shall deem necessary to complete his or her review.

S 6. To facilitate the marketing of the bonds and/or bond anticipation notes authorized to be issued by this act, the county of Rockland may, notwithstanding any limitations on the private sales of bonds otherwise

provided by law, and subject to approval by the state comptroller of the terms and conditions of such sales, arrange for the underwriting or other sale of its bonds and/or bond anticipation notes at private sale upon negotiated terms and conditions which may include reasonable underwriting or placement fees or discounts. The costs of such underwriting or sale shall be deemed preliminary costs for purposes of section 11.00 of the local finance law.

S 7. Clause 23 of subparagraph (i) of the opening paragraph of section 1210 of the tax law, as amended by chapter 124 of the laws of 2011, is amended to read as follows:

(23) the county of Rockland is hereby further authorized and empowered to adopt and amend local laws, ordinances or resolutions imposing such taxes at a rate which is: (i) five-eights of one percent additional to the three percent rate authorized above in this paragraph for such county for the period beginning March first, two thousand two, and ending November thirtieth, two thousand thirteen; and also (ii) at a rate which is three-eighths of one percent additional to the three percent rate authorized above in this paragraph, and which is also additional to the five-eights of one percent rate also authorized above in this clause for such county, for the period beginning March first, two thousand seven and ending November thirtieth, two thousand thirteen; AND ALSO (III) AN ADDITIONAL THREE-EIGHTHS OF ONE PERCENT IN ADDITION TO THE OTHER RATES AUTHORIZED IN THIS PARAGRAPH FOR SUCH COUNTY FOR THE PERIOD BEGINNING SEPTEMBER FIRST, TWO THOUSAND TWELVE AND ENDING NOVEMBER THIRTIETH, TWO THOUSAND TWENTY-TWO;

S 8. (a) The legislature of the county of Rockland, acting by resolution approved by the county executive, shall contract with a bank or trust company located and authorized to do business in this state for the purpose of having such bank or trust company act, in connection with the issuance of bonds and/or bond anticipation notes issued pursuant to this act, as the fiscal agent for the county in accordance with section 70.00 of the local finance law and this act. Upon the issuance of any debt pursuant to this act, the legislature of the county of Rockland shall establish and thereafter maintain a debt service fund with such fiscal agent for the purpose of paying with respect to each fiscal year occurring during the time bonds and/or bond anticipation notes issued pursuant to this act are outstanding, the amounts required for the timely payment of: (i) all principal due or becoming due and payable in said year with respect to any bonds issued pursuant to this act and all principal amortization for said year required by law with respect to bond anticipation notes issued pursuant to this act; (ii) all interest due or becoming due and payable in said year with respect to any such bonds or bond anticipation notes; and (iii) all sinking fund contributions required in said year with respect to any sinking fund bonds issued pursuant to this act. Such debt service fund shall be discontinued upon the payment of all principal and interest due with respect to any such bonds and/or bond anticipation notes issued pursuant to this act.

(b) The chief fiscal officer of the county of Rockland shall deposit and pay into the debt service fund all sales and compensating use tax revenues recognized for the fiscal years ended December 31, 2013 and thereafter from the additional three-eighths of one percent of such taxes imposed pursuant to clause 23 of subparagraph (i) of the opening paragraph of section 1210 of the tax law, as amended by section seven of this act for the period beginning September 1, 2012 and ending November 30, 2022.

(c) The moneys in the debt service fund shall be invested in the manner provided by section 11 of the general municipal law, provided, however, that the investments shall be made for and on behalf of the county of Rockland by the fiscal agent upon instructions from the chief fiscal officer of such county which shall be consistent with such county's investment policy adopted pursuant to section 39 of the general municipal law.

(d) The fiscal agent shall from time to time during each fiscal year withdraw from the debt service fund all amounts required for the payment as the same becomes due of scheduled debt service payments on all outstanding bonds or notes issued pursuant to this act and shall cause the amounts so withdrawn to be applied only to such payments as and when due. After the date the fiscal agent has made payment of all such amounts due for each such fiscal year and retained any amounts necessary to make payments of such scheduled debt service for the immediately succeeding fiscal year, any balance remaining in the debt service fund shall be paid by such fiscal agent to the chief fiscal officer of the county of Rockland to be used only for the payment of principal and interest due in such fiscal year or the immediately succeeding fiscal year with respect to outstanding bonds and/or bond anticipation notes issued by the county for capital project financing purposes.

(e) The special debt service fund and all monies or securities therein or payable thereto in accordance with this section is hereby declared to be county of Rockland property devoted to essential governmental purposes and accordingly, shall not be applied to any purpose other than as provided herein and shall not be subject to any order, judgment, lien, execution, attachment, setoff or counterclaim by any creditor of the county of Rockland other than a creditor for whose benefit such fund is established and maintained and entitled thereto under and pursuant to this act.

S 9. The state does hereby pledge to and agree with the holders of any bonds, notes or other obligations issued by the county of Rockland pursuant to this act and secured by such a pledge that the state will not limit, alter or impair the rights hereby vested in such county to fulfill the terms of any agreements made with such holders pursuant to this act, or in any way impair the rights and remedies of such holders or the security for such bonds, notes or other obligations until such bonds, notes or other obligations together with the interest thereon and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully paid and discharged. The county of Rockland is authorized to include this pledge and agreement of the state in any agreement with the holders of such bonds, notes or other obligations. Nothing contained in this act shall be deemed to: (a) obligate the state to make any payments or impose any taxes to satisfy the debt service obligations of such county; or (b) create a debt of the state within the meaning of any constitutional or statutory provisions.

S 10. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgement shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

S 11. This act shall take effect immediately.