

3794

2011-2012 Regular Sessions

I N A S S E M B L Y

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Introduced by M. of A. MORELLE, LAVINE, WEPRIN, COLTON, DESTITO, PAULIN, CAHILL, SCHROEDER, CRESPO, MILLMAN, GALEF, REILLY, GABRYSZAK, SCHIMEL -- Multi-Sponsored by -- M. of A. BING, JEFFRIES, MARKEY, McENENY, M. MILLER -- read once and referred to the Committee on Ways and Means

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

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

1 Section 1. The state finance law is amended by adding a new article
2 3-A to read as follows:

3 ARTICLE 3-A

4 BUDGETING ACCORDING TO GENERALLY
5 ACCEPTED ACCOUNTING PRINCIPLES

6 SECTION 35. DEFINITIONS.

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

9 37. NEW YORK STATE GOVERNMENTAL ACCOUNTING REVIEW BOARD.

10 S 35. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING WORDS AND
11 TERMS SHALL HAVE THE FOLLOWING MEANINGS UNLESS THE CONTEXT SHALL INDI-
12 CATE ANOTHER OR DIFFERENT MEANING OR INTENT.

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

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

18 3. "GENERALLY ACCEPTED ACCOUNTING PRINCIPLES" MEANS THE SET OF
19 ACCOUNTING PRINCIPLES FOR FINANCIAL REPORTING ESTABLISHED BY THE FINAN-
20 CIAL ACCOUNTING STANDARDS ADVISORY BOARD AND GOVERNED BY THE AMERICAN
21 INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS FOR FEDERAL REPORTING ENTI-
22 TIES.

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

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

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

7 S 36. DEVELOPMENT OF THE EXECUTIVE BUDGET SUBMISSION AND ENACTED BUDG-
8 ET. 1. FOR FISCAL YEARS BEGINNING ON AND AFTER APRIL FIRST, TWO THOU-
9 SAND TWELVE, THE EXECUTIVE BUDGET SUBMISSION AND THE ENACTED BUDGET
10 COVERING ALL EXPENDITURES OTHER THAN CAPITAL ITEMS SHALL BE PREPARED AND
11 BALANCED SO THE RESULTS THEREOF WOULD NOT SHOW A DEFICIT WHEN REPORTED
12 IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

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

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

25 2. THE BOARD SHALL HAVE THE FOLLOWING FUNCTIONS:

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

31 B. TO HEAR PETITIONS FROM THE GOVERNOR OR LEGISLATURE WITH RELATION TO
32 MODIFYING OR EXEMPTING THE EXECUTIVE BUDGET SUBMISSION OR THE ENACTED
33 BUDGET FROM THE BALANCED BUDGET REQUIREMENT OF SECTION THIRTY-SIX OF
34 THIS ARTICLE OR FROM THE REQUIREMENTS OF ANY NEW OR EXISTING GOVERN-
35 MENTAL ACCOUNTING STANDARDS, BOARD STATEMENTS, INTERPRETATIONS, TECHNI-
36 CAL BULLETINS, AND CONCEPT STATEMENTS; AND

37 C. TO DETERMINE WHETHER IMMEDIATE COMPLIANCE WITH THE PROVISIONS OF
38 SECTION THIRTY-SIX OF THIS ARTICLE WILL HAVE A MATERIAL EFFECT ON STATE
39 BUDGETS OVER A TIME PERIOD INSUFFICIENT TO ACCOMMODATE THE EFFECT WITH-
40 OUT A SUBSTANTIAL ADVERSE IMPACT ON THE DELIVERY OF ESSENTIAL SERVICES,
41 AND, UPON SUCH DETERMINATION, TO AUTHORIZE AND APPROVE A METHOD OF PHAS-
42 ING THE REQUIREMENTS OF THIS SECTION INTO SUCH BUDGETS OVER SUCH REASON-
43 ABLY EXPEDITIOUS TIME PERIOD AS THE BOARD DEEMS APPROPRIATE.

44 3. THE BOARD SHALL BE COMPRISED OF FIVE MEMBERS, ONE OF WHOM WILL
45 SERVE AS CHAIR; WHO ARE NOMINATED BY THE GOVERNOR AND APPOINTED WITH
46 ADVICE AND CONSENT OF THE SENATE. ALL OF THE APPOINTED MEMBERS SHALL BE
47 RESIDENTS OF THE STATE. SUCH APPOINTED MEMBERS SHALL SERVE A TERM OF
48 FIVE YEARS. ALL APPOINTED MEMBERS SHALL HAVE ACADEMIC OR BUSINESS EXPE-
49 RIENCE IN GOVERNMENTAL ACCOUNTING STANDARDS AND GENERALLY ACCEPTED
50 ACCOUNTING PRINCIPLES. THE BOARD SHALL ACT BY A MAJORITY QUORUM VOTE OF
51 THE ENTIRE BOARD. THE BOARD SHALL MAINTAIN A RECORD OF ITS PROCEEDINGS
52 IN SUCH FORM AS IT MAY DETERMINE, BUT SUCH RECORD SHALL INDICATE ATTEND-
53 ANCE AND ALL VOTES CAST BY EACH MEMBER.

54 4. NOTWITHSTANDING ANY INCONSISTENT PROVISIONS OF LAW, NO OFFICER OR
55 EMPLOYEE OF THE STATE, OR POLITICAL SUBDIVISION OF THE STATE, ANY
56 GOVERNMENTAL ENTITY OPERATING ANY PUBLIC SCHOOL OR COLLEGE OR OTHER

1 PUBLIC AGENCY OR INSTRUMENTALITY OR UNIT OF GOVERNMENT WHICH EXERCISES
2 GOVERNMENTAL POWERS UNDER THE LAWS OF THE STATE, SHALL FORFEIT HIS
3 OFFICE OR EMPLOYMENT BY REASON OF HIS ACCEPTANCE OR APPOINTMENT AS A
4 MEMBER, REPRESENTATIVE, OFFICER, EMPLOYEE OR AGENT OF THE BOARD NOR
5 SHALL SERVICE AS SUCH MEMBER, OFFICER, EMPLOYEE OR AGENT OF THE BOARD BE
6 DEEMED INCOMPATIBLE OR IN CONFLICT WITH SUCH OFFICE OR EMPLOYMENT.

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

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

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

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

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

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

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

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

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

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

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

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

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

55 S 5. Separability clause. If any part or provision of this section or
56 the application thereof to any person is adjudged by a court of compe-

1 tent jurisdiction to be unconstitutional or otherwise invalid, such
2 judgment shall not affect or impair any other part or provision or the
3 application thereof to any other person, but shall be confined to such
4 part or provision.

5 S 6. This act shall take effect immediately, provided that if this act
6 shall take effect after April 1, 2012, it shall be deemed to have been
7 in effect on and after April 1, 2012.