

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

3794--A

2011-2012 Regular Sessions

I N A S S E M B L Y

January 27, 2011

Introduced by M. of A. MORELLE, LAVINE, WEPRIN, COLTON, PAULIN, CAHILL, CRESPO, MILLMAN, GALEF, REILLY, GABRYSZAK, SCHIMEL -- Multi-Sponsored by -- M. of A. JEFFRIES, MARKEY, MCENENY, M. MILLER -- read once and referred to the Committee on Ways and Means -- recommitted to the Committee on Ways and Means in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 III-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 INDICATE
12 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-

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

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1 CIAL ACCOUNTING STANDARDS ADVISORY BOARD AND GOVERNED BY THE AMERICAN
2 INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS FOR FEDERAL REPORTING ENTI-
3 TIES.

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

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

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

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

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

28 2. THE BOARD SHALL HAVE THE FOLLOWING FUNCTIONS:

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

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

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

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

1 4. NOTWITHSTANDING ANY INCONSISTENT PROVISIONS OF LAW, NO OFFICER OR
2 EMPLOYEE OF THE STATE, OR POLITICAL SUBDIVISION OF THE STATE, ANY
3 GOVERNMENTAL ENTITY OPERATING ANY PUBLIC SCHOOL OR COLLEGE OR OTHER
4 PUBLIC AGENCY OR INSTRUMENTALITY OR UNIT OF GOVERNMENT WHICH EXERCISES
5 GOVERNMENTAL POWERS UNDER THE LAWS OF THE STATE, SHALL FORFEIT HIS
6 OFFICE OR EMPLOYMENT BY REASON OF HIS ACCEPTANCE OR APPOINTMENT AS A
7 MEMBER, REPRESENTATIVE, OFFICER, EMPLOYEE OR AGENT OF THE BOARD NOR
8 SHALL SERVICE AS SUCH MEMBER, OFFICER, EMPLOYEE OR AGENT OF THE BOARD BE
9 DEEMED INCOMPATIBLE OR IN CONFLICT WITH SUCH OFFICE OR EMPLOYMENT.

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

16 6. ALL AGENCIES, AUTHORITIES, AND INSTITUTIONS OF THE STATE SHALL
17 COOPERATE WITH AND PROVIDE SUCH ASSISTANCE TO THE BOARD AS THE BOARD MAY
18 REQUEST.

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

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

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

25 (A) A DESCRIPTION OF ALL OF THE EXPENDITURES ESTIMATED TO BE MADE
26 BEFORE THE CLOSE OF THE CURRENT FISCAL YEAR AND ALL OF THE EXPENDITURES
27 PROPOSED TO BE MADE DURING THE ENSUING FISCAL YEAR, BOTH IN ACCORDANCE
28 WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AS DEFINED IN ARTICLE
29 THREE-A OF THIS CHAPTER; AND

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

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

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

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

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

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

51 (II) A DESCRIPTION OF ALL OF THE REVENUES ESTIMATED TO ACCRUE BEFORE
52 THE CLOSE OF THE CURRENT FISCAL YEAR AND DURING THE ENSUING FISCAL YEAR,
53 INCLUSIVE OF ANY REVENUES WHICH ARE EXPECTED TO RESULT FROM THE PROPOSED
54 LEGISLATION WHICH THE LEGISLATURE DEEMS NECESSARY TO PROVIDE RECEIPTS
55 SUFFICIENT TO MEET PROPOSED DISBURSEMENTS, ALL IN ACCORDANCE WITH GENER-

1 ALLY ACCEPTED ACCOUNTING PRINCIPLES AS DEFINED IN ARTICLE THREE-A OF THE
2 STATE FINANCE LAW.

3 S 5. Separability clause. If any part or provision of this section or
4 the application thereof to any person is adjudged by a court of compe-
5 tent jurisdiction to be unconstitutional or otherwise invalid, such
6 judgment shall not affect or impair any other part or provision or the
7 application thereof to any other person, but shall be confined to such
8 part or provision.

9 S 6. This act shall take effect immediately, provided that if this act
10 shall take effect after April 1, 2013, it shall be deemed to have been
11 in effect on and after April 1, 2013.