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

7265

I N S E N A T E

May 2, 2012

Introduced by Sen. OPPENHEIMER -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the general municipal law, in relation to authorizing school districts to establish and maintain self-funded insurance health care rate stabilization funds

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

Section 1. The general municipal law is amended by adding a new section 6-n-1 to read as follows:

S 6-N-1. SELF-FUNDED INSURANCE HEALTH CARE RATE STABILIZATION FUND. 1. (A) "MUNICIPAL CORPORATION," AS USED IN THIS SECTION, SHALL MEAN A MUNICIPAL CORPORATION, AS DEFINED IN SECTION TWO OF THIS CHAPTER, SCHOOL DISTRICT, EXCEPT A SCHOOL DISTRICT IN A CITY WITH A POPULATION OF ONE HUNDRED TWENTY-FIVE THOUSAND OR MORE, BOARD OF COOPERATIVE EDUCATIONAL SERVICES, FIRE DISTRICT, A DISTRICT CORPORATION AND A SPECIAL IMPROVEMENT DISTRICT GOVERNED BY A SEPARATE BOARD OF COMMISSIONERS.

(B) "JUDGMENTS", "ACTIONS" AND "CLAIMS", AS USED IN THIS SECTION, SHALL MEAN THOSE JUDGMENTS, ACTIONS AND CLAIMS AGAINST THE MUNICIPAL CORPORATION THAT ARISE OUT OF THOSE KINDS OF RISKS FOR WHICH EXPENDITURES MAY BE MADE PURSUANT TO SUBDIVISION TWO OF THIS SECTION.

2. (A) THE GOVERNING BOARD OF ANY MUNICIPAL CORPORATION MAY ESTABLISH A RESERVE FUND TO BE KNOWN AS THE SELF-FUNDED INSURANCE HEALTH CARE RATE STABILIZATION FUND. UPON THE CREATION OF THE FUND, THE MUNICIPALITY MAY MAKE EXPENDITURES FROM THE FUND FOR OFFICERS' AND EMPLOYEES' SELF-INSURANCE OF HEALTH CARE BENEFITS AND CLAIMS OF SUCH OFFICERS OR EMPLOYEES INCLUDING, BUT NOT LIMITED TO DIRECT CASH REIMBURSEMENT TO OFFICERS AND EMPLOYEES FOR HEALTH CARE EXPENSES; PROVIDED HOWEVER, THAT NO MUNICIPALITY SHALL MAKE AN EXPENDITURE FROM SUCH FUND FOR ANY LOSS, CLAIM, ACTION OR JUDGMENT FOR WHICH THE MUNICIPAL CORPORATION HAS ESTABLISHED A RESERVE FUND UNDER ANY OTHER PROVISION OF LAW.

(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, WHERE A MUNICIPAL CORPORATION HAS PREVIOUSLY ESTABLISHED A RESERVE FUND UNDER ANOTHER PROVISION OF LAW FOR A TYPE OF RISK FOR WHICH EXPENDITURES MAY BE MADE UNDER PARAGRAPH (A) OF THIS SUBDIVISION, THE MUNICIPAL CORPO-

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

LBD15193-01-2

RATION MAY, BY RESOLUTION, DISCONTINUE SUCH OTHER RESERVE FUND AND TRANSFER ANY UNEXPENDED BALANCE TO THE RESERVE FUND ESTABLISHED UNDER THIS SECTION; PROVIDED, HOWEVER, THAT TO THE EXTENT SUCH UNEXPENDED BALANCE IS SUBJECT TO ANY LIABILITIES INCURRED OR ACCRUED AGAINST THE OTHER RESERVE FUND, ANY UNEXPENDED BALANCES SO TRANSFERRED SHALL ONLY BE USED FOR SUCH INCURRED OR ACCRUED LIABILITIES INCLUDING EXPENSES IN CONNECTION THEREWITH. PRIOR TO THE DISCONTINUANCE OF THE OTHER RESERVE FUND, THE FISCAL AND LEGAL OFFICERS OF THE MUNICIPAL CORPORATION SHALL CERTIFY TO THE GOVERNING BOARD THEREOF THE AMOUNT THAT MAY BE NECESSARY TO SATISFY ALL LIABILITIES INCURRED OR ACCRUED AGAINST IT.

3. THERE MAY BE PAID INTO SUCH FUND:

(A) SUCH AMOUNTS AS MAY BE PROVIDED BY BUDGETARY APPROPRIATIONS;

(B) AMOUNTS FROM ANY OTHER FUND AUTHORIZED BY THIS CHAPTER BY RESOLUTION SUBJECT TO PERMISSIVE REFERENDUM; AND

(C) SUCH OTHER FUNDS AS MAY BE LEGALLY APPROPRIATED.

4. THE MONEYS IN SUCH FUND SHALL BE DEPOSITED AND SECURED IN THE MANNER PROVIDED BY SECTION TEN OF THIS ARTICLE. THE GOVERNING BOARD, OR THE CHIEF FISCAL OFFICER OF SUCH MUNICIPAL CORPORATION, IF THE GOVERNING BOARD SHALL DELEGATE SUCH DUTY TO HIM OR HER, MAY INVEST THE MONEYS IN SUCH FUND IN THE MANNER PROVIDED BY SECTION ELEVEN OF THIS ARTICLE. ANY INTEREST EARNED OR CAPITAL GAIN REALIZED ON THE MONEY SO DEPOSITED OR INVESTED SHALL ACCRUE TO AND BECOME PART OF SUCH FUND.

5. THE CHIEF FISCAL OFFICER SHALL ACCOUNT FOR THIS FUND SEPARATE AND APART FROM ALL OTHER FUNDS OF THE MUNICIPAL CORPORATION. SUCH ACCOUNTING SHALL SHOW: THE SOURCE, DATE AND AMOUNT OF EACH SUM PAID INTO THE FUND; THE INTEREST EARNED BY SUCH FUND; CAPITAL GAINS OR LOSSES RESULTING FROM THE SALE OF INVESTMENTS OF THIS FUND; THE ORDER, PURPOSE THEREOF, DATE AND AMOUNT OF EACH PAYMENT FROM THIS FUND; THE ASSETS OF THE FUND, INDICATING CASH BALANCE AND A SCHEDULE OF INVESTMENTS. THE CHIEF FISCAL OFFICER, WITHIN SIXTY DAYS OF THE END OF EACH FISCAL YEAR, SHALL FURNISH A DETAILED REPORT OF THE OPERATION AND CONDITION OF THIS FUND TO THE GOVERNING BOARD. THE CHIEF FISCAL OFFICER SHALL ALSO KEEP A SEPARATE ACCOUNT FOR EACH KIND OF RISK FUNDED PURSUANT TO SUBDIVISION TWO OF THIS SECTION.

6. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, MUNICIPAL CORPORATIONS SHALL NOT HAVE THE POWER TO ENTER INTO AGREEMENTS, AMONG THEMSELVES OR ONE FOR THE OTHER, TO POOL THEIR RESERVE FUND ESTABLISHED PURSUANT TO SUBDIVISION TWO OF THIS SECTION FOR THE PAYMENT OF JUDGMENTS, ACTIONS AND CLAIMS.

7. ANY ACTION OR CLAIM SHALL BE COMPROMISED OR SETTLED BY THE GOVERNING BOARD, OFFICER OR EMPLOYEE OF THE MUNICIPAL CORPORATION AUTHORIZED TO SETTLE OR COMPROMISE ACTIONS OR CLAIMS ON BEHALF OF THE MUNICIPAL CORPORATION.

8. AN EXPENDITURE MAY BE MADE FROM THIS FUND FOR THE PAYMENT OF ALL OR PART OF THE COST, INCLUDING INTEREST, OF:

(A) JUDGMENTS;

(B) ACTIONS THAT HAVE BEEN COMPROMISED OR SETTLED AND THAT HAVE BEEN APPROVED BY THE COURT IN WHICH THE ACTION OR PROCEEDING IS PENDING;

(C) CLAIMS THAT HAVE BEEN SETTLED OR COMPROMISED AND THAT HAVE BEEN APPROVED BY A JUSTICE OF THE SUPREME COURT OF THE JUDICIAL DISTRICT IN WHICH THE MUNICIPAL CORPORATION IS LOCATED; AND

(D) CLAIMS AND LIABILITIES GENERATED THROUGH THE PROVISION OF HEALTH CARE BENEFITS THROUGH SELF-INSURANCE INCLUDING, BUT NOT LIMITED TO DIRECT CASH REIMBURSEMENT TO OFFICERS AND EMPLOYEES FOR HEALTH CARE EXPENSES.

9. THE ORDER OF THE COURT OR THE JUSTICE APPROVING SUCH SETTLEMENT OR COMPROMISE MAY BE GRANTED UPON MOTION OF THE BODY, OFFICER OR EMPLOYEE OF THE MUNICIPAL CORPORATION AUTHORIZED TO DO SO, SUPPORTED BY AN AFFIDAVIT SETTING FORTH THE CAUSE OF ACTION OR CLAIM AGAINST THE MUNICIPAL CORPORATION AND ALSO SUCH OTHER INFORMATION WHICH, IN ITS OR HIS OPINION, WILL ENABLE THE COURT OR JUSTICE TO ARRIVE AT A DETERMINATION THAT SUCH COMPROMISE OR SETTLEMENT IS JUST, REASONABLE AND TO THE INTEREST OF THE MUNICIPAL CORPORATION. SUCH BODY, OFFICER OR EMPLOYEE MAY ALSO PRESENT THE AFFIDAVIT OF OTHER PERSONS IN SUPPORT OF SUCH MOTION. THE COURT OR THE JUSTICE, IN ORDER TO ARRIVE AT SUCH A DETERMINATION, MAY REQUIRE SUCH BODY, OFFICER OR EMPLOYEE TO PRESENT ADDITIONAL INFORMATION BY A SUPPLEMENTARY AFFIDAVIT OR AFFIDAVITS OR MAY REQUIRE OTHER PERSONS TO PRESENT ADDITIONAL INFORMATION BY THEIR AFFIDAVITS.

10. NOTWITHSTANDING SUBDIVISIONS SEVEN AND EIGHT OF THIS SECTION OR ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE GOVERNING BODY OF ANY MUNICIPAL CORPORATION MAY, WITHOUT JUDICIAL APPROVAL, COMPROMISE OR SETTLE ANY ACTION OR CLAIM AND MAKE AN EXPENDITURE FROM THIS FUND WHERE THE AMOUNT OF SUCH SETTLEMENT OR COMPROMISE DOES NOT EXCEED TWENTY-FIVE THOUSAND DOLLARS.

11. THE MEMBERS OF THE GOVERNING BOARD SHALL BE GUILTY OF A MISDEMEANOR IF THEY:

(A) AUTHORIZE A WITHDRAWAL FROM THIS FUND FOR ANY PURPOSE EXCEPT AS PROVIDED IN THIS SECTION; OR

(B) EXPEND ANY MONEY WITHDRAWN FROM THIS FUND FOR A PURPOSE OTHER THAN AS PROVIDED IN THIS SECTION.

12. IF, AFTER THE ESTABLISHMENT OF SUCH FUND, THE MUNICIPALITY DETERMINES THAT SUCH FUND IS NO LONGER NEEDED, THE MONEYS REMAINING IN SUCH FUND MAY BE TRANSFERRED TO ANY OTHER RESERVE FUND OF THE MUNICIPAL CORPORATION AUTHORIZED BY THIS CHAPTER THAT IS COMPRISED OF MONEYS WHICH WERE RAISED ON THE SAME TAX BASE AS THE MONEYS IN THE RESERVE FUND ESTABLISHED UNDER THIS SECTION OR SECTION THIRTY-SIX HUNDRED FIFTY-ONE OF THE EDUCATION LAW, ONLY TO THE EXTENT THAT THE MONEYS IN THIS FUND SHALL EXCEED THE SUM SUFFICIENT TO PAY ALL LIABILITIES INCURRED OR ACCRUED AGAINST IT. PRIOR TO THE DISCONTINUANCE OF SUCH FUND, THE FISCAL AND LEGAL OFFICERS OF SUCH MUNICIPAL CORPORATION SHALL CERTIFY TO THE GOVERNING BOARD THEREOF THE AMOUNT THAT MAY BE NECESSARY TO RETAIN IN SUCH FUND TO SATISFY ALL LIABILITIES INCURRED OR ACCRUED AGAINST IT AND SUCH SUM SHALL BE RETAINED IN THE FUND FOR PAYMENT OF SUCH AMOUNTS OR UNTIL LATER CERTIFIED THAT SUCH FUNDS ARE NO LONGER NEEDED.

S 2. This act shall take effect immediately.