

S. 5865

A. 8086

2013-2014 Regular Sessions

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

June 18, 2013

IN SENATE -- Introduced by Sens. MARTINS, VALESKY -- (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 M. of A. FARRELL -- (at request of the Governor) -- read once and referred to the Committee on Ways and Means

AN ACT to amend the state finance law, the local finance law and the civil service law, in relation to the financial restructuring board for local governments; and to amend the civil service law, in relation to public arbitration panels determinations of whether public employers are fiscally eligible

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

1 Section 1. Paragraph t of subdivision 10 of section 54 of the state
2 finance law, as added by section 3 of part K of chapter 57 of the laws
3 of 2011 and as relettered by section 3 of part K of chapter 55 of the
4 laws of 2013, and subparagraph (vii) as added and subparagraph (viii) as
5 renumbered by section 3-a of part K of chapter 55 of the laws of 2013,
6 is amended to read as follows:
7 t. Local government performance and efficiency program. (i) (1) Defi-
8 nitions. For the purposes of this [paragraph] SUBPARAGRAPH, "munici-
9 pality" shall mean a county, city, town, or village, but shall not
10 include the individual counties contained in the city of New York.
11 [(ii)] (2) Purpose. [There is hereby established a local government
12 performance and efficiency program.] The purpose of [this program]
13 AWARDS MADE PURSUANT TO THIS SUBPARAGRAPH is to recognize municipalities
14 that have undertaken significant and innovative actions to improve the
15 overall efficiency of governmental operations and produce quantifiable
16 recurring financial savings that reduce the municipal tax burden on
17 residents.

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

LBD12047-01-3

1 [(iii)] (3) Eligibility. All municipalities in New York state are
2 eligible to apply individually or jointly, provided however that if an
3 action was undertaken jointly, municipalities must apply jointly for
4 such an action. The actions for which they apply must already have been
5 implemented.

6 [(iv)] (4) Use of awards. Awards received [pursuant to the program]
7 shall be used by municipalities for general municipal purposes.

8 [(v)] (5) Application. The secretary of state shall develop an appli-
9 cation for municipalities seeking to receive awards and a process by
10 which the applications will be evaluated. Such application shall require
11 municipalities to demonstrate how the action for which they have applied
12 has resulted in quantifiable recurring savings, efficiencies, and perma-
13 nent improvements to municipal services. The secretary of state may
14 focus the [program] AWARDS in specific functional service areas, in
15 which case such areas of focus shall be detailed in a request for appli-
16 cations. No application shall be considered for actions that commenced
17 prior to January first, two thousand ten.

18 [(vi)] (6) Awards. The secretary of state may make awards to appli-
19 cants based on factors including, but not limited to, the amount of
20 current and future savings, the impact of such action upon the municipal
21 property tax levy, the size and complexity of the action, and the abili-
22 ty for the action to be replicated by other municipalities. Awards shall
23 only be made to municipalities for actions that have been fully imple-
24 mented, that clearly resulted in quantifiable savings and efficiencies,
25 and that produced permanent and quantifiable improvements to municipal
26 efficiency or services. The maximum amount awarded per application shall
27 not exceed the lesser of five million dollars or twenty-five dollars per
28 resident of the applying municipalities as of the most recent federal
29 decennial census, provided, however, that if the boundaries of munici-
30 palities jointly applying for such funding overlap, the residents in
31 overlapping areas shall only be counted once, and provided, further,
32 that if a county jointly applies with some but not all of the other
33 municipalities therein, only the residents in such other municipalities
34 shall be counted.

35 [(vii)] (7) Written notice shall be provided to an applicant of a
36 decision regarding the grant or denial of an award under this paragraph,
37 within thirty days after such decision.

38 [(viii)] (8) Regulation. The secretary of state shall, prior to the
39 establishment of applications, promulgate rules and regulations on the
40 [program] AWARDS, including but not limited to award eligibility crite-
41 ria and application, review and approval procedures.

42 (II)(1) DEFINITIONS. FOR THE PURPOSES OF THIS SUBPARAGRAPH, "FISCALLY
43 ELIGIBLE MUNICIPALITY" SHALL HAVE THE SAME MEANING AS "FISCALLY ELIGIBLE
44 MUNICIPALITY" AS DEFINED BY SECTION 160.05 OF THE LOCAL FINANCE LAW. FOR
45 THE PURPOSES OF THIS SUBPARAGRAPH, "FINANCIAL RESTRUCTURING BOARD FOR
46 LOCAL GOVERNMENTS" OR "BOARD" SHALL MEAN THE FINANCIAL RESTRUCTURING
47 BOARD FOR LOCAL GOVERNMENTS AS AUTHORIZED BY SECTION 160.05 OF THE LOCAL
48 FINANCE LAW.

49 (2) IN ADDITION TO AWARDS MADE PURSUANT TO SUBPARAGRAPH (I) OF THIS
50 PARAGRAPH, THE BOARD MAY AWARD FUNDING TO FISCALLY ELIGIBLE MUNICI-
51 PALITIES FOR FINANCIAL RESTRUCTURING AND RELATED PURPOSES, AS DETERMINED
52 BY THE BOARD. THIS FUNDING MAY BE STRUCTURED AS A LOAN, A GRANT, OR
53 COMBINATION THEREOF. THE AMOUNT OF SUCH FUNDING TO BE PROVIDED TO A
54 FISCALLY ELIGIBLE MUNICIPALITY, THE STRUCTURE OF SUCH FUNDING, ANY
55 CONDITIONS TO BE PLACED ON A FISCALLY ELIGIBLE MUNICIPALITY THAT ACCEPTS
56 SUCH FUNDING, AND ANY OTHER ASPECTS OF FUNDING AWARDED PURSUANT TO THIS

1 SUBPARAGRAPH SHALL BE DETERMINED BY AN AFFIRMATIVE VOTE OF A MAJORITY OF
2 THE TOTAL NUMBER OF MEMBERS OF THE BOARD AND MAY DIFFER FOR EACH AWARD
3 OF FUNDING. SUCH LOANS SHALL NOT BE BOUND BY THE LOCAL FINANCE LAW WITH
4 RESPECT TO TERMS AND REPAYMENT LIMITATIONS BUT IN NO EVENT MAY THE SUM
5 OF ALL AWARDS PURSUANT TO THIS SUBPARAGRAPH BE GREATER THAN FIVE MILLION
6 DOLLARS FOR ANY SINGLE MUNICIPALITY NOR MAY ANY LOAN BE FOR A TERM LONG-
7 ER THAN TEN YEARS. FURTHER, ANY SUCH LOANS SHALL NOT BE CONSIDERED DEBT
8 FOR PURPOSES OF CALCULATING CONSTITUTIONAL LIMIT PROVISIONS. NOTWITH-
9 STANDING ANY OTHER LAW TO THE CONTRARY, THE DIRECTOR OF THE BUDGET MAY
10 DIRECT THE STATE COMPTROLLER TO WITHHOLD ANY STATE AID PAYMENTS DUE TO A
11 FISCALLY ELIGIBLE MUNICIPALITY IN ORDER TO SATISFY THE REPAYMENT CONDI-
12 TIONS OF THE FUNDING AWARDED PURSUANT TO THIS SUBPARAGRAPH.

13 S 2. The local finance law is amended by adding a new section 160.05
14 to read as follows:

15 S 160.05. FINANCIAL RESTRUCTURING BOARD FOR LOCAL GOVERNMENTS. 1.
16 THERE SHALL BE A FINANCIAL RESTRUCTURING BOARD FOR LOCAL GOVERNMENTS
17 WHICH SHALL CONSIST OF TEN MEMBERS: THE DIRECTOR OF THE BUDGET WHO SHALL
18 BE CHAIR OF THE BOARD, THE ATTORNEY GENERAL, THE STATE COMPTROLLER, AND
19 THE SECRETARY OF STATE, EACH OF WHOM MAY DESIGNATE A REPRESENTATIVE TO
20 ATTEND SESSIONS OF THE BOARD ON HIS OR HER BEHALF, AND SIX MEMBERS
21 APPOINTED BY THE GOVERNOR, ONE OF WHOM UPON THE RECOMMENDATION OF THE
22 TEMPORARY PRESIDENT OF THE SENATE, ONE OF WHOM UPON THE RECOMMENDATION
23 OF THE SPEAKER OF THE ASSEMBLY, AND FOUR OTHER MEMBERS APPOINTED BY THE
24 GOVERNOR, ONE OF WHOM SHALL HAVE SIGNIFICANT EXPERIENCE IN MUNICIPAL
25 FINANCIAL AND RESTRUCTURING MATTERS. IN MAKING SUCH APPOINTMENTS, THE
26 GOVERNOR SHALL CONSIDER REGIONAL DIVERSITY. APPOINTEES SHALL SERVE AT
27 THE PLEASURE OF HIS OR HER APPOINTING AUTHORITY. THE APPOINTEE OF THE
28 GOVERNOR WHO HAS BEEN DESIGNATED AS HAVING SIGNIFICANT EXPERIENCE IN
29 MUNICIPAL FINANCIAL AND RESTRUCTURING MATTERS SHALL RECEIVE FAIR COMPEN-
30 SATION FOR HIS OR HER SERVICES PERFORMED PURSUANT TO THIS SECTION IN AN
31 AMOUNT TO BE DETERMINED BY THE DIRECTOR OF THE BUDGET AND ALL MEMBERS
32 SHALL BE REIMBURSED FOR ALL REASONABLE EXPENSES ACTUALLY AND NECESSARILY
33 INCURRED BY HIM OR HER IN THE PERFORMANCE OF HIS OR HER DUTIES. THE
34 BOARD SHALL HAVE THE POWER TO ACT BY AN AFFIRMATIVE VOTE OF A MAJORITY
35 OF THE TOTAL NUMBER OF MEMBERS AND SHALL RENDER ITS FINDINGS AND RECOM-
36 MENDATIONS WITHIN SIX MONTHS OF BEING REQUESTED TO ACT BY A FISCALLY
37 ELIGIBLE MUNICIPALITY. THE PROVISIONS OF SECTION SEVENTEEN OF THE PUBLIC
38 OFFICERS LAW SHALL APPLY TO MEMBERS OF THE BOARD. NO MEMBER OF THE BOARD
39 SHALL BE HELD LIABLE FOR THE PERFORMANCE OF ANY FUNCTION OR DUTY AUTHOR-
40 IZED BY THIS SECTION. THE WORK OF THE BOARD SHALL BE CONDUCTED WITH
41 SUCH STAFF AS THE DIRECTOR OF THE BUDGET, THE SECRETARY OF STATE, THE
42 ATTORNEY GENERAL AND THE STATE COMPTROLLER SHALL MAKE AVAILABLE. ALL
43 PROCEEDINGS, MEETINGS AND HEARINGS CONDUCTED BY THE BOARD SHALL BE HELD
44 IN THE CITY OF ALBANY.

45 2. A "FISCALLY ELIGIBLE MUNICIPALITY" SHALL MEAN ANY COUNTY, CITY,
46 EXCLUDING A CITY WITH A POPULATION GREATER THAN ONE MILLION, TOWN, OR
47 VILLAGE THAT THE BOARD, ON A CASE BY CASE BASIS, DETERMINES WOULD BENE-
48 FIT FROM THE SERVICES AND ASSISTANCE WHICH THE BOARD HAS LEGAL AUTHORITY
49 TO OFFER. IN EVALUATING WHETHER A MUNICIPALITY IS A FISCALLY ELIGIBLE
50 MUNICIPALITY, THE BOARD SHALL CONSIDER THE AVERAGE FULL VALUE PROPERTY
51 TAX RATE OF SUCH PUBLIC EMPLOYER AND THE AVERAGE FUND BALANCE PERCENTAGE
52 OF SUCH PUBLIC EMPLOYER AND SUCH OTHER CRITERIA AS THE BOARD DEEMS RELE-
53 VANT. FOR PURPOSES OF THIS SECTION, "FULL VALUE PROPERTY TAX RATE"
54 SHALL MEAN THE AMOUNT TO BE RAISED BY TAX ON REAL ESTATE BY A LOCAL
55 GOVERNMENT IN A GIVEN FISCAL YEAR DIVIDED BY THE FULL VALUATION OF TAXA-
56 BLE REAL ESTATE FOR THAT SAME FISCAL YEAR AS REPORTED TO THE OFFICE OF

1 THE STATE COMPTROLLER; "AVERAGE FULL VALUE PROPERTY TAX RATE" SHALL MEAN
2 THE SUM OF THE FULL VALUE PROPERTY TAX RATES FOR THE FIVE MOST RECENT
3 FISCAL YEARS DIVIDED BY FIVE; "FUND BALANCE PERCENTAGE" SHALL MEAN THE
4 TOTAL FUND BALANCE IN THE GENERAL FUND OF A LOCAL GOVERNMENT IN A GIVEN
5 FISCAL YEAR DIVIDED BY THE TOTAL EXPENDITURES FROM THE GENERAL FUND FOR
6 THAT SAME FISCAL YEAR AS REPORTED TO THE OFFICE OF THE STATE COMP-
7 TROLLER; AND "AVERAGE FUND BALANCE PERCENTAGE" SHALL MEAN THE SUM OF THE
8 FUND BALANCE PERCENTAGES FOR THE FIVE MOST RECENTLY COMPLETED FISCAL
9 YEARS DIVIDED BY FIVE.

10 (A) IF THE AVERAGE FULL VALUE PROPERTY TAX RATE OF SUCH MUNICIPALITY
11 IS GREATER THAN THE AVERAGE FULL VALUE PROPERTY TAX RATE OF SEVENTY-FIVE
12 PERCENT OF COUNTIES, CITIES, TOWNS, AND VILLAGES, WITH LOCAL FISCAL
13 YEARS ENDING IN THE SAME CALENDAR YEAR AS OF THE MOST RECENTLY AVAILABLE
14 INFORMATION, THE BOARD MUST FIND THAT SUCH MUNICIPALITY IS A FISCALLY
15 ELIGIBLE MUNICIPALITY. THE OFFICE OF THE STATE COMPTROLLER SHALL MAKE
16 PUBLICLY AVAILABLE THE LIST OF COUNTIES, CITIES, TOWNS, AND VILLAGES
17 THAT HAVE AN AVERAGE FULL VALUE PROPERTY TAX RATE THAT MEETS SUCH CRITE-
18 RIA IN EACH LOCAL FISCAL YEAR. IF A MUNICIPALITY HAS NOT REPORTED TO THE
19 OFFICE OF THE STATE COMPTROLLER THE INFORMATION NECESSARY TO CALCULATE
20 ITS AVERAGE FULL VALUE PROPERTY TAX RATE, SUCH MUNICIPALITY MAY NOT BE
21 DEEMED A FISCALLY ELIGIBLE MUNICIPALITY AND THE PROVISIONS OF THIS
22 SECTION SHALL NOT APPLY.

23 (B) IF THE AVERAGE FUND BALANCE PERCENTAGE OF SUCH MUNICIPALITY IS
24 LESS THAN FIVE PERCENT, THE BOARD MUST FIND THAT SUCH MUNICIPALITY IS A
25 FISCALLY ELIGIBLE MUNICIPALITY. THE OFFICE OF THE STATE COMPTROLLER
26 SHALL MAKE PUBLICLY AVAILABLE THE LIST OF COUNTIES, CITIES, TOWNS, AND
27 VILLAGES THAT HAVE AN AVERAGE FUND BALANCE PERCENTAGE THAT MEETS SUCH
28 CRITERIA IN EACH LOCAL FISCAL YEAR. IF A MUNICIPALITY HAS NOT REPORTED
29 TO THE OFFICE OF THE STATE COMPTROLLER THE INFORMATION NECESSARY TO
30 CALCULATE ITS AVERAGE FUND BALANCE PERCENTAGE, SUCH MUNICIPALITY MAY NOT
31 BE DEEMED A FISCALLY ELIGIBLE MUNICIPALITY AND THE PROVISIONS OF THIS
32 SECTION SHALL NOT APPLY.

33 3. UPON THE REQUEST OF A FISCALLY ELIGIBLE MUNICIPALITY, BY RESOLUTION
34 OF THE GOVERNING BODY OF SUCH MUNICIPALITY WITH THE CONCURRENCE OF THE
35 CHIEF EXECUTIVE OF SUCH MUNICIPALITY, THE FINANCIAL RESTRUCTURING BOARD
36 FOR LOCAL GOVERNMENTS MAY UNDERTAKE A COMPREHENSIVE REVIEW OF THE OPER-
37 ATIONS, FINANCES, MANAGEMENT PRACTICES, ECONOMIC BASE AND ANY OTHER
38 FACTORS THAT IN ITS SOLE DISCRETION IT DEEMS RELEVANT TO BE ABLE TO MAKE
39 FINDINGS AND RECOMMENDATIONS ON REFORMING AND RESTRUCTURING THE OPER-
40 ATIONS OF THE FISCALLY ELIGIBLE MUNICIPALITY. AS PART OF SUCH RECOMMEN-
41 DATIONS, THE BOARD MAY PROPOSE THAT SUCH MUNICIPALITY AGREE TO FISCAL
42 ACCOUNTABILITY MEASURES, AS DETERMINED BY THE BOARD, INCLUDING, BUT NOT
43 LIMITED TO, MULTI-YEAR FINANCIAL PLANNING. IT MAY ALSO IDENTIFY
44 COST-SAVING MEASURES, RECOMMEND CONSOLIDATION OF FUNCTIONS OR AGENCIES
45 WITHIN SUCH MUNICIPALITY OR BETWEEN SUCH MUNICIPALITY AND OTHER MUNICI-
46 PALITIES, CONSISTENT WITH EXISTING LAW, IDENTIFY AND MAKE AVAILABLE, TO
47 THE EXTENT OTHERWISE PERMITTED BY LAW, GRANTS AND LOANS ON SUCH TERMS
48 AND CONDITIONS AS IT DEEMS APPROPRIATE, AND MAKE SUCH OTHER RECOMMENDA-
49 TIONS AS THE BOARD MAY DEEM JUST AND PROPER BUT IN NO EVENT SHALL THE
50 SUM OF ALL AWARDS MADE BY THE BOARD TO A SINGLE FISCALLY ELIGIBLE MUNI-
51 CIPALITY BE GREATER THAN FIVE MILLION DOLLARS. IF SUCH AWARD IS A LOAN,
52 IT MAY NOT BE FOR A TERM LONGER THAN TEN YEARS. IN THE EVENT A GRANT OR
53 LOAN IS MADE, THE BOARD MAY CONDITION SUCH AWARD ON THE FISCALLY ELIGI-
54 BLE MUNICIPALITY SUBMITTING A REPORT OR REPORTS ON SUCH ACTIONS TAKEN BY
55 THE FISCALLY ELIGIBLE MUNICIPALITY PURSUANT TO THE BOARD'S RECOMMENDA-
56 TIONS, AND THE BOARD SHALL REQUIRE THAT THE ELIGIBLE MUNICIPALITY MUST

1 ADOPT AND IMPLEMENT ALL THE BOARD'S RECOMMENDATIONS AS A CONDITION TO
2 RECEIVING AN AWARD OR AWARDS. BEFORE MAKING FINAL RECOMMENDATIONS, THE
3 BOARD SHALL CONSULT WITH THE FISCALLY ELIGIBLE MUNICIPALITY. SUCH
4 RECOMMENDATIONS SHALL NOT BE FINAL AND BINDING ON A FISCALLY ELIGIBLE
5 MUNICIPALITY UNLESS IT FORMALLY AGREES TO ABIDE BY AND IMPLEMENT SUCH
6 RECOMMENDATIONS IN WHICH EVENT SUCH RECOMMENDATIONS AND THE TERMS
7 PROVIDED THEREUNDER SHALL BE FINAL AND BINDING ON SUCH MUNICIPALITY.

8 4. THE BOARD MAY HOLD HEARINGS AND SHALL HAVE AUTHORITY TO REQUIRE THE
9 PRODUCTION OF ANY INFORMATION THAT IT DEEMS NECESSARY TO UNDERTAKE ITS
10 COMPREHENSIVE REVIEW. THE BOARD SHALL POST ON A PUBLICLY AVAILABLE
11 WEBSITE ALL RECOMMENDATIONS AND FINDINGS MADE PURSUANT TO THIS SECTION.

12 5. THE BOARD SHALL ALSO BE AUTHORIZED TO RESOLVE AN IMPASSE PURSUANT
13 TO SUBDIVISION FOUR-A OF SECTION TWO HUNDRED NINE OF THE CIVIL SERVICE
14 LAW.

15 S 3. Section 209 of the civil service law is amended by adding a new
16 subdivision 4-a to read as follows:

17 4-A. (A) NOTWITHSTANDING ANYTHING IN SUBDIVISION FOUR OF THIS SECTION
18 TO THE CONTRARY, A PUBLIC EMPLOYER THAT IS A FISCALLY ELIGIBLE MUNICI-
19 PALITY, AS DEFINED IN SECTION 160.05 OF THE LOCAL FINANCE LAW, AND IS
20 OTHERWISE SUBJECT TO SUBDIVISION FOUR OF THIS SECTION, UPON RESOLUTION
21 OF ITS GOVERNING BODY WITH THE CONCURRENCE OF ITS CHIEF EXECUTIVE OFFI-
22 CER, AND A PUBLIC EMPLOYEE ORGANIZATION SUBJECT TO SUBDIVISION FOUR OF
23 THIS SECTION MAY, JOINTLY, STIPULATE AND AGREE THAT AN IMPASSE EXISTS,
24 AT ANY TIME, WITH RESPECT TO COLLECTIVE NEGOTIATIONS BETWEEN THE PARTIES
25 FOR A COLLECTIVE BARGAINING AGREEMENT AND, IN LIEU OF COMMENCING A
26 PROCEEDING UNDER SUBDIVISION FOUR OF THIS SECTION, MAY JOINTLY REQUEST
27 THAT THE FINANCIAL RESTRUCTURING BOARD FOR LOCAL GOVERNMENTS, ESTAB-
28 LISHED IN SECTION 160.05 OF THE LOCAL FINANCE LAW, RESOLVE SUCH IMPASSE.
29 A JOINT REQUEST PURSUANT TO THIS SUBDIVISION SHALL BE IRREVOCABLE.

30 (B) THE FINANCIAL RESTRUCTURING BOARD FOR LOCAL GOVERNMENTS SHALL
31 RENDER A JUST AND REASONABLE DETERMINATION OF THE MATTERS IN DISPUTE BY
32 AN AFFIRMATIVE VOTE OF A MAJORITY OF THE TOTAL NUMBER OF ITS MEMBERS.
33 IN ARRIVING AT SUCH DETERMINATION, IT SHALL SPECIFY THE BASIS FOR ITS
34 FINDINGS, TAKING INTO CONSIDERATION, IN ADDITION TO ANY OTHER RELEVANT
35 FACTORS, THOSE FACTORS SET FORTH IN SUBDIVISION SIX OF THIS SECTION. IN
36 ALL MATTERS REGARDING PUBLIC DISCLOSURE OF ITS PROCEEDINGS AND FINDINGS,
37 IT SHALL BE TREATED THE SAME AS THE PANEL CONVENED PURSUANT TO SUBDIVI-
38 SION FOUR OF THIS SECTION. IT SHALL RENDER A DETERMINATION WITHIN SIX
39 MONTHS OF BEING FORMALLY REQUESTED BY THE PARTIES TO CONVENE.

40 (C) EACH PARTY BEFORE THE FINANCIAL RESTRUCTURING BOARD FOR LOCAL
41 GOVERNMENTS MAY BE HEARD EITHER IN PERSON, BY COUNSEL, OR BY OTHER
42 REPRESENTATIVES, AS THEY MAY RESPECTIVELY DESIGNATE AND MAY PRESENT,
43 EITHER ORALLY OR IN WRITING, OR BOTH, STATEMENTS OF FACT, SUPPORTING
44 WITNESSES AND OTHER EVIDENCE, AND ARGUMENT OF THEIR RESPECTIVE POSITIONS
45 WITH RESPECT TO EACH CASE. THE BOARD SHALL HAVE AUTHORITY TO REQUIRE
46 THE PRODUCTION OF ADDITIONAL EVIDENCE, EITHER ORAL OR WRITTEN, AS IT MAY
47 DESIRE FROM THE PARTIES. ALL PROCEEDINGS, MEETINGS AND HEARINGS
48 CONDUCTED BY THE BOARD SHALL BE HELD IN THE CITY OF ALBANY.

49 (D) THE DETERMINATION OF THE FINANCIAL RESTRUCTURING BOARD FOR LOCAL
50 GOVERNMENTS WITH RESPECT TO THE CONDITIONS OF EMPLOYMENT PRESENTED TO IT
51 PURSUANT TO THIS SECTION SHALL BE FINAL AND BINDING UPON THE PARTIES FOR
52 THE PERIOD PRESCRIBED BY SUCH BOARD, BUT IN NO EVENT SHALL SUCH PERIOD
53 EXCEED FOUR YEARS FROM THE TERMINATION DATE OF ANY PREVIOUS COLLECTIVE
54 BARGAINING AGREEMENT OR IF THERE IS NO PREVIOUS COLLECTIVE BARGAINING
55 AGREEMENT THEN FOR A PERIOD NOT TO EXCEED FOUR YEARS FROM THE DATE OF
56 DETERMINATION BY THE BOARD. SUCH DETERMINATION SHALL NOT BE SUBJECT TO

1 THE APPROVAL OF ANY LOCAL LEGISLATIVE BODY OR OTHER MUNICIPAL AUTHORITY,
2 AND SHALL ONLY BE SUBJECT TO REVIEW BY A COURT OF COMPETENT JURISDICTION
3 IN THE MANNER PRESCRIBED BY LAW.

4 S 4. Paragraph (d) of subdivision 4 of section 209 of the civil
5 service law, as amended by section 9 of part A of chapter 504 of the
6 laws of 2009, is amended to read as follows:

7 (d) The provisions of this subdivision shall expire [thirty-six] THIR-
8 TY-NINE years from July first, nineteen hundred seventy-seven, and here-
9 after may be renewed every four years.

10 S 5. Section 209 of the civil service law is amended by adding a new
11 subdivision 6 to read as follows:

12 6. (A) FOR DISPUTES CONCERNING AN IMPASSE PURSUANT TO SUBDIVISION FOUR
13 OF THIS SECTION THAT INVOLVE A COUNTY, CITY, TOWN, OR VILLAGE SUBJECT TO
14 SECTION THREE-C OF THE GENERAL MUNICIPAL LAW, A PUBLIC ARBITRATION PANEL
15 SHALL MAKE A DETERMINATION AS TO WHETHER SUCH COUNTY, CITY, TOWN, OR
16 VILLAGE, IS A PUBLIC EMPLOYER THAT IS A FISCALLY ELIGIBLE MUNICIPALITY
17 AS PART OF ITS ANALYSIS OF THE FINANCIAL ABILITY OF THE PUBLIC EMPLOYER
18 TO PAY.

19 (B) IN EVALUATING WHETHER A PUBLIC EMPLOYER COVERED BY THIS SUBDIVI-
20 SION IS A FISCALLY ELIGIBLE MUNICIPALITY, SUCH PUBLIC ARBITRATION PANEL
21 SHALL CONSIDER THE AVERAGE FULL VALUE PROPERTY TAX RATE OF SUCH PUBLIC
22 EMPLOYER AND THE AVERAGE FUND BALANCE PERCENTAGE OF SUCH PUBLIC EMPLOY-
23 ER.

24 (I) FOR PURPOSES OF THIS SUBDIVISION, "FULL VALUE PROPERTY TAX RATE"
25 SHALL MEAN THE AMOUNT TO BE RAISED BY TAX ON REAL ESTATE BY A LOCAL
26 GOVERNMENT IN A GIVEN FISCAL YEAR DIVIDED BY THE FULL VALUATION OF TAXA-
27 BLE REAL ESTATE FOR THAT SAME FISCAL YEAR AS REPORTED TO THE OFFICE OF
28 THE STATE COMPTROLLER.

29 (II) FOR PURPOSES OF THIS SUBDIVISION, "AVERAGE FULL VALUE PROPERTY
30 TAX RATE" SHALL MEAN THE SUM OF THE FULL VALUE PROPERTY TAX RATES FOR
31 THE FIVE MOST RECENT FISCAL YEARS DIVIDED BY FIVE.

32 (III) FOR PURPOSES OF THIS SUBDIVISION, "FUND BALANCE PERCENTAGE"
33 SHALL MEAN THE TOTAL FUND BALANCE IN THE GENERAL FUND OF A LOCAL GOVERN-
34 MENT IN A GIVEN FISCAL YEAR DIVIDED BY THE TOTAL EXPENDITURES FROM THE
35 GENERAL FUND FOR THAT SAME FISCAL YEAR AS REPORTED TO THE OFFICE OF THE
36 STATE COMPTROLLER.

37 (IV) FOR PURPOSES OF THIS SUBDIVISION, "AVERAGE FUND BALANCE PERCENT-
38 AGE" SHALL MEAN THE SUM OF THE FUND BALANCE PERCENTAGES FOR THE FIVE
39 MOST RECENTLY COMPLETED FISCAL YEARS DIVIDED BY FIVE.

40 (C) IF THE AVERAGE FULL VALUE PROPERTY TAX RATE OF SUCH PUBLIC EMPLOY-
41 ER IS GREATER THAN THE AVERAGE FULL VALUE PROPERTY TAX RATE OF SEVENTY-
42 FIVE PERCENT OF COUNTIES, CITIES, TOWNS, AND VILLAGES, WITH LOCAL FISCAL
43 YEARS ENDING IN THE SAME CALENDAR YEAR AS OF THE MOST RECENTLY AVAILABLE
44 INFORMATION, THE PUBLIC ARBITRATION PANEL MUST FIND THAT SUCH PUBLIC
45 EMPLOYER IS A FISCALLY ELIGIBLE MUNICIPALITY. THE OFFICE OF THE STATE
46 COMPTROLLER SHALL MAKE PUBLICLY AVAILABLE THE LIST OF COUNTIES, CITIES,
47 TOWNS, AND VILLAGES THAT HAVE AN AVERAGE FULL VALUE PROPERTY TAX RATE
48 THAT MEETS SUCH CRITERIA IN EACH LOCAL FISCAL YEAR. IF A PUBLIC EMPLOYER
49 HAS NOT REPORTED TO THE OFFICE OF THE STATE COMPTROLLER THE INFORMATION
50 NECESSARY TO CALCULATE ITS AVERAGE FULL VALUE PROPERTY TAX RATE, SUCH
51 PUBLIC EMPLOYER MAY NOT BE DEEMED A FISCALLY ELIGIBLE MUNICIPALITY AND
52 THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY.

53 (D) IF THE AVERAGE FUND BALANCE PERCENTAGE OF SUCH PUBLIC EMPLOYER IS
54 LESS THAN FIVE PERCENT AND THE STATE COMPTROLLER HAS CERTIFIED THAT ANY
55 ADDITIONAL FUND BALANCES IN FUNDS OTHER THAN THE GENERAL FUND AVAILABLE
56 FOR PAYMENT OF ARBITRATION AWARDS IN EACH YEAR, IF ADDED TO THE FUND

1 BALANCE OF THE GENERAL FUND, WOULD NOT CAUSE THE AVERAGE FUND BALANCE
2 PERCENTAGE OF SUCH PUBLIC EMPLOYER TO EXCEED FIVE PERCENT, THE PUBLIC
3 ARBITRATION PANEL MUST FIND THAT SUCH PUBLIC EMPLOYER IS A FISCALLY
4 ELIGIBLE MUNICIPALITY. THE OFFICE OF THE STATE COMPTROLLER SHALL MAKE
5 PUBLICLY AVAILABLE THE LIST OF COUNTIES, CITIES, TOWNS, AND VILLAGES
6 THAT HAVE AN AVERAGE FUND BALANCE PERCENTAGE THAT IS LESS THAN FIVE
7 PERCENT IN EACH LOCAL FISCAL YEAR. IF A PUBLIC EMPLOYER HAS NOT REPORTED
8 TO THE OFFICE OF THE STATE COMPTROLLER THE INFORMATION NECESSARY TO
9 CALCULATE ITS AVERAGE FUND BALANCE PERCENTAGE, SUCH PUBLIC EMPLOYER MAY
10 NOT BE DEEMED A FISCALLY ELIGIBLE MUNICIPALITY AND THE PROVISIONS OF
11 THIS SUBDIVISION SHALL NOT APPLY.

12 (E) WHEN SUCH PUBLIC EMPLOYER HAS BEEN FOUND TO BE A FISCALLY ELIGIBLE
13 MUNICIPALITY, THE PUBLIC ARBITRATION PANEL SHALL, FIRST AND FOREMOST,
14 CONSIDER ABILITY TO PAY BY ASSIGNING A WEIGHT OF SEVENTY PERCENT TO THAT
15 PORTION OF THE CRITERION CONTAINED WITHIN CLAUSE B OF SUBPARAGRAPH (V)
16 OF PARAGRAPH (C) OF SUBDIVISION FOUR OF THIS SECTION THAT PERTAINS ONLY
17 TO THE PUBLIC EMPLOYER'S ABILITY TO PAY. ALL OTHER CRITERIA CONTAINED
18 IN SUBPARAGRAPH (V) OF PARAGRAPH (C) OF SUBDIVISION FOUR OF THIS
19 SECTION, INCLUDING THAT PORTION OF CLAUSE B OF SUBPARAGRAPH (V) OF PARA-
20 GRAPH (C) OF SUBDIVISION FOUR OF THIS SECTION THAT PERTAINS TO THE
21 INTEREST AND WELFARE OF THE PUBLIC, SHALL CONSTITUTE AN AGGREGATE WEIGHT
22 OF THIRTY PERCENT. ADDITIONALLY, WITH RESPECT TO THE TOTAL MONETARY
23 VALUE OF ANY DETERMINATION, THE PANEL MUST RECOGNIZE AND TAKE INTO
24 ACCOUNT IN ITS DETERMINATION THE CONSTRAINTS, OBLIGATIONS AND REQUIRE-
25 MENTS IMPOSED BY THE REAL PROPERTY TAX CAP PURSUANT TO SECTION THREE-C
26 OF THE GENERAL MUNICIPAL LAW UPON THE PUBLIC EMPLOYER INVOLVED IN THE
27 DISPUTE BEFORE THE PANEL.

28 (F) THE PROVISIONS OF THIS SUBDIVISION SHALL EXPIRE THREE YEARS FROM
29 JULY FIRST, TWO THOUSAND THIRTEEN.

30 S 6. Severability. If any clause, sentence, paragraph, subdivision,
31 section or part of this article shall be adjudged by any court of compe-
32 tent jurisdiction to be invalid, such judgment shall not affect, impair,
33 or invalidate the remainder thereof, but shall be confined in its opera-
34 tion to the clause, sentence, paragraph, subdivision, section or part
35 thereof directly involved in the controversy in which such judgment
36 shall have been rendered.

37 S 7. This act shall take effect immediately, provided that sections
38 one, two and three of this act shall take effect on the ninetieth day
39 after it shall have become a law and sections four and five of this act
40 shall be deemed to have been in full force and effect on and after
41 April 1, 2013; and provided, further, that sections three, four and five
42 of this act shall apply to all agreements and interest arbitration
43 determinations that expire before, on or after April 1, 2013 except
44 those (a) where the public employment relations board received a peti-
45 tion to refer the dispute to a public arbitration panel pursuant to
46 subdivision 4 of section 209 of the civil service law before June 14,
47 2013 or (b) where the public employment relations board received a
48 declaration of impasse pursuant to subdivision 4 of section 209 of the
49 civil service law on or after April 1, 2013 but on or before June 14,
50 2013.