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

1367

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. KOLB, FITZPATRICK, JORDAN, MONTESANO, McLAUGHLIN, PALMESANO, RA, MALLIOTAKIS -- Multi-Sponsored by -- M. of A. BARCLAY, BUTLER, CERETTO, CORWIN, CROUCH, CURRAN, DUPREY, FINCH, FRIEND, GIGLIO, GOODELL, HAWLEY, JOHNS, P. LOPEZ, LOSQUADRO, McKEVITT, OAKS, RABBITT, REILICH, TEDISCO, TENNEY, THIELE, WALTER -- read once and referred to the Committee on Ways and Means

AN ACT to amend the state finance law, in relation to establishing a spending cap and increasing the maximum capacity of the rainy day fund

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

Section 1. The state finance law is amended by adding a new article 17 to read as follows:

ARTICLE XVII

SPENDING GROWTH CAP ACT

SECTION 250. DEFINITIONS.

251. ESTABLISHMENT OF ANNUAL SPENDING GROWTH CAP.

252. PROVISIONS REGARDING DECLARATION OF EMERGENCY.

S 250. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS, UNLESS OTHERWISE SPECIFIED:

1. "ANNUAL SPENDING GROWTH CAP" SHALL MEAN A PERCENTAGE DETERMINED BY ADDING THE INFLATION RATES FROM EACH OF THE THREE CALENDAR YEARS IMMEDIATELY PRIOR TO THE COMMENCEMENT OF A GIVEN FISCAL YEAR AND THEN DIVIDING THAT SUM BY THREE.

2. "STATE OPERATING FUNDS SPENDING" SHALL MEAN ANNUAL DISBURSEMENTS OF ALL GOVERNMENTAL FUND TYPES INCLUDED IN THE CASH-BASIS FINANCIAL PLAN OF THE STATE, EXCLUDING DISBURSEMENTS FROM FEDERAL FUNDS AND CAPITAL PROJECT FUNDS.

3. "INFLATION RATE" SHALL MEAN THE PERCENTAGE CHANGE IN THE TWELVE-MONTH AVERAGE OF THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR

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

STATISTICS OR ANY SUCCESSOR AGENCY FOR A GIVEN CALENDAR YEAR COMPARED TO THE PRIOR CALENDAR YEAR.

4. "EXECUTIVE BUDGET" SHALL MEAN THE BUDGET SUBMITTED ANNUALLY BY THE GOVERNOR PURSUANT TO SECTION ONE OF ARTICLE VII OF THE STATE CONSTITUTION.

5. "STATE BUDGET AS ENACTED" SHALL MEAN THE BUDGET ACTED UPON BY THE LEGISLATURE IN A GIVEN FISCAL YEAR, AS SUBJECT TO SECTION FOUR OF ARTICLE VII OF THE STATE CONSTITUTION AND SECTION SEVEN OF ARTICLE IV OF THE STATE CONSTITUTION.

6. "EMERGENCY" SHALL MEAN AN EXTRAORDINARY, UNFORESEEN, OR UNEXPECTED OCCURRENCE, OR COMBINATION OF CIRCUMSTANCES, INCLUDING BUT NOT LIMITED TO A NATURAL DISASTER, INVASION, TERRORIST ATTACK, OR ECONOMIC CALAMITY.

S 251. ESTABLISHMENT OF ANNUAL SPENDING GROWTH CAP. 1. THERE IS HEREBY ESTABLISHED AN ANNUAL SPENDING GROWTH CAP.

2. THE GOVERNOR SHALL NOT SUBMIT, AND THE LEGISLATURE SHALL NOT ACT UPON, A BUDGET THAT CONTAINS A PERCENTAGE INCREASE OVER THE PRIOR FISCAL YEAR IN STATE OPERATING FUNDS SPENDING WHICH EXCEEDS THE ANNUAL SPENDING GROWTH CAP.

3. THE GOVERNOR SHALL CERTIFY IN WRITING THAT STATE OPERATING FUNDS SPENDING IN THE EXECUTIVE BUDGET DOES NOT EXCEED THE ANNUAL SPENDING GROWTH CAP. IF FINAL INFLATION RATE DATA FOR THE PRIOR CALENDAR YEAR IS NOT YET AVAILABLE AT THE TIME THE GOVERNOR SUBMITS HIS OR HER EXECUTIVE BUDGET, HE OR SHE SHALL FURNISH A REASONABLE ESTIMATE OF SUCH PRIOR CALENDAR YEAR INFLATION RATE.

4. THE COMPTROLLER SHALL PROVIDE, WITHIN FIVE DAYS OF ACTION BY THE LEGISLATURE UPON THE BUDGET, A DETERMINATION AS TO WHETHER THE STATE OPERATING FUNDS SPENDING AS SET FORTH IN THE STATE BUDGET AS ENACTED EXCEEDS THE ANNUAL SPENDING GROWTH CAP.

5. IF THE COMPTROLLER FINDS THAT STATE OPERATING FUNDS SPENDING AS SET FORTH IN THE STATE BUDGET AS ENACTED EXCEEDS THE ANNUAL SPENDING GROWTH CAP, THE GOVERNOR SHALL TAKE CORRECTIVE ACTION TO ENSURE THAT FUNDING IS LIMITED TO THE AMOUNT OF THE ANNUAL SPENDING CAP.

S 252. PROVISIONS REGARDING DECLARATION OF EMERGENCY. 1. UPON A FINDING OF AN EMERGENCY BY THE GOVERNOR, HE OR SHE MAY DECLARE AN EMERGENCY BY AN EXECUTIVE ORDER WHICH SHALL SET FORTH THE REASONS FOR SUCH DECLARATION.

2. BASED UPON SUCH DECLARATION, THE GOVERNOR MAY SUBMIT, AND THE LEGISLATURE MAY AUTHORIZE, BY A TWO-THIRDS SUPER MAJORITY, A BUDGET CONTAINING A PERCENTAGE INCREASE OVER THE PRIOR FISCAL YEAR IN STATE OPERATING FUNDS SPENDING THAT EXCEEDS THE ANNUAL SPENDING GROWTH CAP.

S 2. Subdivision 2 of section 92-cc of the state finance law, as amended by section 17 of part U of chapter 59 of the laws of 2012, is amended to read as follows:

2. Such fund shall have a maximum balance not to exceed [three] TEN per centum of the aggregate amount projected to be disbursed from the general fund during the fiscal year immediately following the then-current fiscal year. At the request of the director of the budget, the state comptroller shall transfer monies to the rainy day reserve fund up to and including an amount equivalent to three-tenths of one per centum of the aggregate amount projected to be disbursed from the general fund during the then-current fiscal year, unless such transfer would increase the rainy day reserve fund to an amount in excess of three per centum of the aggregate amount projected to be disbursed from the general fund during the fiscal year immediately following the then-current fiscal year, in which event such transfer shall be limited to such amount as

will increase the rainy day reserve fund to such three per centum limitation.

S 3. Subdivision 2 of section 92-cc of the state finance law, as added by chapter 1 of the laws of 2007, is amended to read as follows:

2. Such fund shall have a maximum balance not to exceed [three] TEN per centum of the aggregate amount projected to be disbursed from the general fund during the fiscal year immediately following the then-current fiscal year.

S 4. This act shall take effect immediately; provided that the amendments to subdivision 2 of section 92-cc of the state finance law made by section two of this act shall be subject to the expiration and reversion of such subdivision when upon such date the provisions of section three of this act shall take effect.