

5551

2013-2014 Regular Sessions

I N A S S E M B L Y

February 28, 2013

Introduced by M. of A. MAGNARELLI, GUNTHER, LAVINE, ROBERTS, ROBINSON, LUPARDO, RIVERA, ZEBROWSKI, JAFFEE, SKARTADOS, WEISENBERG, OTIS, THIELE, SKOUFIS -- Multi-Sponsored by -- M. of A. BRENNAN, GIBSON, GLICK, GOTTFRIED, MAGEE, McDONALD, SWEENEY -- (at request of the State Comptroller) -- read once and referred to the Committee on Local Governments

AN ACT to amend the local finance law, in relation to temporary alternative methods of financing storm relief expenses

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

1 Section 1. Section 26.10 of the local finance law, as added by chapter
2 599 of the laws of 1973, paragraph a and subdivisions 1, 2 and 3 of
3 paragraph b as amended by chapter 157 of the laws of 2006 and subdivi-
4 sions 4, 5 and 6 of paragraph b, subdivisions 1, 2, 3 and 7 of paragraph
5 c as amended by chapter 87 of the laws of 1996, is amended to read as
6 follows:
7 S 26.10 Temporary alternative methods of financing [flood-relief]
8 STORM RELIEF expenses. a. Definitions. [1. With respect to any munici-
9 pality which has a calendar fiscal year which commenced on the first day
10 of January, two thousand five, the] AS USED IN THIS SECTION, THE terms
11 "extraordinary expenses [for flood] OF STORM relief" and "such extraor-
12 dinary expenses"[, as used in this section,] shall mean [the] expenses
13 incurred BY A MUNICIPALITY, SCHOOL DISTRICT OR DISTRICT CORPORATION
14 BEFORE THE FIRST DAY OF JANUARY, TWO THOUSAND FOURTEEN, for [flood]
15 STORM relief projects [involving the] NECESSITATED BY DAMAGE CAUSED BY
16 THE STORM COMMONLY KNOWN AS SANDY ON OR SHORTLY AFTER OCTOBER
17 TWENTY-NINTH, TWO THOUSAND TWELVE. THE TERM "STORM RELIEF PROJECTS"
18 SHALL MEAN THE REPAIR OR RECONSTRUCTION OF public thoroughfares,
19 [public] BUILDINGS, places, and projects of such municipality [during
20 any or all of the months of such year], SCHOOL DISTRICT OR DISTRICT
21 CORPORATION, in excess of the normal expenses which would have been

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

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1 incurred for such purposes during such periods as determined by the
2 finance board of such municipality [and also any interest payments on
3 revenue anticipation notes issued in anticipation of the receipt of
4 moneys from the state or federal government pursuant to any state or
5 federal disaster relief act], SCHOOL DISTRICT OR DISTRICT CORPORATION.
6 In making any such determination, the finance board shall not include as
7 a part of such extraordinary expenses the salaries and wages of regular
8 employees, except for overtime work and work on Sundays and holidays.
9 SUCH EXTRAORDINARY EXPENSES MAY INCLUDE ANY INTEREST PAYMENTS ON REVENUE
10 ANTICIPATION NOTES ISSUED IN ANTICIPATION OF THE RECEIPT OF MONEYS FROM
11 THE STATE OR FEDERAL GOVERNMENT ON ACCOUNT OF SUCH STORM PURSUANT TO ANY
12 STATE OR FEDERAL DISASTER RELIEF ACT.

13 [2. With respect to any municipality or school district which has a
14 fiscal year which commenced in the year two thousand five on or after
15 the first day of March in such year, the terms "extraordinary expenses
16 for flood relief projects" and "such extraordinary expenses", as used in
17 this section, shall mean the expense incurred for flood relief projects
18 involving the public thoroughfares, public places and projects of such
19 municipality or school district during such fiscal year, in excess of
20 the amounts appropriated for such purposes in the annual budget for such
21 fiscal year, or, if no such appropriations were made, then in excess of
22 the average of all expenditures for such purposes during each of the
23 five preceding fiscal years prior to the fiscal year commencing in the
24 year two thousand five, as determined by the finance board of such muni-
25 cipality or school district.]

26 b. The financing of [flood] STORM relief expenses by the issuance of
27 serial bonds.

28 1. The finance board of a municipality [which has a fiscal year which
29 commenced on the first day of January, two thousand five], SCHOOL
30 DISTRICT OR DISTRICT CORPORATION may authorize the issuance of serial
31 bonds [in the] ON OR BEFORE DECEMBER THIRTY-FIRST two thousand [six
32 fiscal year] THIRTEEN to provide for the payment of all or part of the
33 extraordinary expenses of [flood] STORM relief [incurred during any or
34 all of the months of two thousand five], to reimburse any fund or
35 account of the [municipality] ISSUER from which moneys to pay such
36 extraordinary expenses have been advanced or to replenish any fund or
37 account of the [municipality] ISSUER from which such extraordinary
38 expenses have been paid, or any combination of such purposes, notwith-
39 standing that there may have been lack of statutory authority for any
40 such advance or payment from such fund or account. The period of proba-
41 ble usefulness of such objects or purposes shall be five years. Any such
42 serial bonds shall have a maximum maturity of over two years, but the
43 date of final maturity of any such issue shall not extend beyond [the
44 first day of March in the year two thousand eleven as to counties and
45 towns and shall not extend beyond] the thirty-first day of December, two
46 thousand [eleven, as to other municipalities] EIGHTEEN.

47 2. [The finance board of a municipality or school district which has a
48 fiscal year which commenced in the year two thousand five on or after
49 the first day of March in such year may authorize the issuance of serial
50 bonds in the two thousand six fiscal year, or in its next succeeding
51 fiscal year, to provide for the payment of all or part of the extraor-
52 dinary expenses of flood relief incurred in the two thousand five fiscal
53 year, to reimburse any fund or account of the municipality or school
54 district from which moneys to pay such extraordinary expenses have been
55 advanced or to replenish any fund or account of the municipality or
56 school district from which such extraordinary expenses have been paid,

1 or any combination of such purposes, notwithstanding that there may have
2 been lack of statutory authority for any such advance or payment from
3 such fund or account. The period of probable usefulness of such objects
4 or purposes shall be five years. Any such serial bonds shall have a
5 maximum maturity of over two years, but the date of final maturity of
6 any such issue shall not extend beyond the thirty-first day of December,
7 two thousand eleven.

8 3.] No provision of subdivision one [or two] of this paragraph shall
9 be deemed to prohibit the issuance of serial bonds for the purpose of
10 financing any portion of such extraordinary expenses described in such
11 [subdivisions] SUBDIVISION which heretofore have been or hereafter shall
12 be financed by the issuance of budget notes or for the purpose of
13 redeeming any such notes.

14 [4.] 3. Except as provided in this section, such serial bonds and any
15 bond anticipation notes in anticipation thereof, shall be authorized,
16 sold and issued in the manner provided by this chapter. Any bond antic-
17 ipation notes issued in anticipation of such bonds shall, for the
18 purpose of determining the power of the issuer to contract indebtedness
19 and to raise taxes upon real estate, be deemed to be serial bonds of an
20 issue having a maximum maturity of more than two years as described in
21 paragraph A of section five and in section ten of article eight of the
22 state constitution and for the purposes of (1) subdivision one-a of
23 section 136.00 of this chapter, (2) section two hundred thirty-three of
24 the county law, (3) section 5-514 of the village law, (4) any general or
25 special law applicable to counties, cities, villages [and], school
26 districts OR DISTRICT CORPORATIONS which relates to the raising of taxes
27 on real estate to provide for the payment of the interest on and the
28 principal of indebtedness, and (5) all laws relating to the financial
29 reports, debt statements and real estate tax margin computations of such
30 municipalities [or], school districts OR DISTRICT CORPORATIONS. The
31 chief fiscal officer of any municipality [or], school district OR
32 DISTRICT CORPORATION issuing or renewing such bond anticipation notes
33 shall immediately after the issuance or renewal thereof notify the state
34 comptroller of such issuance or renewal. The state comptroller may
35 prescribe the form of any such notice and shall furnish such forms to
36 municipalities [and], school districts AND DISTRICT CORPORATIONS for the
37 purpose of making any such report.

38 [5.] 4. Capital notes may not be issued to finance any object or
39 purpose for which serial bonds are authorized to be issued pursuant to
40 this paragraph. The provisions of this paragraph shall not affect the
41 power of any municipality [or], school district OR DISTRICT CORPORATION
42 described in paragraph a of this section to finance all or part of any
43 such extraordinary expenses pursuant to the provisions of section 29.00
44 of this chapter and paragraph c of this section.

45 [6.] 5. Section 104.10 of this chapter shall not be applicable in
46 relation to, or as the result of, the adoption of a bond resolution
47 authorizing the issuance of serial bonds pursuant to this paragraph. The
48 provisions of section 10.00, paragraph a of section 21.00 and any other
49 section of this chapter, or the provisions of any general, special or
50 local law, which would restrict, limit or prohibit the issuance of such
51 bonds (except those enacted to conform with the state constitution) are,
52 to the extent that this section is utilized by a municipality [or],
53 school district OR DISTRICT CORPORATION, suspended and made ineffective
54 insofar as necessary to effectuate the purposes of this section.

55 c. The financing of [flood] STORM relief expenses by the issuance of
56 budget notes. 1. If any municipality or school district described in

1 paragraph a of this section has heretofore issued budget notes pursuant
2 to the provisions of subdivision two or three of paragraph a of section
3 29.00 of this chapter to provide for the payment of extraordinary
4 expenses of [flood] STORM relief, [as defined in this section,] the
5 finance board, by resolution, may determine that such notes shall be
6 deemed to have been issued pursuant to the provisions of subdivision one
7 of paragraph a of such section and that such notes so issued shall not
8 thereafter be considered in determining the power of such municipality
9 or school district to issue budget notes pursuant to such subdivision
10 two or three.

11 2. If any municipality [or], school district OR DISTRICT CORPORATION
12 described in paragraph a of this section has heretofore issued budget
13 notes pursuant to the provisions of subdivision one, two or three of
14 paragraph a, or paragraph b, of section 29.00 of this chapter, to
15 provide for the payment of extraordinary expenses of [flood] STORM
16 relief, [as defined in this section,] the finance board may determine
17 that the provisions of paragraph j of such section shall not be applica-
18 ble in relation to the maturity of such notes and (a) that such notes
19 shall mature in equal annual installments in two different fiscal years,
20 but the final maturity of such notes shall not extend beyond the close
21 of the second fiscal year immediately succeeding the year of their
22 issue, or (b) if the fiscal procedures applicable to such municipality
23 [or], school district OR DISTRICT CORPORATION will enable the necessary
24 budgetary appropriations for debt service to be made and such appropri-
25 ations to become available, that such notes shall mature in three equal
26 annual installments in three different fiscal years, but the final matu-
27 rity of any such notes shall not exceed three years in accordance with
28 the provisions of paragraph a of section 11.00 of this chapter which
29 prescribes a period of probable usefulness of three years for objects or
30 purposes financed by the issuance of budget notes. Such budget notes
31 which mature in three equal annual installments, as aforesaid, shall,
32 for the purpose of determining the power of the issuer to contract
33 indebtedness and to raise taxes on real estate, be deemed to be serial
34 bonds of an issue having a maximum maturity of more than two years as
35 described in paragraph A of section five and in section ten of article
36 eight of the state constitution and for the purposes of (1) paragraph
37 one-a of section 136.00 of this chapter, (2) section two hundred thir-
38 ty-three of the county law, (3) section 5-514 of the village law, (4)
39 any general or special law applicable to counties, cities, villages
40 [and], school districts OR DISTRICT CORPORATIONS which relates to the
41 raising of taxes on real estate to provide for the payment of the inter-
42 est on and the principal of indebtedness, and (5) all laws relating to
43 financial reports, debt statements and real estate tax margin computa-
44 tions of such municipalities [or], school districts OR DISTRICT CORPO-
45 RATIONS. If the finance board determines that such budget notes shall
46 mature in three equal annual installments, as aforesaid, the chief
47 fiscal officer of such municipality [or], school district OR DISTRICT
48 CORPORATION immediately after the adoption of the resolution making such
49 determination shall file a copy of the resolution with the state comp-
50 troller and shall immediately after the issuance or renewal of such
51 notes notify the state comptroller of such issuance or renewal. The
52 state comptroller may prescribe the form of any such notice and shall
53 furnish such forms to municipalities [or], school districts OR DISTRICT
54 CORPORATIONS for the purpose of making any such report.

55 3. Notwithstanding any of the provisions of section 29.00 of this
56 chapter, the finance board of a municipality or a school district

1 described in paragraph a of this section may authorize the issuance of
2 budget notes pursuant to subdivision one of paragraph a, or, in the case
3 of a municipality, paragraph b of such section 29.00 of this chapter to
4 provide for the payment of all or part of the extraordinary expenses of
5 [flood] STORM relief, [as defined in this section,] to reimburse any
6 fund or account of the municipality or school district from which moneys
7 to pay such extraordinary expenses have been advanced or to replenish
8 any fund or account of the municipality or school district from which
9 such extraordinary expenses have been paid, or any combination of such
10 purposes, notwithstanding that there may have been lack of statutory
11 authority for any such advance or payment from such fund or account. The
12 finance board may determine that such notes may mature in the manner
13 provided in paragraph j of section 29.00 of this chapter, or, if the
14 fiscal procedures applicable to such municipality or school district
15 will enable the necessary budgetary appropriations for debt service to
16 be made and such appropriations to become available, that such notes
17 shall mature in two equal annual installments in two different fiscal
18 years, but the final maturity of such notes shall not extend beyond the
19 close of the second fiscal year immediately succeeding the year of their
20 issue.

21 4. [If a municipality which had a calendar fiscal year which commenced
22 on the first day of January, nineteen hundred seventy-two, or the first
23 day of January, nineteen hundred seventy-three, issued budget notes in
24 such year pursuant to the provisions of section 29.00 of this chapter to
25 finance the payment of expenses of flood relief in such fiscal years and
26 if such budget notes, under the provisions of paragraph j of such
27 section, could not be renewed after the close of its fiscal year which
28 would end in the year next succeeding the year of issuance, then and in
29 such event the finance board of such municipality may determine that the
30 provisions of paragraph j of such section shall not be applicable in
31 relation to the maturity of such notes and that such notes shall mature
32 in equal annual installments in the two years next succeeding the year
33 of issuance.

34 5. If a municipality which had a calendar fiscal year, which commenced
35 on the first day of January, nineteen hundred seventy-two or the first
36 day of January, nineteen hundred seventy-three, authorized the issuance
37 of budget notes in such years pursuant to the provisions of section
38 29.00 of this chapter to finance the payment of expenses of flood relief
39 in such years and if such notes were not issued in the years nineteen
40 hundred seventy-two or nineteen hundred seventy-three, but were or are
41 to be issued in the years nineteen hundred seventy-three or nineteen
42 hundred seventy-four, and if such budget notes, under the provisions of
43 paragraph j of such section, could not be renewed after the close of its
44 fiscal year which would end in the year next succeeding the year of
45 issuance, then and in any such event the finance board of such munici-
46 pality may determine that the provisions of paragraph j of such section
47 shall not be applicable in relation to the maturity of such notes and
48 that such notes shall mature in equal annual installments in the two
49 years next succeeding the year of issuance.

50 6. Any resolution of a finance board of a municipality making a deter-
51 mination pursuant to subdivisions one, two, three, four or five of this
52 paragraph may be adopted by a majority vote of the finance board,
53 notwithstanding the provisions of paragraph d of section 40.00 of this
54 chapter.

55 7.] The provisions of subdivision four of paragraph c of section 40.00
56 of this chapter and of any other section of this chapter and the

1 provisions of any general, special or local law which would restrict,
2 limit or prohibit the renewal of budget notes as provided in this para-
3 graph (except those enacted to conform with the state constitution),
4 are, to the extent that this section is utilized by a municipality [or
5 a], school district OR DISTRICT CORPORATION, suspended and made ineffec-
6 tive insofar as necessary to effectuate the objects and purposes of this
7 section.

8 d. Separability. If any clause, sentence, subdivision, paragraph, or
9 part of this section be adjudged by any court of competent jurisdiction
10 to be invalid, such judgment shall not affect, impair or invalidate the
11 remainder thereof, but shall be confined in its operation to the clause,
12 sentence, subdivision, paragraph, or part thereof directly involved in
13 the controversy in which such judgment shall have been rendered.

14 S 2. This act shall take effect immediately.