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

5136

2013-2014 Regular Sessions

I N S E N A T E

May 10, 2013

Introduced by Sen. FLANAGAN -- 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 the mandatory reserve fund for municipal corporations, fire districts, school districts and boards of cooperative educational services

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

Section 1. Section 6-l of the general municipal law, as added by chapter 1052 of the laws of 1965, subdivision 2 as amended by section 10 of part A of chapter 93 of the laws of 2002, subdivision 2-a as added by chapter 807 of the laws of 1977 and subdivision 6 as amended by chapter 140 of the laws of 1996, is amended to read as follows:

S 6-l. Mandatory reserve fund for municipal corporations, fire districts [and], school districts AND BOARDS OF COOPERATIVE EDUCATIONAL SERVICES. 1. As used in this section, the term "governing board," in so far as it is used in reference to a municipal corporation, shall mean the "legislative body" thereof, as that term is defined in section two of the municipal home rule law, as amended from time to time; in so far as it is used in reference to a fire district, shall mean the board of fire commissioners thereof; in so far as it is used in reference to a school district OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES, shall mean the board of trustees thereof.

2. Notwithstanding any other provision of this chapter, upon the cash sale by a municipal corporation, fire district [or], school district OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES of a capital improvement, as defined in section six-c of this chapter, for the cost of which obligations were issued pursuant to the local finance law, and when all or part of such indebtedness is outstanding at the time of such sale, a mandatory reserve fund shall be established for the purpose of retiring such obligations, or, as an additional alternative, paying principal of, or redemption premiums in connection with such obligations or other

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

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obligations of at least equal weighted average life; provided however, that, if the proceeds of the sale are used or set aside to be used (i) to pay or provide for the construction, reconstruction, acquisition or installation of capital improvements or equipment, as defined in section six-c of this chapter, or (ii) for the payment of principal of, or redemption premiums in connection with, any outstanding obligations issued by the municipal corporation, fire district [or], school district OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES to finance such capital improvements or equipment, in an amount not less than the lesser of such proceeds or the principal amount of the indebtedness outstanding on the capital improvement sold, then such fund need not be established; provided, however, that if such amount to be so used, together with any other amounts so used pursuant to this sentence in the same fiscal year of such municipal corporation, fire district [or], school district OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES, would exceed one percent of the limit prescribed by section 104.00 of the local finance law, then such fund shall nevertheless be established; and provided further, that a municipal corporation, fire district [or], school district OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES shall within thirty days after the use of such proceeds pursuant to clause (i) [herein] OF THE OPENING PARAGRAPH OF THIS SUBDIVISION, file a report with the state comptroller identifying: (a) the asset sold, (b) the amount of net proceeds from such sale, (c) the amount to be paid or provided pursuant to such clause (i), and (d) the capital improvements or equipment to be so paid for or provided. When a municipal corporation, fire district [or], school district OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES has outstanding indebtedness incurred to finance the cost of such a capital improvement, federal and state aid received on account of such improvement, to the extent that it is not applied directly to the payment of a part of the cost of such improvement or to retire indebtedness issued in anticipation of such aid, shall likewise be deposited in a reserve fund for the purpose of retiring either such obligations or, as an additional alternative, other obligations of at least equal weighted average life. The entire proceeds of the sale or such state or federal aid received, as the case may be, shall be deposited to the credit of such fund, provided however, that if the aggregate amount thereof shall exceed the principal of such indebtedness due or to become due, or if, when all such outstanding obligations have been retired, any moneys remain unexpended in the reserve fund, such excess moneys may be used for any lawful municipal or district purpose, as the case may be. The provisions of this section shall not apply in a case where a provision of any other law requires that the proceeds of the sale of a capital improvement shall be deposited in a reserve fund established for the purpose of retiring outstanding obligations.

2-a. The provisions of this section shall apply to capital improvements of town and county improvement districts. For the purpose of implementing the provisions of this section in regard to such districts, the term "governing board" shall mean the governing board of the town or county, as the case may be, in which such district is located, and the term "chief fiscal officer" shall mean the chief fiscal officer of such town or county.

3. Appropriations from such fund shall be made only for the payment or payments of all or part of the said outstanding indebtedness. However, any balance remaining in said fund upon the payment of all outstanding principal and interest may be expended for any lawful purpose of the

municipal corporation, fire district [or], school district OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES.

4. The chief fiscal officer shall keep a separate account for each of such funds established. Such account shall show:

a. The date of creation of the fund and the amount credited thereto.

b. The interest earned by such fund.

c. The capital gains or losses resulting from the sale of investments of the fund.

d. The interest or capital gains which have accrued to the fund.

e. The amount and date of each withdrawal from the fund.

f. The assets of the fund, indicating the cash balance therein and a schedule of the amounts invested. The chief fiscal officer at the termination of each fiscal year shall render a detailed report of the operation and condition of each of such funds to the governing board.

5. The members of the governing board are hereby declared trustees of such funds and shall be subject to all the duties and responsibilities imposed by law on trustees, and such duties and responsibilities may be enforced by the municipal corporation, fire district [or], school district OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES, as the case may be, or by any board, commission, agency, office or taxpayer thereof. An expenditure from such mandatory reserve fund may be made only by appropriation pursuant to a resolution of the governing board.

6. The moneys in each 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, fire district [or], school district OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES, if the governing board shall delegate such duty to him, may invest the moneys in each such fund in the manner provided in section eleven of this article. Any interest earned or capital gains realized on the moneys so deposited or invested shall accrue to and become a part of each such fund. The separate identity of each such fund shall be maintained whether its assets consist of cash, investments, or both.

7. The members of the governing board shall be guilty of a misdemeanor if they:

a. Authorize a withdrawal from any such mandatory reserve fund for any purpose other than as provided in this section.

b. Expend any money withdrawn from any such mandatory reserve fund for a purpose other than as provided in this section.

S 2. This act shall take effect immediately.