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

S. 5967 A. 8242

2015-2016 Regular Sessions

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

June 14, 2015

IN SENATE -- Introduced by Sen. DeFRANCISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

IN ASSEMBLY -- Introduced by M. of A. BRENNAN, NOLAN -- read once and referred to the Committee on Ways and Means

AN ACT to amend the public authorities law, the state finance law and the tax law, in relation to the funding of the multi-year capital program of the metropolitan transportation authority and other regional transportation systems; and making an appropriation therefor

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

Section 1. Legislative findings and declaration of purpose. 1. The metropolitan transportation authority (MTA), regional transportation systems and other transportation infrastructure are essential to meeting the basic mobility and economic needs of the citizens in the state. The contributions of such mass transportation services are also essential to addressing fundamental environmental policy and social needs of the state's residents.

2. The MTA, regional transportation systems and other transportation infrastructure must continue to function as the primary provider of reasonably priced, safe and reliable mass transportation services. It is of vital importance to the ability of the metropolitan transportation authority to meet the continued need for mobility and for the economic health of the MTA and the state that additional dedicated sources of reliable funding are made promptly available.

3. It is the intent of the legislature to continue to fund the multi-year capital program of the MTA and other regional transportation systems to ensure the continuation of reasonable fares and provide for a safe, reliable, efficient mass transportation system.

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

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4. Multi-year investment in transportation infrastructure is critical to economic development and the safe and reliable movement of citizens and goods in the state.

S 2. Subdivision (a) of section 1225-g of the public authorities law, as added by chapter 576 of the laws of 1972, is amended to read as follows:

(a) To enable the fund to realize its public and governmental purpose, the fund may enter into agreements with the transportation authority, to which the transit authority may be a party, pursuant to which the transportation authority may plan, design, construct, acquire, extend, reconstruct, rehabilitate, modernize, or otherwise improve any transit facility, and the fund may lease any such transit facility from the transportation authority. The fund may apply the resources of the fund to the payment of rentals and other payments required from the fund by any such lease or other agreement and may pledge such resources as security for such payments to the transportation authority with respect to such leases or other agreements. THE FUND SHALL ENTER INTO SUCH LEASES OR OTHER AGREEMENTS WITH THE TRANSPORTATION AUTHORITY PROVIDING FOR THE PAYMENT OF RENTALS AND OTHER PAYMENTS SUFFICIENT TO ALLOW THE TRANSPORTATION AUTHORITY TO FINANCE THE COSTS OF PLANNING AND DESIGN, ACQUISITION, CONSTRUCTION, RECONSTRUCTION, REPLACEMENT, IMPROVEMENT, RECONDITIONING, REHABILITATION AND PRESERVATION, INCLUDING THE ACQUISITION OF REAL PROPERTY AND INTERESTS THEREIN REQUIRED OR EXPECTED TO BE REQUIRED IN CONNECTION THEREWITH, OF TRANSIT FACILITIES, NOT TO EXCEED FOUR BILLION FIVE HUNDRED MILLION DOLLARS, WHICH ARE CAPITAL ELEMENTS SET FORTH IN THE TWO THOUSAND FIFTEEN--TWO THOUSAND NINETEEN CAPITAL PROGRAM PLANS APPROVED BY THE METROPOLITAN TRANSPORTATION AUTHORITY CAPITAL PROGRAM REVIEW BOARD.

S 3. Subdivision 1 of section 2799-gg of the public authorities law, as amended by chapter 182 of the laws of 2009, is amended to read as follows:

1. The authority shall have the power and is hereby authorized from time to time to issue bonds, in conformity with applicable provisions of the uniform commercial code, in such principal amounts as it may determine to be necessary pursuant to section twenty-seven hundred ninety-nine-ff of this title to pay the cost of any project and to fund reserves to secure such bonds, including incidental expenses in connection therewith, AND TO PAY THE COST OF ANY PROJECT OR ELEMENT CONTAINED IN A BUDGETED AND APPROVED CAPITAL PLAN OF THE METROPOLITAN TRANSPORTATION AUTHORITY.

The aggregate principal amount of such bonds, notes or other obligations outstanding shall not exceed [thirteen billion, five hundred million dollars ($13,500,000,000)] EIGHTEEN BILLION DOLLARS ($18,000,000,000), excluding bonds, notes or other obligations issued pursuant to sections twenty-seven hundred ninety-nine-ss and twenty-seven hundred ninety-nine-tt of this title; provided, however, that upon any refunding or repayment of bonds (which term shall not, for this purpose, include bond anticipation notes), the total aggregate principal amount of outstanding bonds, notes or other obligations may be greater than [thirteen billion, five hundred million dollars ($13,500,000,000)] EIGHTEEN BILLION DOLLARS ($18,000,000,000) only if the refunding or repayment bonds, notes or other obligations were issued in accordance with the provisions of subparagraph (a) of subdivision two of paragraph b of section 90.10 of the local finance law, as amended from time to time. Notwithstanding the foregoing, bonds, notes or other obligations issued by the authority may be outstanding in an amount greater than the

amount permitted by the preceding sentence, provided that such additional amount at issuance, together with the amount of indebtedness contracted by the city of New York, shall not exceed the limit prescribed by section 104.00 of the local finance law. The authority shall have the power from time to time to refund any bonds of the authority by the issuance of new bonds whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds of the authority then outstanding and partly to pay the cost of any project pursuant to section twenty-seven hundred ninety-nine-ff of this title. Bonds issued by the authority shall be payable solely out of particular revenues or other moneys of the authority as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject to any agreements entered into between the authority and the city, and subject to any agreements with the holders of outstanding bonds pledging any particular revenues or moneys.

S 4. Subdivision 3 of section 92-ff of the state finance law, as added by section 1 of part G of chapter 25 of the laws of 2009, is amended to read as follows:

3. Such fund shall consist of all moneys collected [therefore] THEREFOR or credited or transferred thereto from any other fund, account or source, including, without limitation, the revenues derived from the metropolitan commuter transportation mobility tax imposed by article twenty-three of the tax law; REVENUES DERIVED FROM SECTION SIX HUNDRED NINETY-EIGHT-A OF THE TAX LAW; revenues derived from the special supplemental tax on passenger car rentals imposed by section eleven hundred sixty-six-a of the tax law; revenues derived from the transportation surcharge imposed by article twenty-nine-A of the tax law; the supplemental registration fees imposed by article seventeen-C of the vehicle and traffic law; and the supplemental metropolitan commuter transportation district license fees imposed by section five hundred three of the vehicle and traffic law. Any interest received by the comptroller on moneys on deposit in the metropolitan transportation authority financial assistance fund shall be retained in and become a part of such fund.

S 5. Section 698 of the tax law, as amended by chapter 477 of the laws of 1998, is amended to read as follows:

S 698. Deposit and disposition of revenue. [All] EXCEPT AS PROVIDED IN SECTION SIX HUNDRED NINETY-EIGHT-A OF THIS PART, ALL taxes, interest and penalties collected or received by the commissioner under this article shall be deposited and disposed of pursuant to the provisions of section one hundred seventy-one-a of this chapter. Notwithstanding the foregoing, unemployment insurance contributions and payments and aggregate withholding taxes collected or received by the commissioner from employers in a single remittance accompanying the quarterly combined withholding, wage reporting and unemployment insurance returns required by paragraph four of subsection (a) of section six hundred seventy-four of this article shall, if necessary, be deposited into an account to be maintained jointly by the department and the department of labor at such responsible bank, banking house or trust company as may be designated by the comptroller. The comptroller shall require adequate security from such depository. Such departments shall determine the proper allocation of the monies in such account as between unemployment insurance contributions and payments and aggregate withholding taxes. Unemployment insurance contributions and payments shall then be deposited and disposed of pursuant to the provisions of title four of article eighteen of the labor law, and aggregate withholding taxes shall be deposited and disposed of pursuant to the provisions of sections one hundred seventy-

one-a, thirteen hundred thirteen and thirteen hundred thirty-three of this chapter, as applicable.

S 6. The tax law is amended by adding a new section 698-a to read as follows:

S 698-A. DEPOSIT AND DISPOSITION OF CERTAIN REVENUE. NOTWITHSTANDING THE PROVISIONS OF SECTION SIX HUNDRED NINETY-EIGHT OF THIS PART TO THE CONTRARY, FOR TAXABLE YEAR TWO THOUSAND FIFTEEN, ONE-HALF (.5) PERCENT; FOR TAXABLE YEAR TWO THOUSAND SIXTEEN, ONE (1.0) PERCENT; FOR TAXABLE YEAR TWO THOUSAND SEVENTEEN, ONE AND ONE-HALF (1.5) PERCENT; AND FOR TAXABLE YEARS BEGINNING IN TWO THOUSAND EIGHTEEN AND EVERY YEAR THEREAFTER, TWO (2.0) PERCENT OF THE TAXES, INTEREST AND PENALTIES COLLECTED OR RECEIVED BY THE COMMISSIONER UNDER THIS ARTICLE SHALL BE DISTRIBUTED AS FOLLOWS:

(A) EIGHTY-FIVE PERCENT OF THE FUNDS GENERATED FROM TAXPAYERS RESIDING IN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT ESTABLISHED PURSUANT TO SECTION TWELVE HUNDRED SIXTY-TWO OF THE PUBLIC AUTHORITIES LAW SHALL BE DEPOSITED AND DISPOSED OF PURSUANT TO SECTION EIGHT HUNDRED FIVE OF THIS CHAPTER; TEN PERCENT OF THE FUNDS GENERATED FROM TAXPAYERS RESIDING IN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT ESTABLISHED PURSUANT TO SECTION TWELVE HUNDRED SIXTY-TWO OF THE PUBLIC AUTHORITIES LAW SHALL BE DEPOSITED INTO THE DEDICATED HIGHWAY AND BRIDGE TRUST FUND; AND FIVE PERCENT OF THE FUNDS GENERATED FROM TAXPAYERS RESIDING IN THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT ESTABLISHED PURSUANT TO SECTION TWELVE HUNDRED SIXTY-TWO OF THE PUBLIC AUTHORITIES LAW SHALL BE DEPOSITED INTO THE DEDICATED MASS TRANSPORTATION TRUST FUND TO THE CREDIT OF THE NON-MTA ACCOUNT FOR PAYMENT TO DOWNSTATE TRANSIT SYSTEMS OTHER THAN THOSE TRANSIT SYSTEMS OPERATED BY THE METROPOLITAN TRANSPORTATION AUTHORITY.

(B) THE FUNDS GENERATED FROM THE TAXPAYERS RESIDING OUTSIDE OF THE METROPOLITAN COMMUTER TRANSPORTATION DISTRICT ESTABLISHED PURSUANT TO SECTION TWELVE HUNDRED SIXTY-TWO OF THE PUBLIC AUTHORITIES LAW SHALL BE DEPOSITED AS FOLLOWS: THIRTY PERCENT OF THE REVENUES SHALL BE DEPOSITED INTO THE DEDICATED MASS TRANSPORTATION TRUST FUND TO THE CREDIT OF THE NON-MTA ACCOUNT FOR PAYMENT TO UPSTATE TRANSIT SYSTEMS AND SEVENTY PERCENT OF THE REVENUES SHALL BE DEPOSITED INTO THE DEDICATED HIGHWAY AND BRIDGE TRUST FUND.

S 7. Subsection (a) of section 805 of the tax law, as added by section 1 of part C of chapter 25 of the laws of 2009, is amended to read as follows:

(a) The taxes, interest, and penalties imposed by this article AND BY SECTION SIX HUNDRED NINETY-EIGHT-A OF THIS CHAPTER and collected or received by the commissioner shall be deposited daily with such responsible banks, banking houses or trust companies, as may be designated by the comptroller, to the credit of the comptroller in trust for the metropolitan transportation authority. An account may be established in one or more of such depositories. Such deposits will be kept separate and apart from all other money in the possession of the comptroller. The comptroller shall require adequate security from all such depositories. Of the total revenue collected or received under this article, the comptroller shall retain such amount as the commissioner may determine to be necessary for refunds under this article. The commissioner is authorized and directed to deduct from the amounts it receives under this article, before deposit into the trust accounts designated by the comptroller, a reasonable amount necessary to effectuate refunds of appropriations of the department to reimburse the department for the costs incurred to administer, collect and distribute the taxes imposed by this article.

S 8. The sum of one billion dollars ($1,000,000,000), or such much thereof as may be necessary, is hereby appropriated to the metropolitan transportation authority from any moneys in the state treasury in the capital projects fund - dedicated infrastructure investment fund to the credit of the infrastructure investment account - special infrastructure purpose, not otherwise appropriated, for the costs of capital projects for the planning and design, acquisition, construction, reconstruction, replacement, improvement, reconditioning, rehabilitation and preservation, including the acquisition of real property and interests therein required or expected to be required in connection therewith, of urban and commuter passenger, freight rail, omnibus, mass transit and rapid transit systems, facilities and equipment, including acquisition, which are capital elements set forth in the 2015-2019 capital program plans approved by the metropolitan transportation authority capital program review board. Such sum shall be payable on the audit and warrant of the state comptroller on vouchers certified or approved by the metropolitan transportation authority, or its duly designated representative in the manner provided by law. No expenditure shall be made from this appropriation until a certificate of approval of availability shall have been issued by the director of the budget and filed with the state comptroller and a copy filed with the chair of the senate finance committee and the chair of the assembly ways and means committee. Such certificate may be amended from time to time by the director of the budget and a copy of each such amendment shall be filed with the state comptroller, the chair of the senate finance committee and the chair of the assembly ways and means committee.

S 9. Additional allocation. Any bank or insurance settlement proceeds received by the state above the first one billion dollars provided to the metropolitan transportation authority under section eight of this act but not to exceed three hundred million shall be distributed as follows 34 percent to the dedicated mass transportation trust fund to the credit of the non-MTA account and 66 percent to the dedicated highway and bridge trust fund. Funds authorized by this section shall not supplant any existing revenues authorized for distribution into the dedicated mass transportation trust fund.

S 10. This act shall take effect April 1, 2016.