

# STATE OF NEW YORK

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6133

2019-2020 Regular Sessions

## IN ASSEMBLY

February 28, 2019

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Introduced by M. of A. JAFFEE -- read once and referred to the Committee on Education

AN ACT to amend the general municipal law and the education law, in relation to the repair reserve funds for municipal corporations, school districts, board of cooperative educational services, district corporations and improvement districts

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 6-d of the general municipal law, as added by chap-  
2 ter 383 of the laws of 1950, the section heading and subdivisions 5 and  
3 6 as amended by chapter 693 of the laws of 1952, subdivision 1 as  
4 amended by chapter 828 of the laws of 1961, subdivision 2 as amended by  
5 chapter 740 of the laws of 1957, paragraph b of subdivision 3 and subdi-  
6 vision 4 as amended by chapter 140 of the laws of 1996 and subdivision 7  
7 as amended by chapter 424 of the laws of 2001, is amended to read as  
8 follows:

9 § 6-d. Repair reserve funds for municipal corporations, school  
10 districts, board of cooperative educational services, district corpo-  
11 rations and improvement districts. 1. The governing board of any munici-  
12 pal corporation, school district, board of cooperative educational  
13 services, district corporation, or town or county improvement district,  
14 may establish a special fund which shall be known as the repair reserve  
15 fund of such municipal corporation, school district, board of cooper-  
16 ative educational services, district corporation or improvement  
17 district. There may be paid into such fund an amount as may be provided  
18 therefor by budgetary appropriation or such revenues as are not required  
19 by law to be paid into any other fund or account.

20 2. In cases of emergency, moneys in such fund may be expended pursuant  
21 to a resolution approved by not less than two-thirds of the members of  
22 the governing body of such municipal corporation, school district, board  
23 of cooperative educational services, district corporation or improvement

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

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1 district providing that not less than one-half of the moneys so expended  
2 shall be repaid in the fiscal year immediately following the fiscal year  
3 in which such moneys were expended and the total amount shall be repaid  
4 not later than the last day of the second fiscal year succeeding the  
5 fiscal year in which the moneys were expended.

6 Prior to the adoption of any other resolution, act, ordinance or local  
7 law by the governing board of such municipal corporation, school  
8 district, board of cooperative educational services, district corpo-  
9 ration or improvement district, appropriating money from such fund, the  
10 governing board shall cause to be published in the official newspaper or  
11 newspapers, if any, or otherwise in a newspaper or newspapers designated  
12 for such purpose, a notice stating in substance that it is proposed to  
13 appropriate a specified amount from the repair reserve fund for a  
14 particular purpose, and that a public hearing on such proposed appropri-  
15 ation will be held at a time and place stated therein. At least five  
16 days shall elapse between the publication of such notice and the date  
17 specified for the hearing. The hearing shall be held at the time and  
18 place so specified.

19 3. Moneys in such fund may be appropriated only:

20 a. For repairs of capital improvements or equipment, which repairs are  
21 of a type not recurring annually or at shorter intervals.

22 b. In the case of a municipal corporation, to a capital reserve fund  
23 established pursuant to section six-c of this article or to a contingen-  
24 cy and tax stabilization reserve fund established pursuant to section  
25 six-e of this article.

26 c. In the case of a fire district, to a capital reserve fund estab-  
27 lished pursuant to section six-g of this article.

28 d. In the case of a school district, to a reserve fund established  
29 pursuant to section thirty-six hundred fifty-one of the education law.

30 e. In the case of a board of cooperative educational services, to a  
31 capital repair reserve fund established pursuant to section nineteen  
32 hundred fifty of the education law.

33 4. The moneys in such fund shall be deposited and secured in the  
34 manner provided by section ten of this article. The moneys in such fund  
35 so deposited shall be accounted for separate and apart from all other  
36 funds of the municipal corporation, school district, board of cooper-  
37 ative educational services, district corporation or improvement  
38 district, in the same manner as provided in subdivision ten of section  
39 six-c of this article. The governing board or the chief fiscal officer  
40 of such municipal corporation, school district, board of cooperative  
41 educational services, district corporation or improvement district, if  
42 the governing board shall delegate such duty to him, may invest the  
43 moneys in such fund in the manner provided in section eleven of this  
44 article. Any interest earned or capital gains realized on the moneys so  
45 deposited or invested shall accrue to and become part of such fund.

46 5. The members of the governing board of such municipal corporation,  
47 school district, board of cooperative educational services, district  
48 corporation or improvement district are hereby declared trustees of such  
49 fund and shall be subject to all the duties and responsibilities imposed  
50 by law on trustees, and such duties and responsibilities may be enforced  
51 by such municipal corporation, school district, district corporation or  
52 improvement district, as the case may be, or by any board, commission,  
53 agency, officer or taxpayer thereof.

54 6. The members of the governing board of such municipal corporation,  
55 school district, board of cooperative educational services or district  
56 corporation shall be guilty of a misdemeanor if they:

1 a. Authorize a withdrawal from a repair reserve fund for any other  
2 purpose except as provided in this section.

3 b. Expend any money withdrawn from a repair reserve fund for a purpose  
4 other than that as provided in this section.

5 7. Notwithstanding the foregoing provisions of this section, in any  
6 town which is located wholly or partly within the Adirondack park and  
7 has within its boundaries state lands subject to taxation assessed at  
8 more than thirty per centum of the total taxable assessed valuation of  
9 town as determined from the assessment rolls of the town as completed  
10 from time to time, or in any district corporation or improvement  
11 district situated in whole or in part in any such town, a repair reserve  
12 fund shall not be established unless the state comptroller, on behalf of  
13 the state, shall consent thereto, and in any such town or district  
14 corporation or improvement district no appropriation shall be made from  
15 a repair reserve fund unless the state comptroller, on behalf of the  
16 state, shall consent thereto.

17 8. Moneys of a municipal corporation, school district, board of coop-  
18 erative educational services or district corporation which, upon June  
19 thirtieth, nineteen hundred fifty, constitute a repair reserve fund of  
20 such municipal corporation, school district, board of cooperative educa-  
21 tional services or district corporation, shall continue to so constitute  
22 a special fund and be known as the repair reserve fund of such municipal  
23 corporation, school district, board of cooperative educational services  
24 or district corporation. From and after such date, payments to, and  
25 appropriations from, such fund shall be subject to the foregoing  
26 provisions of this section.

27 § 2. Subdivision 4 of section 1950 of the education law is amended by  
28 adding a new paragraph 1 to read as follows:

29 1. (1) Pursuant to the requirements set forth in section six-d of the  
30 general municipal law, establish a capital repair reserve fund. Such  
31 fund shall be used exclusively to make emergency repairs.

32 (2) In addition to the requirements set forth in section six-d of the  
33 general municipal law, any BOCES that establishes a capital repair  
34 reserve fund shall provide the following:

35 (i) Notification to each component district within ten days that such  
36 emergency repair was required and was completed, the nature of the  
37 repair and the aggregate cost of the repair, and

38 (ii) Provide an annual report by December thirty-first of each year to  
39 each component district and the commissioner of education regarding all  
40 emergency repairs that were completed during the year, the amount of  
41 funds expended for such purpose, and the amount of funds remaining in  
42 the repair reserve fund.

43 § 3. This act shall take effect immediately.