STATE OF NEW YORK

5507

2019-2020 Regular Sessions

IN SENATE

May 3, 2019

Introduced by Sen. METZGER -- 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 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:

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

§ 6-d. Repair reserve funds for municipal corporations, school districts, **board of cooperative educational services,** district corporations and improvement districts. 1. The governing board of any municipal corporation, school district, **board of cooperative educational services,** district corporation, or town or county improvement district, may establish a special fund which shall be known as the repair reserve fund of such municipal corporation, school district, **board of cooperative educational services,** district corporation or improvement district. There may be paid into such fund an amount as may be provided therefor by budgetary appropriation or such revenues as are not required by law to be paid into any other fund or account.

2. In cases of emergency, moneys in such fund may be expended pursuant to a resolution approved by not less than two-thirds of the members of the governing body of such municipal corporation, school district, **board 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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district providing that not less than one-half of the moneys so expended shall be repaid in the fiscal year immediately following the fiscal year in which such moneys were expended and the total amount shall be repaid not later than the last day of the second fiscal year succeeding the fiscal year in which the moneys were expended.

Prior to the adoption of any other resolution, act, ordinance or local law by the governing board of such municipal corporation, school district, **board of cooperative educational services,** district corporation or improvement district, appropriating money from such fund, the governing board shall cause to be published in the official newspaper or newspapers, if any, or otherwise in a newspaper or newspapers designated for such purpose, a notice stating in substance that it is proposed to appropriate a specified amount from the repair reserve fund for a particular purpose, and that a public hearing on such proposed appropriation will be held at a time and place stated therein. At least five days shall elapse between the publication of such notice and the date specified for the hearing. The hearing shall be held at the time and place so specified.

3. Moneys in such fund may be appropriated only:

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

b. In the case of a municipal corporation, to a capital reserve fund established pursuant to section six-c of this article or to a contingency and tax stabilization reserve fund established pursuant to section six-e of this article.

c. In the case of a fire district, to a capital reserve fund established pursuant to section six-g **of this article**.

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

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

4. The moneys in such fund shall be deposited and secured in the manner provided by section ten of this article. The moneys in such fund so deposited shall be accounted for separate and apart from all other funds of the municipal corporation, school district, **board of cooperative educational services,** district corporation or improvement district, in the same manner as provided in subdivision ten of section six-c of this article. The governing board or the chief fiscal officer of such municipal corporation, school district, **board of cooperative educational services,** district corporation or improvement district, if the governing board shall delegate such duty to him, may invest the moneys in 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 part of such fund.

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

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

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

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

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

8. Moneys of a municipal corporation, school district**, board of cooperative educational services** or district corporation which, upon June thirtieth, nineteen hundred fifty, constitute a repair reserve fund of such municipal corporation, school district**, board of cooperative educational services** or district corporation, shall continue to so constitute a special fund and be known as the repair reserve fund of such municipal corporation, school district**, board of cooperative educational services** or district corporation. From and after such date, payments to, and appropriations from, such fund shall be subject to the foregoing provisions of this section.

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

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

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

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

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

§ 3. This act shall take effect immediately.