

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:

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 municip-
12 al 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.