STATE OF NEW YORK

8400

IN SENATE

May 21, 2020

Introduced by Sen. BENJAMIN -- read twice and ordered printed, and when printed to be committed to the Committee on Cities

AN ACT to amend the general municipal law and the New York state financial emergency act for the city of New York, in relation to the establishment by the city of New York of a revenue stabilization fund and variations from generally accepted accounting principles as applied to the budget and accounts of such city in connection with such fund

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

Section 1. Section 25 of the general municipal law, as added by chapter 406 of the laws of 2019, is amended to read as follows:

§ 25. Treatment of capital costs and [~~restricted~~] **certain** fund balances **of the city of New York; revenue stabilization fund of such city**. Notwithstanding the provisions of any general or special state law or local law to the contrary, including but not limited to the New York city charter, the following shall apply with respect to the budget and accounts of the city of New York:

1. All costs that would be capital costs in accordance with generally accepted accounting principles, but for the application of governmental accounting standards board statement number forty-nine, shall be deemed to be capital costs for purposes of this chapter and any other provision of state or local law, including but not limited to the New York city charter, relevant to the treatment of such costs; [~~and~~]

2. The determination as to the existence of a deficit pursuant to the New York state financial emergency act for the city of New York, while such act remains in effect, and any other provision of state or local law, including but not limited to the New York city charter, shall be made without regard to changes in restricted fund balances, as defined by the governmental accounting standards board, where restrictions in relation to such fund balances are imposed by state or federal law or regulation, or otherwise by private or governmental parties other than the city of New York, and without regard to funds held in the health stabilization fund, the school crossing guards health insurance fund**, any revenue stabilization fund established pursuant to section fifteen**

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

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hundred twenty-eight of the New York city charter and the management benefits fund established by the city of New York. Deposits into any such revenue stabilization fund shall be deemed to be expenses of such city for all purposes in the fiscal year during which such deposits are made, and withdrawals from such fund shall be deemed to be revenues of such city for all purposes in the fiscal year during which such withdrawals are made; provided however, that surpluses of such city, whether accumulated from fiscal years ending prior to the effective date of the chapter of the laws of two thousand twenty that amended this subdivision or existing at the close of any fiscal year ending after such effective date, shall be deposited into such revenue stabilization fund as soon as practicable, and such deposits shall not be deemed expenses of the city in the fiscal years during which such deposits are made; and

3. The city of New York may establish and maintain a revenue stabilization fund pursuant to section fifteen hundred twenty-eight of the New York city charter. Except as required by subdivision two of this section with respect to surpluses, deposits into and withdrawals from such fund may be made by means of the procedures set forth in such charter for adoption or modification of the expense budget of such city, as applicable, provided that no more than fifty percent of the total amount of such fund may be withdrawn in any fiscal year unless the mayor has certified that there is a compelling fiscal need, which may be based on circumstances including, but not be limited to, a national or regional recession, a reduction in total revenues from the preceding fiscal year as projected in the financial plan of the city of New York, a natural or other disaster, or a declared state of emergency in the city of New York or the state of New York. The authority to establish a revenue stabilization fund set forth in this subdivision shall be in addition to any other authorization set forth in this article or other applicable law.

§ 2. Paragraph a of subdivision 1 of section 8 of section 2 of chapter 868 of the laws of 1975, constituting the New York state financial emergency act for the city of New York, as amended by chapter 406 of the laws of 2019, is amended to read as follows:

a. For its fiscal years ending June thirtieth, nineteen hundred seventy-nine through June thirtieth, nineteen hundred eighty-one, the city's budget covering all expenditures other than capital items shall be prepared and balanced so that the results thereof would not show a deficit when reported in accordance with the accounting principles set forth in the state comptroller's uniform system of accounts for municipalities, as the same may be modified by the comptroller, in consultation with the city comptroller, for application to the city; subject to the provision of subdivision four of section three thousand thirty-eight of the public authorities law with respect to contributions by the city or other public employer to any retirement system or pension fund and subject to the provision of paragraph (c) of subdivision five of section three thousand thirty-eight of the public authorities law with respect to expense items included in the capital budget of the city. For the fiscal year ending June thirtieth, nineteen hundred eighty-two, and for each fiscal year thereafter, the city's budget covering all expenditures other than capital items shall be prepared and balanced so that the results thereof would not show a deficit when reported in accordance with generally accepted accounting principles and would permit comparison of the budget with the report of actual financial results prepared in accordance with generally accepted accounting principles. With respect to financial plans that include the fiscal years ending June thirtieth, nineteen hundred seventy-nine through June thirtieth, nine-

teen hundred eighty-one, the city's budget covering all expenditures other than capital items shall be prepared in accordance with generally accepted accounting principles and there shall be substantial progress in each such fiscal year towards achieving a city budget covering all expenditures other than capital items the results of which would not show a deficit when reported in accordance with generally accepted accounting principles. The city shall eliminate expense items from its capital budget not later than the commencement of the fiscal year ending June thirtieth, nineteen hundred eighty-two. For the fiscal year ending June thirtieth, nineteen hundred eighty-nine, and for each fiscal year thereafter, the budgets covering all expenditures other than capital items of each of the covered organizations shall be prepared and balanced so that the results thereof would not show a deficit when reported in accordance with generally accepted accounting principles; and for each fiscal year prior thereto, there shall be substantial progress towards such goal. Notwithstanding the foregoing and the provisions of any general or special state law or local law to the contrary, including but not limited to the New York city charter: (i) all costs that would be capital costs in accordance with generally accepted accounting principles, but for the application of governmental accounting standards board statement number forty-nine, shall be deemed to be capital costs for purposes of this act and any other provision of state or local law, including but not limited to the New York city charter, relevant to the treatment of such costs; and (ii) the determination as to the existence of a deficit pursuant to this act and any other provision of state or local law, including but not limited to the New York city charter, shall be made without regard to changes in restricted fund balances, as defined by the governmental accounting standards board, where restrictions in relation to such fund balances are imposed by state or federal law or regulation, or otherwise by private or governmental parties other than the city of New York, and without regard to funds held in the health stabilization fund, the school crossing guards health insurance fund**, any revenue stabilization fund established pursuant to section fifteen hundred twenty-eight of the New York city charter** and the management benefits fund established by the city of New York. **Deposits into any such revenue stabilization fund shall be deemed to be expenses of such city in the fiscal year in which such deposits are made, and withdrawals from such fund shall be deemed to be revenues of such city in the year in which such withdrawals are made; provided however, that surpluses of such city, whether accumulated from fiscal years ending prior to the effective date of the chapter of the laws of two thousand twenty that amended this paragraph or existing at the close of any fiscal year ending after such effective date, shall be deposited into such revenue stabilization fund as soon as practicable, and such deposits shall not be deemed expenses of the city in the fiscal year in which such deposits are made.**

§ 3. This act shall take effect immediately.