

STATE OF NEW YORK

10214

IN ASSEMBLY

May 6, 2022

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Braunstein)
-- read once and referred to the Committee on Cities

AN ACT to amend the local finance law, in relation to the maintenance and application of a general debt service fund for the city of New York, and agreements and covenants with respect to obligations issued by such city

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

1 Section 1. The local finance law is amended by adding a new section
2 54.15 to read as follows:

3 § 54.15 Maintenance and application of a general debt service fund for
4 the city of New York. a. The following words shall have the following
5 meanings unless the context shall indicate another or different meaning
6 or intent.

7 1. "Available tax levy" with respect to an issue of tax anticipation
8 notes means at any date of computation the total amount of city real
9 estate taxes or assessments projected, consistent with the financial
10 plan then in effect, to be received in cash on or before the fifth day
11 preceding the maturity date of such tax anticipation note issue, less
12 amounts required during the period between the date of computation and
13 the fifth day preceding such maturity date to be paid into the general
14 debt service fund or otherwise required to pay interest payable on other
15 outstanding city bonds and notes, principal (including payments into
16 sinking funds) coming due on outstanding city bonds and principal to be
17 paid from sources other than the proceeds of bonds or renewal notes on
18 other outstanding city notes (exclusive of revenue anticipation notes or
19 renewals thereof issued less than two years prior to the date of compu-
20 tation) but not including payments from sinking funds required by the
21 terms of certain city bonds.

22 2. "City" means the city of New York.

23 3. "Comptroller" means the comptroller of the state of New York.

24 4. "Fund" means the general debt service fund established pursuant to
25 this section.

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

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1 5. "RAN debt service account" means the revenue anticipation note debt
2 service account established within the fund pursuant to this section.

3 6. "TAN debt service account" means the tax anticipation note debt
4 service account established within the fund pursuant to this section.

5 b. The city shall maintain a general debt service fund for the purpose
6 of paying debt service due or becoming due in the then current fiscal
7 year and in subsequent fiscal years. All monies in the fund shall be
8 held by the comptroller, who shall administer and maintain the fund in
9 accordance with the provisions of this section.

10 c. All payments of or on account of real estate taxes or assessments,
11 other than the proceeds of tax anticipation notes, shall be immediately
12 upon receipt deposited in such fund. The comptroller shall retain,
13 disburse and apply monies in the fund during each month as follows:

14 1. During the first month of each fiscal quarter, there shall be
15 retained in the fund all real estate tax payments deposited in the fund
16 until there shall have been retained from monies so deposited during
17 such month an amount equal to the total monthly debt service, computed
18 as of the date of any disbursement of money from the fund, for the
19 second and third months of such fiscal quarter; provided that such
20 amount shall be reduced by any amount already on deposit in the fund
21 which may be used to pay the monthly debt service for such months. For
22 purposes of this section, fiscal quarter shall mean the three-month
23 period beginning July first, October first, January first or April
24 first, and monthly debt service shall mean, as of any date of computa-
25 tion, the amount of monies equal to the aggregate of (i) all interest
26 payable during such month on bonds and notes of the city, plus (ii) the
27 amount of principal, including payments into sinking funds, maturing or
28 otherwise coming due during such month on all bonds of the city, exclud-
29 ing principal payments made from sinking funds required by the terms of
30 certain city bonds, plus (iii) the amount of principal to be paid on
31 notes of the city during such month from sources other than the proceeds
32 of bonds or renewal notes, exclusive of revenue anticipation notes and
33 tax anticipation notes or renewals thereof issued less than two years
34 prior to the date of computation.

35 2. During the second and third months of each fiscal quarter, there
36 shall be retained in the fund all real estate tax payments deposited in
37 the fund until there shall have been retained from monies so deposited
38 during such month an amount equal to the total monthly debt service,
39 computed as of the date of any disbursement of monies from the fund, for
40 the first month of the next succeeding fiscal quarter; provided that
41 such amount shall be reduced by any amount already on deposit in the
42 fund which may be used to pay the monthly debt service for such month.

43 3. During any month of a fiscal quarter, after the retentions required
44 by subdivisions one and two of this paragraph have been made for such
45 month, the comptroller shall deposit any remaining balance of real
46 estate taxes received during such month, first into the TAN debt service
47 account to the extent required under paragraph f of this section, and
48 second into the general fund of the city.

49 4. The city may at any time pay into the fund any monies required by
50 law to be used to pay monthly debt service and any other monies avail-
51 able for such purpose.

52 d. If the mayor of the city at any time determines that retentions in
53 the fund pursuant to the provisions of paragraph c of this section are
54 or are likely to be insufficient to provide for the payment of monthly
55 debt service when due, in order to ensure that the amounts on deposit in
56 the fund will be sufficient to pay monthly debt service when due, the

1 mayor of the city shall require (i) that real estate tax receipts be
2 retained in the fund in greater amounts or at earlier dates than the
3 provisions of such paragraph require, or (ii) that other revenues or
4 cash resources of the city be paid into the fund.

5 e. The payment of monthly debt service of the city shall be made,
6 first, from amounts retained in the fund. Amounts retained in the fund
7 shall be used only to pay debt service of the city.

8 f. Upon the issuance of any tax anticipation notes following the
9 effective date of this section, the comptroller shall establish and, so
10 long as any tax anticipation notes shall be outstanding, shall maintain
11 a tax anticipation note debt service account within the fund for the
12 purpose of paying the principal of tax anticipation notes.

13 g. The city shall determine the date on which the principal due or to
14 become due on an outstanding issue of tax anticipation notes shall equal
15 ninety percent of the available tax levy with respect to such issue, and
16 upon reasonable notice thereof the comptroller shall commence on such
17 date to pay into the TAN debt service account from collections of such
18 taxes and assessments, after retaining amounts required to be deposited
19 in the fund, amounts sufficient to pay when due, the principal of such
20 issue of tax anticipation notes. The payments of the principal of tax
21 anticipation notes shall be made, first, from amounts retained in the
22 TAN debt service account.

23 h. Upon the issuance of any revenue anticipation notes following the
24 effective date of this section, the comptroller shall establish and, so
25 long as any revenue anticipation notes shall be outstanding, shall main-
26 tain a revenue anticipation note debt service account within the fund
27 for the purpose of paying the principal of revenue anticipation notes.
28 Each specific type of revenue in anticipation of which such notes are
29 issued and available for such purpose shall be deposited in such account
30 immediately upon receipt by the city. Where such revenue consists of
31 state aid or other revenue to be paid to the city by the comptroller, on
32 the date such revenue is payable to the city, the comptroller shall
33 deposit such revenue directly into such account in lieu of payment to
34 the city for the purpose of paying the principal of revenue anticipation
35 notes.

36 i. The city shall determine the date on which the principal due or to
37 become due on an outstanding issue of revenue anticipation notes shall
38 equal ninety percent of the total amount of revenue against which such
39 notes were issued remaining to be paid to the city on or before the
40 fifth day prior to the maturity date of such notes and upon reasonable
41 notice thereof the comptroller shall commence on such date to retain in
42 the RAN debt service account from amounts deposited or to be deposited
43 therein of each specific type of revenue in anticipation of which reven-
44 ue such anticipation notes were issued, an amount sufficient to pay,
45 when due, the principal of such revenue anticipation notes. Monies
46 retained in such account shall vest immediately in the comptroller in
47 trust for the benefit of the holders of the revenue anticipation notes
48 in anticipation of which such notes were issued. No person having any
49 claim of any kind in tort, contract or otherwise against such city shall
50 have any right to or claim against any monies of the state appropriated
51 by the state and in anticipation of which such notes have been issued,
52 other than a claim for payment by the holders of such notes, and such
53 monies shall not be subject to any order, judgment, lien, execution,
54 attachment, setoff or counter-claim by any such person; provided, howev-
55 er, that nothing contained in this paragraph shall be construed to
56 limit, impair, impede or otherwise adversely affect in any manner the

1 rights or remedies of the purchasers and holders and owners of any bonds
2 or notes of the state or any agency, instrumentality, public benefit
3 corporation or political subdivision thereof, including the city of New
4 York, under which such purchasers and holders and owners have any right
5 of payment of such bonds or notes by recourse to state aid or local
6 assistance monies held by the state or for the payment of which bonds or
7 notes state aid or local assistance monies are a designated source. The
8 payment of the principal of revenue anticipation notes shall be made
9 first from amounts retained in the RAN debt service account.

10 j. Whenever the amount contained in the TAN debt service account or
11 the RAN debt service account exceeds the amount required to be retained
12 in such account, such excess monies, including earnings on investments
13 of monies in the fund, shall be withdrawn from such account and paid
14 into the general fund of the city.

15 k. The comptroller shall invest the monies retained in the fund in
16 accordance with law.

17 l. The limitations imposed upon the city by this section shall be in
18 addition to any other limitations imposed upon the city by this chapter.
19 In the event any other provisions of this chapter shall be inconsistent
20 with the provisions of this section, the provisions of this section
21 shall prevail.

22 m. While the New York state financial emergency act for the city of
23 New York remains in effect, such act shall prevail in the event any
24 provision of such act shall be inconsistent with the provisions of this
25 section. The powers, duties and obligations set forth in this section
26 shall be subject to the powers, duties and obligations placed upon any
27 state or local officer or agency, including but not limited to the New
28 York state financial control board, by or pursuant to such act while
29 such act remains in effect.

30 n. Notwithstanding any other provision of this section, the city may,
31 at any time, subject to approval by the comptroller, designate a trust
32 company or bank having its principal place of business in the state of
33 New York and having the powers of a trust company in the state of New
34 York to hold all or any part of the monies in the fund and to administer
35 and maintain the monies so held in accordance with the applicable
36 provisions of this section and any agreements made pursuant thereto.

37 o. The mayor of the city is hereby authorized to enter into agreements
38 and to make covenants with any purchaser or holder of obligations issued
39 by the city to protect and safeguard the security and rights of a
40 purchaser or holder or to protect and safeguard the source of payment of
41 such obligations or as deemed appropriate by the mayor which agreements
42 or covenants may contain provisions providing for (i) the compliance by
43 the city with any of the provisions of this section, (ii) restrictions
44 on the issuance by the city of its obligations, limitations on the
45 inclusion of expense items in its capital budgets and financial records,
46 reporting and disclosure requirements in addition to any such
47 restrictions, limitations or requirements contained in this section,
48 (iii) compliance by the city with its financial plan as modified from
49 time to time, (iv) conditions that would give rise to an event of
50 default on such obligations, and (v) remedies available to a purchaser
51 or holder of such obligations, other than acceleration or the required
52 elimination or reduction of specific municipal expenditures, including
53 the circumstances, if any, under which a trustee or trustees or a fiscal
54 agent may be appointed or may act as a representative of holders of
55 obligations issued by the city in connection with an issue or issues of
56 obligations of the city and the rights, powers and duties which may be

vested in such trustee, trustees or fiscal agent as such representative.
The state of New York hereby pledges and agrees that it will take no
action that would impair the power of the city to comply with or to
perform any covenant or agreement made pursuant to this paragraph, or
any right or remedy of a purchaser or holder to enforce such covenant or
agreement; and the city is hereby authorized to include such pledge and
agreement in any agreement made pursuant to this paragraph. Nothing
contained in this paragraph shall preclude the state from authorizing
the city to exercise, or the city from exercising, any power provided by
law to seek application of laws then in effect under the bankruptcy
provisions of the United States constitution or shall preclude the state
from validly exercising its police powers.

§ 2. This act shall take effect immediately.