STATE OF NEW YORK

3353--A

2021-2022 Regular Sessions

IN ASSEMBLY

January 22, 2021

Introduced by M. of A. STECK, JACOBSON, STIRPE, ENGLEBRIGHT, BURKE, GOTTFRIED, EPSTEIN, PERRY, SIMON, LUPARDO, HUNTER, REYES, ABINANTI, WILLIAMS, BARRON, KIM, BENEDETTO, L. ROSENTHAL, JOYNER, WALLACE, FAHY, DINOWITZ, CRUZ, J. RIVERA, TAYLOR, DICKENS, GUNTHER, SEAWRIGHT, RICHARDSON, DE LA ROSA, CARROLL, GLICK, DAVILA, FERNANDEZ, COOK, BRONSON, BICHOTTE HERMELYN, DARLING, ANDERSON, NIOU, WALKER, O'DONNELL, MEEKS, KELLES, J. D. RIVERA, LUNSFORD, JEAN-PIERRE, ZINERMAN, CLARK, FRONTUS, McDONALD, BURDICK, FALL, SILLITTI -- Multi-Sponsored by -- M. of A. AUBRY, HYNDMAN -- read once and referred to the Committee on Ways and Means -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the state finance law, in relation to the repeal of the rebate for stock transfer tax paid and the funds of the stock transfer tax fund and the dedicated infrastructure investment fund; to amend the environmental conservation law, in relation to establishing the safe water infrastructure action program for the purpose of making payments toward the replacement and rehabilitation of existing local municipally-owned and funded drinking water, storm water and sanitary sewer systems; to amend the tax law, in relation to taxes imposed in certain transactions; to repeal section 280-a of the tax law relating to the rebate for stock transfer tax paid; to repeal section 92-i of the state finance law relating to the stock transfer incentive fund; and to repeal certain provisions of the administrative code of the city of New York relating thereto

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

Section 1. Section 280-a of the tax law is REPEALED.

§ 2. Section 92-i of the state finance law is REPEALED.

§ 3. Section 92-b of the state finance law, as added by chapter 91 of the laws of 1965, subdivision 3 as amended by chapter 878 of the laws of

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

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1977, subdivision 4 as amended by chapter 724 of the laws of 1979, subdivision 5 as added and subdivision 6 as renumbered by section 2 of chapter 3 of the laws of 1966, subdivision 7 as added by section 10 of part SS1 of chapter 57 of the laws of 2008 and such section as renumbered by section 1 of chapter 3 of the laws of 1966, is amended to read as follows:

§ 92-b. Stock transfer tax fund. 1. There is hereby established in the custody of the commissioner of taxation and finance a special fund, to be known as the stock transfer tax fund.

2. Such fund shall consist of the revenues derived from the stock transfer tax imposed by article twelve of the tax law and all other moneys credited or transferred thereto from any other fund or source pursuant to law.

3. The moneys received from such tax and other sources in such fund[~~, after deducting the amount the commissioner of taxation and finance shall determine to be necessary for~~] shall be used to cover the reasonable costs of the state tax commission in administering, collecting and distributing [~~such~~] the stock transfer tax, commencing with the fiscal year ending March thirty-first, [~~nineteen hundred seventy-seven~~] two thousand twenty-three, [~~shall be appropriated to (i) the municipal assistance corporation for the city of New York created pursuant to title three of article ten of the public authorities law in order to enable such corporation to fulfill the terms of any agreements made with the holders of its notes and bonds and to carry out its corporate purposes including the maintenance of the capital reserve fund and (ii) to the extent such moneys are not required by such corporation as provided in subdivision seven of section ninety-two-d of this chapter and, after deducting the amount such commissioner shall determine to be necessary for reasonable costs of the state tax commission in administering and making distributions in accordance with the provisions of section two hundred eighty-a of the tax law from the stock transfer incentive fund, to the stock transfer incentive fund created pursuant to section ninety-two-i of this chapter to enable rebates to be made from such fund under the provisions of section two hundred eighty-a of the tax law and (iii) to the extent such moneys are not required by such fund, as certified by the commissioner of taxation and finance, the balance shall be appropriated to the city of New York, for the support of local government.~~] and the remainder shall be deposited into the state general fund. Commencing with the fiscal year ending March thirty-first, two thousand twenty-three, such remainder shall be deposited into the following funds:

(i) twenty-five percent shall be directed to the metropolitan transportation authority financial assistance fund established pursuant to section ninety-two-ff of this article, of which fifty percent shall be used for the purpose of operations and fifty percent shall be used for the purpose of capital projects;

(ii) ten percent shall be directed to the division of housing and community renewal for the purpose of capital projects and other improvements to address issues relating to conditions of governance and habitability, including but not limited to, heating, mold, or lead, and other such conditions affecting the health and safety of tenants at housing developments owned or operated by the New York city housing authority;

(iii) fifteen percent shall be directed to the highway and bridge capital account in the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of this article;

(iv) nine percent shall be directed to the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of this article, to be directed towards the infrastructure, maintenance and development of rail lines for AMTRAK in the northeast corridor;

(v) five percent shall be directed to the local infrastructure account of the general fund established pursuant to section seventy-two of this article to be directed to the Consolidated Local Street and Highway Improvement Program (CHIPS);

(vi) five percent shall be directed to the local infrastructure account of the general fund to be dedicated to the safe water and infrastructure action program as established by section 3-0323 of the environmental conservation law;

(vii) five percent shall be directed to the municipal assistance state aid fund established pursuant to section ninety-two-e of this article;

(viii) four percent shall be directed to the dedicated mass transportation trust fund to the credit of the non-MTA account for payment to downstate transit systems other than those transit systems operated by the metropolitan transportation authority;

(ix) four percent shall be directed to the dedicated mass transportation trust fund to the credit of the non-MTA account for payment to upstate transit systems;

(x) thirteen percent shall be directed to the energy research development operating fund pursuant to the provisions of section eighteen hundred fifty-nine of the public authorities law, to be directed to the clean energy fund and shall be divided equally among the four investment portfolios that make up such fund;

(xi) two and one-half percent shall be directed to the city university of New York, of which fifty percent shall be used for the purpose of capital improvements and infrastructure projects and fifty percent shall be used for the purpose of supporting academic programs at city of New York institutions; and

(xii) two and one-half percent shall be directed to the state university of New York institutions, of which fifty percent shall be used for the purposes of supporting and expanding services and care at state university of New York hospitals, state university of New York academic medical centers and fifty percent shall be used for the purpose of supporting academic programs at state university of New York institutions.

4. [~~After the deduction of such costs of the state tax commission in administering, collecting and distributing such tax, the balances in the stock transfer tax fund so appropriated shall be distributed and paid on the last business day of September, December, March and June into the special account established for the municipal assistance corporation for the city of New York in the municipal assistance tax fund established pursuant to subdivision one of section ninety-two-d of this chapter, unless and to the extent the balances in such fund on each such payment day are not required by such corporation as provided in said subdivision seven of said section ninety-two-d in which case the balance not so required, if any, after the deduction of such costs of the state tax commission in administering and making distributions in accordance with the provisions of section two hundred eighty-a of the tax law from the stock transfer incentive fund shall be distributed and paid to the stock transfer incentive fund in the custody of the commissioner of taxation and finance established pursuant to section ninety-two-i of this chapter and unless and to the extent that the balances in the stock transfer tax fund on each such payment day are not required by the stock transfer~~

~~incentive fund as provided in such section ninety-two-i of this chapter in which case the balance not so required, if any, shall be distributed and paid to the chief fiscal officer of the city of New York to be paid into the treasury of the city to the credit of the general fund or paid by the commissioner of taxation and finance to such other account or fund as may be designated in writing by such chief fiscal officer at least ten business days prior to such last day and on each such day, the commissioner of taxation and finance shall certify to the comptroller the amount deducted for administering, collecting and distributing such tax during such quarterly period and shall pay such amount into the general fund of the state treasury to the credit of the state purposes fund therein. In no event shall any amount (other than the amount to be deducted for administering, collecting and distributing such tax) be distributed or paid from the stock transfer tax fund to any person other than the municipal assistance corporation for the city of New York unless and until the aggregate of all payments certified to the comptroller as required by such corporation in order to comply with its agreements with the holders of its notes and bonds and to carry out its corporate purposes, including the maintenance of the capital reserve fund, which remain unappropriated or unpaid to such corporation shall have been appropriated to such corporation and shall have been paid in full provided, however, that no person, including such corporation or the holders of its notes or bonds shall have any lien on such tax and such agreements shall be executory only to the extent of the balances available to the state in such fund. If the balances in such fund are not required by such corporation pursuant to the provisions of this subdivision, on each such last business day of September, December, March and June, the commissioner of taxation and finance shall certify to the comptroller the amount deducted for administering and making distributions in accordance with the provisions of section two hundred eighty-a of the tax law from the stock transfer incentive fund during such quarterly period and he shall pay such amount into the general fund of the state treasury to the credit of the state purposes fund therein. To the extent such moneys are not required by such corporation, as provided in subdivision seven of section ninety-two-d of this chapter, no amount thereof (other than such amount to be deducted for administering, collecting and distributing such tax and such costs in administering and making distributions in accordance with the provisions of section two hundred eighty-a of the tax law from the stock transfer incentive fund) shall be distributed or paid from the stock transfer tax fund other than to such stock transfer incentive fund in the custody of the commissioner of taxation and finance unless and until the aggregate of all payments certified to the comptroller by such commissioner pursuant to the provisions of such incentive fund as necessary to provide payments on account of rebates authorized pursuant to section two hundred eighty-a of the tax law which remain unappropriated or unpaid to such fund shall have been appropriated to such fund and shall have been paid in full provided, however, that no person, including any taxpayer under article twelve of the tax law or any member or dealer referred to in subdivisions two-a and six of section two hundred eighty-a of such law, shall have any lien on this fund or the stock transfer incentive fund.~~

~~5. In no fiscal year shall the total amount paid from the fund exceed the total collections during such fiscal year from the stock transfer tax pursuant to the provisions of article twelve of the tax law and as deposited to the credit of the stock transfer tax fund.~~

~~6.~~] All payments from the stock transfer tax fund shall be made on the audit and warrant of the comptroller on vouchers approved by the commissioner of taxation and finance.

[~~7. When all the notes and bonds of the municipal assistance corporation for the city of New York have been fully paid and discharged, together with interest thereon and interest on unpaid installments of interest, and the chairman of the corporation makes the final certification required by subdivision seven of section ninety-two-d of this article, the comptroller must notify the commissioner of taxation and finance that all remaining funds held in the stock transfer tax fund must be released to the stock transfer incentive fund. From that time forward, all funds previously deposited in the stock transfer tax fund pursuant to subdivision two of this section will be deposited directly into the stock transfer incentive fund pursuant to all the rules, regulations or instructions that the commissioner may prescribe, after deducting the amount the commissioner determines to be necessary for reasonable costs of the department in administering, collecting and distributing the tax imposed by article twelve of the tax law. Notwithstanding any other provisions of this article, to the extent those moneys are not required by the stock transfer incentive fund for the purpose of administering and making distributions in accordance with the provisions of section two hundred eighty-a of the tax law, as certified by the commissioner of taxation and finance, the balance will be appropriated to the city of New York for the support of local government.~~]

§ 4. Paragraph (c) of subdivision 1 of section 93-b of the state finance law, as added by section 1 of part H of chapter 60 of the laws of 2015, is amended to read as follows:

(c) Sources of funds. The sources of funds shall consist of all moneys collected therefor, or moneys credited, appropriated or transferred thereto from any other fund or source pursuant to law or any other moneys made available for the purposes of the fund**, including but not limited to funds transferred from the stock transfer tax fund pursuant to subdivision three of section ninety-two-b of this article and funds transferred from the stock transfer incentive fund established by section ninety-two-i of this article and repealed by a chapter of the laws of two thousand twenty-one, which amended this paragraph**. Any interest received by the comptroller on moneys on deposit shall be retained and become part of the fund, unless otherwise directed by law.

§ 5. Subdivision (c) of section 11-503 of the administrative code of the city of New York is REPEALED.

§ 6. Subdivision 12 of section 11-604 of the administrative code of the city of New York is REPEALED.

§ 7. All monies accumulated in the stock transfer incentive fund established pursuant to section 92-i of the state finance law on the effective date of this act shall be transferred to the dedicated infrastructure investment fund as established by section 93-b of the state finance law for the purposes set forth in such section.

§ 8. The environmental conservation law is amended by adding a new section 3-0323 to read as follows:

§ 3-0323. Safe water and infrastructure action program.

1. Notwithstanding any other provisions of this chapter or any other law and subject to an appropriation made therefor and in accordance with the provisions of this section and with the rules and regulations promulgated by the commissioner in connection therewith, on and after the first day of April, two thousand twenty-two, a consolidated local infrastructure program is hereby established for the purpose of making

payments toward the replacement and rehabilitation of existing local municipally-owned and funded drinking water, storm water and sanitary sewer systems. For purposes of this section, such program shall apply to any county, city, town or village drinking water system, storm water system or sanitary sewer system within the state that is not under the maintenance and/or operational jurisdiction of the state nor any private entity. The commissioner, in conjunction with the environmental facilities corporation, shall promulgate all necessary rules and regulations to carry out the program so that an equitable distribution of aid shall be made for the general operation and/or general maintenance of any existing county, city, town and village drinking water system, storm water system or sanitary sewer system.

2. On or before the twenty-fifth day of April, June, September and November of each state fiscal year commencing with the state fiscal year beginning on April first, two thousand twenty-three, there shall be distributed and paid to counties, cities, towns and villages an amount equal to the moneys appropriated for the purposes of this section divided by the number of payment dates in that state fiscal year. Such amounts shall be distributed and paid pursuant to subdivision three of this section.

3. Amounts shall be distributed for local drinking water, storm water and sanitary sewer systems based upon the total length and width of all pipelines and mains owned and operated by the municipality.

4. Monies made available may be used to match other state and federal funds made available for such projects. The funds may also be used to support special improvement districts created to provide drinking water, waste water and storm water services under articles twelve, twelve-A, twelve-C and thirteen of the town law. The remainder of the apportionment may be used for any existing drinking water, storm water or sewer system purchases, including but not limited to, the acquisition of materials for the replacement or rehabilitation.

5. For any city, town, or village which proposes infrastructure consolidation under this section or merges with another municipality, the funds appropriated under this section may fund costs associated with such consolidation.

6. For each fiscal year, starting in two thousand twenty-three, funds are to be made available to the local infrastructure assistance account of the general fund, and distributed from that account, in an amount that is at least equal to those appropriated and made available in the Consolidated Local Street and Highway Improvement Program (CHIPS).

§ 9. Subdivision 3 of section 270 of the tax law, as amended by chapter 301 of the laws of 1967, is amended and two new subdivisions 3-a and 9 are added to read as follows:

3. It shall be the duty of the person or persons [~~making or effectuating the sale or transfer, including the person or persons~~] to whom the sale or transfer is made, to pay the tax provided by this article, unless the parties to the sale or transfer agree to otherwise allocate the cost of such tax among themselves; provided, however, that this subdivision shall not apply to any sale or transfer wherein the vendor or transferor is a governmental entity or international organization which is not subject to the tax.

3-a. No purchaser of a stock or other certificate in a transaction covered under this article shall have legal title or ownership of such stock or certificate unless such purchaser has proof of purchase demonstrating that such tax has been paid. Such proof of purchase shall consist of either: (a) a receipt for the transaction showing that such

tax has been paid, the amount of such tax paid, and a representation that such amount constitutes payment in full; or (b) a stamp required pursuant to subdivision four of this section.

9. Notwithstanding any other provision to the contrary, a transaction referred to in subdivision one of this section is subject to tax if any activity in furtherance of the transaction occurs within the state or if a party involved in the transaction satisfies a nexus with New York state which shall be defined as broadly as is permitted under the United States Constitution.

§ 10. This act shall take effect immediately.