STATE OF NEW YORK

758

2021-2022 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. CARROLL -- read once and referred 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 expenditures supported by monies retained in a municipal contingency and tax stabilization reserve fund

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

Section 1. Paragraph l of subdivision 1 of section 6-e of the general municipal law, as added by chapter 655 of the laws of 1992, is amended and a new paragraph o is added to read as follows:

l. "Unanticipated revenue loss" means estimated revenue which is rendered unreceivable because of a change in federal or state laws, rules or regulations, a court order, judgement or decree, **an economic recession,** or other circumstance, which takes effect or occurs after final adoption of the annual budget and which could not have been reasonably anticipated prior to final adoption of the annual budget.

o. "Economic recession" means two quarters of negative economic growth as evidenced by a decline in income, employment or spending.

§ 2. Subdivisions 3 and 4 of section 6-e of the general municipal law, subdivision 3 and paragraph d of subdivision 4 as amended by chapter 528 of the laws of 2000 and subdivision 4 as added by chapter 655 of the laws of 1992, are amended to read as follows:

3. There may be paid into the contingency and tax stabilization reserve fund such amounts as may be provided therefor by budgetary appropriation, unappropriated unreserved fund balance in the eligible portion of the annual budget, and such revenues as are not required by law to be paid into any other fund or account; provided, however, that no amount may be appropriated for payment into a contingency and tax stabilization reserve fund which would cause the balance of the fund to

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

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exceed ten percent of the eligible portion of the annual budget for the fiscal year for which the appropriation would be made**; provided, however, that no such limitation shall exist for funds established in a city having a population of one million or more**.

4. a. The moneys in a contingency and tax stabilization reserve fund may be expended only pursuant to an appropriation for a purpose authorized by this subdivision. Except as provided in paragraph [~~e~~] **f** of this subdivision, such an appropriation shall be made only upon the recommendation of the chief executive officer and the adoption of a resolution appropriating the recommended amount by at least two-thirds of the voting strength of the governing board.

b. The moneys in a contingency and tax stabilization reserve fund may be used to finance an unanticipated revenue loss chargeable to the eligible portion of the annual budget, subject to the following limitations:

(1) the maximum amount of moneys in the fund that may be used to finance an unanticipated revenue loss shall equal either the amount of the revenue actually received for the base year or the amount of the estimated revenue for the current fiscal year, whichever is less, minus the amount of the revenue actually received for the current fiscal year; and

(2) the moneys in the fund may be used only to finance that portion of the unanticipated revenue loss which, as a matter of law, cannot be financed with amounts available in any other account or fund.

c. **The moneys in a contingency and tax stabilization reserve fund may be used to finance an unanticipated revenue loss due to an economic recession chargeable to the eligible portion of the annual budget, subject to the following limitations:**

(1) the maximum amount of moneys in the fund that may be used to finance an unanticipated revenue loss due to a recession shall not exceed one hundred two percent of expenditures in the base year or the amount of the estimated expenditures for the current fiscal year, whichever is less, minus the amount of the revenue actually received for the current fiscal year; and

(2) the moneys in the fund may be used only to finance that portion of the unanticipated revenue loss which, as a matter of law, cannot be financed with amounts available in any other account or fund.

d. The moneys in a contingency and tax stabilization reserve fund may be used to finance an unanticipated expenditure chargeable to the eligible portion of the annual budget, subject to the following limitations:

(1) the maximum amount of moneys in the fund that may be used to finance an unanticipated expenditure shall equal the sum of the amount of the unanticipated expenditure and the amount appropriated for that purpose for the current fiscal year minus either the amount appropriated for that purpose for the current fiscal year or the actual expenditure for the same purpose in the base year, whichever is greater; and

(2) the moneys in the fund may be used only to finance that portion of an unanticipated expenditure which, as a matter of law, cannot be financed with amounts available in any other account or fund.

[~~d.~~] **e.** The moneys in the contingency and tax stabilization reserve fund may be used to lessen or prevent any projected increase in excess of two and one-half percent in the amount of the real property tax levy needed to finance the eligible portion of the annual budget for the next succeeding fiscal year. The maximum amount of moneys in the fund that may be used for this purpose shall equal the difference between the projected amount of such real property tax levy and one hundred two and

one-half percent of the amount of the real property tax levy needed to finance the eligible portion of the annual budget for the current fiscal year.

[~~e.~~] **f.** When preparing the tentative budget of a municipal corporation, if the current balance of a contingency and tax stabilization reserve fund, as shown by the statement of the chief fiscal officer required by subdivision six of this section, exceeds ten percent of the eligible portion of the annual budget for the current fiscal year, such excess shall be used to reduce the amount of real property taxes needed to finance the eligible portion of the annual budget for the next succeeding fiscal year**; provided, however, that no such requirement shall exist for funds established in a city having a population of one million or more**.

§ 3. 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 118 of the laws of 2020, is amended to read as follows:

a. **(i)** 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, nineteen 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)~~] **(A)** 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)~~] **(B)** 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.

(ii) Expenditures supported by monies retained in a municipal contingency and tax stabilization reserve fund created pursuant to, and in accordance with, section six-e of the general municipal law shall be excluded from the budget when determining whether the budget is balanced in accordance with generally accepted 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.

§ 4. This act shall take effect immediately.