

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:

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

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

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

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

16 3. There may be paid into the contingency and tax stabilization
17 reserve fund such amounts as may be provided therefor by budgetary
18 appropriation, unappropriated unreserved fund balance in the eligible
19 portion of the annual budget, and such revenues as are not required by
20 law to be paid into any other fund or account; provided, however, that
21 no amount may be appropriated for payment into a contingency and tax
22 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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1 exceed ten percent of the eligible portion of the annual budget for the
2 fiscal year for which the appropriation would be made; provided, howev-
3 er, that no such limitation shall exist for funds established in a city
4 having a population of one million or more.

5 4. a. The moneys in a contingency and tax stabilization reserve fund
6 may be expended only pursuant to an appropriation for a purpose author-
7 ized by this subdivision. Except as provided in paragraph [e] f of this
8 subdivision, such an appropriation shall be made only upon the recommen-
9 dation of the chief executive officer and the adoption of a resolution
10 appropriating the recommended amount by at least two-thirds of the
11 voting strength of the governing board.

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

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

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

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

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

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

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

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

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

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

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

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

14 § 3. Paragraph a of subdivision 1 of section 8 of section 2 of chapter
15 868 of the laws of 1975, constituting the New York state financial emer-
16 gency act for the city of New York, as amended by chapter 118 of the
17 laws of 2020, is amended to read as follows:

18 a. (i) For its fiscal years ending June thirtieth, nineteen hundred
19 seventy-nine through June thirtieth, nineteen hundred eighty-one, the
20 city's budget covering all expenditures other than capital items shall
21 be prepared and balanced so that the results thereof would not show a
22 deficit when reported in accordance with the accounting principles set
23 forth in the state comptroller's uniform system of accounts for munici-
24 palities, as the same may be modified by the comptroller, in consulta-
25 tion with the city comptroller, for application to the city; subject to
26 the provision of subdivision four of section three thousand thirty-eight
27 of the public authorities law with respect to contributions by the city
28 or other public employer to any retirement system or pension fund and
29 subject to the provision of paragraph (c) of subdivision five of section
30 three thousand thirty-eight of the public authorities law with respect
31 to expense items included in the capital budget of the city. For the
32 fiscal year ending June thirtieth, nineteen hundred eighty-two, and for
33 each fiscal year thereafter, the city's budget covering all expenditures
34 other than capital items shall be prepared and balanced so that the
35 results thereof would not show a deficit when reported in accordance
36 with generally accepted accounting principles and would permit compar-
37 ison of the budget with the report of actual financial results prepared
38 in accordance with generally accepted accounting principles. With
39 respect to financial plans that include the fiscal years ending June
40 thirtieth, nineteen hundred seventy-nine through June thirtieth, nine-
41 teen hundred eighty-one, the city's budget covering all expenditures
42 other than capital items shall be prepared in accordance with generally
43 accepted accounting principles and there shall be substantial progress
44 in each such fiscal year towards achieving a city budget covering all
45 expenditures other than capital items the results of which would not
46 show a deficit when reported in accordance with generally accepted
47 accounting principles. The city shall eliminate expense items from its
48 capital budget not later than the commencement of the fiscal year ending
49 June thirtieth, nineteen hundred eighty-two. For the fiscal year ending
50 June thirtieth, nineteen hundred eighty-nine, and for each fiscal year
51 thereafter, the budgets covering all expenditures other than capital
52 items of each of the covered organizations shall be prepared and
53 balanced so that the results thereof would not show a deficit when
54 reported in accordance with generally accepted accounting principles;
55 and for each fiscal year prior thereto, there shall be substantial
56 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.