

STATE OF NEW YORK

5999

2021-2022 Regular Sessions

IN ASSEMBLY

March 4, 2021

Introduced by M. of A. ZEBROWSKI, DICKENS, GRIFFIN, STIRPE, COOK, SAYEGH, CRUZ, ABINANTI, FERNANDEZ, MONTESANO, McDONOUGH, DeSTEFANO, NORRIS, B. MILLER -- read once and referred to the Committee on Education

AN ACT to amend the general municipal law and the education law, in relation to the repair reserve funds for municipal corporations, school districts, board of cooperative educational services, district corporations and improvement districts

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

Section 1. Section 6-d of the general municipal law, as added by chapter 383 of the laws of 1950, the section heading and subdivisions 5 and 6 as amended by chapter 693 of the laws of 1952, subdivision 1 as amended by chapter 828 of the laws of 1961, subdivision 2 as amended by chapter 740 of the laws of 1957, paragraph b of subdivision 3 and subdivision 4 as amended by chapter 140 of the laws of 1996 and subdivision 7 as amended by chapter 424 of the laws of 2001, is amended to read as follows:

§ 6-d. Repair reserve funds for municipal corporations, school districts, board of cooperative educational services, district corporations and improvement districts. 1. The governing board of any municipal corporation, school district, board of cooperative educational services, district corporation, or town or county improvement district, may establish a special fund which shall be known as the repair reserve fund of such municipal corporation, school district, board of cooperative educational services, district corporation or improvement district. There may be paid into such fund an amount as may be provided therefor by budgetary appropriation or such revenues as are not required by law to be paid into any other fund or account.

2. In cases of emergency, moneys in such fund may be expended pursuant to a resolution approved by not less than two-thirds of the members of

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

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1 the governing body of such municipal corporation, school district, board
2 of cooperative educational services, district corporation or improvement
3 district providing that not less than one-half of the moneys so expended
4 shall be repaid in the fiscal year immediately following the fiscal year
5 in which such moneys were expended and the total amount shall be repaid
6 not later than the last day of the second fiscal year succeeding the
7 fiscal year in which the moneys were expended.

8 Prior to the adoption of any other resolution, act, ordinance or local
9 law by the governing board of such municipal corporation, school
10 district, board of cooperative educational services, district corpo-
11 ration or improvement district, appropriating money from such fund, the
12 governing board shall cause to be published in the official newspaper or
13 newspapers, if any, or otherwise in a newspaper or newspapers designated
14 for such purpose, a notice stating in substance that it is proposed to
15 appropriate a specified amount from the repair reserve fund for a
16 particular purpose, and that a public hearing on such proposed appropri-
17 ation will be held at a time and place stated therein. At least five
18 days shall elapse between the publication of such notice and the date
19 specified for the hearing. The hearing shall be held at the time and
20 place so specified.

21 3. Moneys in such fund may be appropriated only:

22 a. For repairs of capital improvements or equipment, which repairs are
23 of a type not recurring annually or at shorter intervals.

24 b. In the case of a municipal corporation, to a capital reserve fund
25 established pursuant to section six-c of this article or to a contingen-
26 cy and tax stabilization reserve fund established pursuant to section
27 six-e of this article.

28 c. In the case of a fire district, to a capital reserve fund estab-
29 lished pursuant to section six-g of this article.

30 d. In the case of a school district, to a reserve fund established
31 pursuant to section thirty-six hundred fifty-one of the education law.

32 e. In the case of a board of cooperative educational services, to a
33 capital repair reserve fund established pursuant to section nineteen
34 hundred fifty of the education law.

35 4. The moneys in such fund shall be deposited and secured in the
36 manner provided by section ten of this article. The moneys in such fund
37 so deposited shall be accounted for separate and apart from all other
38 funds of the municipal corporation, school district, board of cooper-
39 ative educational services, district corporation or improvement
40 district, in the same manner as provided in subdivision ten of section
41 six-c of this article. The governing board or the chief fiscal officer
42 of such municipal corporation, school district, board of cooperative
43 educational services, district corporation or improvement district, if
44 the governing board shall delegate such duty to him, may invest the
45 moneys in such fund in the manner provided in section eleven of this
46 article. Any interest earned or capital gains realized on the moneys so
47 deposited or invested shall accrue to and become part of such fund.

48 5. The members of the governing board of such municipal corporation,
49 school district, board of cooperative educational services, district
50 corporation or improvement district are hereby declared trustees of such
51 fund and shall be subject to all the duties and responsibilities imposed
52 by law on trustees, and such duties and responsibilities may be enforced
53 by such municipal corporation, school district, district corporation or
54 improvement district, as the case may be, or by any board, commission,
55 agency, officer or taxpayer thereof.

1 6. The members of the governing board of such municipal corporation,
2 school district, board of cooperative educational services or district
3 corporation shall be guilty of a misdemeanor if they:

4 a. Authorize a withdrawal from a repair reserve fund for any other
5 purpose except as provided in this section.

6 b. Expend any money withdrawn from a repair reserve fund for a purpose
7 other than that as provided in this section.

8 7. Notwithstanding the foregoing provisions of this section, in any
9 town which is located wholly or partly within the Adirondack park and
10 has within its boundaries state lands subject to taxation assessed at
11 more than thirty per centum of the total taxable assessed valuation of
12 town as determined from the assessment rolls of the town as completed
13 from time to time, or in any district corporation or improvement
14 district situated in whole or in part in any such town, a repair reserve
15 fund shall not be established unless the state comptroller, on behalf of
16 the state, shall consent thereto, and in any such town or district
17 corporation or improvement district no appropriation shall be made from
18 a repair reserve fund unless the state comptroller, on behalf of the
19 state, shall consent thereto.

20 8. Moneys of a municipal corporation, school district, board of coop-
21 erative educational services or district corporation which, upon June
22 thirtieth, nineteen hundred fifty, constitute a repair reserve fund of
23 such municipal corporation, school district, board of cooperative educa-
24 tional services or district corporation, shall continue to so constitute
25 a special fund and be known as the repair reserve fund of such municipal
26 corporation, school district, board of cooperative educational services
27 or district corporation. From and after such date, payments to, and
28 appropriations from, such fund shall be subject to the foregoing
29 provisions of this section.

30 § 2. Subdivision 4 of section 1950 of the education law is amended by
31 adding a new paragraph 1 to read as follows:

32 1. (1) Pursuant to the requirements set forth in section six-d of the
33 general municipal law, establish a capital repair reserve fund. Such
34 fund shall be used exclusively to make emergency repairs.

35 (2) In addition to the requirements set forth in section six-d of the
36 general municipal law, any BOCES that establishes a capital repair
37 reserve fund shall provide the following:

38 (i) Notification to each component district within ten days that such
39 emergency repair was required and was completed, the nature of the
40 repair and the aggregate cost of the repair, and

41 (ii) Provide an annual report by December thirty-first of each year to
42 each component district and the commissioner of education regarding all
43 emergency repairs that were completed during the year, the amount of
44 funds expended for such purpose, and the amount of funds remaining in
45 the repair reserve fund.

46 § 3. This act shall take effect immediately.