STATE OF NEW YORK

1959

2021-2022 Regular Sessions

IN SENATE

January 16, 2021

Introduced by Sen. BROOKS -- read twice and ordered printed, and when printed to be committed to the Committee on Banks

AN ACT in relation to creating a COVID-19 interim finance authority to restructure debt

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

Section 1. Legislative findings. It is hereby found, determined and declared that there is an immediate need to establish a comprehensive, coordinated approach to address the unexpected and unprecedented effects of the worldwide COVID-19 pandemic on the economies and finances of the counties throughout the state in order to ensure the continuation of basic and essential services to the residents of the state.

§ 2. A board, to be known as the COVID-19 interim finance authority, is hereby created. Such board shall be a body corporate and politic constituting a public benefit corporation. Such board shall consist of the commissioner of health, the comptroller or one member appointed by him or her who shall serve until his or her successor is appointed, the director of the budget, one member appointed by the temporary president of the senate, one member appointed by the speaker of the assembly, and five members to be appointed by the governor, by and with the advice and consent of the senate, for terms of three years. The governor shall also fill any vacancy which may occur by reason of the death, disqualification, resignation or removal of any member theretofore appointed. The commissioner of health and the director of the budget each may appoint a person or persons to represent such commissioner or director, respectively, at all meetings of such board from which such commissioner or director, as the case may be, may be absent. Any such representative so designated shall have the power to attend and to vote at any meeting of such board from which the officer so designating him or her as a representative is absent with the same force and effect as if the officer designating him or her were present and voting. The powers of the board

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

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shall be vested in and exercised by a majority of the whole number of the members thereof. The members of the board shall serve without compensation but shall be entitled to reimbursement of their actual and necessary expenses incurred in the performance of their official duties. The governor shall appoint a chair from among the members appointed by him or her who shall serve as such until his or her successor is appointed. At the first meeting of the board and at the first meeting thereof in each fiscal year thereafter the members of the board shall choose from their number a vice-chair and a secretary. The authority may also use the facilities, employees, records and equipment of the department of education with the consent of the regents.

a. Notwithstanding any other provision of law to the contrary, the authority is hereby authorized until December 31, 2022 to issue upon the request of an eligible New York county, village, town or school district bonds, notes or other obligations in one or more series including bonds, notes or other obligations issued to restructure or refinance general obligation debt, to prepay pension amortization, to pay the cost of issuance of such bonds, notes or other obligations, and bonds, notes or other obligations issued to refund or otherwise repay such bonds, notes or other obligations previously issued. Bonds of the authority may be issued, amortized, redeemed and refunded without regard to the provisions of the local finance law; provided, however, that the principal amount of outstanding bonds issued by the authority shall be deemed to be indebtedness of the county, village, town or school district solely in ascertaining the amount of indebtedness the county, village, town or school district may contract pursuant to the local finance law and the state constitution and the authority shall not exceed such limitation. Such bonds, notes or other obligations issued by the authority shall not be a debt of the state, county, village, town or school district and the state, county, village, town or school district shall not be liable thereon, nor shall they be payable out of any funds other than a sufficient portion of its sales and compensating use tax, or real property taxes pledged to the authority to be apportioned or otherwise to be made payable to the eligible county, village, town or school district by the state of New York, for payments required under the financing agreement between the eligible county, village, town or school district and the authority as set forth in subdivision c of this section or state aid pledged and assigned by a county, village, town or school district to the authority for debt service payments and related expenses pursuant to any financing agreement entered into pursuant to paragraph b of this section.

b. Notwithstanding any other provision of law to the contrary, an eligible county, village, town or school district is hereby authorized to enter into one or more financing agreements with the authority upon terms as set forth by a duly enacted resolution of the county legislature, village board of trustees, town council, or school board however, the repayment period shall not exceed twenty years in duration; the amount restructured and/or borrowed to prepay pension amortization shall not exceed twenty percent of the eligible county, village, town or school district's budget and principal payments shall begin no later than the fifth year of the term. Only debt that is scheduled to mature within twelve years may be restructured.

c. Whenever the authority enters into a financing agreement with an eligible county, village, town or school district, each eligible county, village, town or school district shall, in connection with the financing agreement, assign and pledge to the authority a sufficient portion of

its sales and compensating use tax or real property tax to be apportioned or otherwise to be made payable to the eligible county, village, town or school district by the state of New York, for payments required under the financing agreement between the eligible county and the authority. The eligible county, village, town or school district shall have no right, title, or interest in sales tax, state aid revenues, or real property taxes which are paid directly by the state comptroller to the authority's bond trustee to secure the authority's bonds.

d. All county, village, town, school district and state officers are hereby authorized and required to pay all funds so assigned and pledged pursuant to paragraphs a, b and c of this section to the authority or, upon the direction of the authority, to any trustee of any authority bond, note or other obligation issued pursuant to a certificate filed by the authority pursuant to the provisions of this section.

e. The authority shall submit annually to the governor, and the chairs of the senate finance committee and the assembly ways and means committee a report which shall include, but not be limited to, detailed information on the financing activity pursuant to this section, and a detailed summary of the financing agreements entered into with any political subdivision.

§ 3. This act shall take effect immediately.