

STATE OF NEW YORK

9022--A

IN SENATE

May 4, 2022

Introduced by Sens. KAPLAN, ADDABBO, COMRIE, KAMINSKY -- read twice and ordered printed, and when printed to be committed to the Committee on Racing, Gaming and Wagering -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to the disposition of certain revenue with respect to debt incurred in the redevelopment project at Belmont Park racetrack; and to authorize the New York Racing Association, Inc. to enter into a repayment agreement with the state of New York for payment of bonds issued by the state for the renovation of Belmont Park

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

1 Section 1. Legislative findings. The legislature finds that it is in
2 the interests of the state to assist the franchised corporation pursuant
3 to section 206 of the racing, pari-mutuel wagering and breeding law, in
4 obtaining the financing the franchised corporation needs to renovate
5 Belmont Park. The legislature further finds that the cost of this
6 project is anticipated to be four hundred fifty-five million dollars and
7 that the state has the ability to issue personal income tax or state
8 sales tax bonds to generate such funds. The legislature further finds
9 that authorizing access to this financing will enable the franchised
10 corporation to make a major investment in Nassau County that will lead
11 to new job opportunities and bolster the local economy.

12 § 2. Issuance of certain bonds or notes. 1. Subject to the provisions
13 of chapter 59 of the laws of 2000, and consistent with any agreements
14 and leases between the franchised corporation designated pursuant to
15 section 206 of the racing, pari-mutuel wagering and breeding law and the
16 people of the state of New York acting by and through the state fran-
17 chise oversight board, but notwithstanding the provisions of any other
18 law, rule, or regulation to the contrary, the dormitory authority and
19 the urban development corporation are hereby authorized to issue
20 personal income tax or state sales tax bonds in one or more series for
21 the purpose of funding project costs for the Belmont Racetrack reno-
22 vation project and other state costs associated with such project. The

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

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1 aggregate principal amount of bonds authorized to be issued pursuant to
2 this section shall not exceed four hundred fifty million dollars,
3 excluding bonds issued to fund one or more debt service reserve funds,
4 to pay costs of issuance of such bonds, and bonds or notes issued to
5 refund or otherwise repay such bonds or notes previously issued. Eligi-
6 ble project costs may include, but not be limited to the cost of design,
7 financing, site investigations, site acquisition and preparation, demo-
8 lition, construction, rehabilitation, acquisition of machinery and
9 equipment, and infrastructure improvements. Such bonds and notes of the
10 dormitory authority and the urban development corporation shall not be a
11 debt of the state, and the state shall not be liable thereon, nor shall
12 they be payable out of any funds other than those appropriated by the
13 state to the dormitory authority and the urban development corporation
14 for principal, interest, and related expenses pursuant to a service
15 contract and such bonds and notes shall contain on the face thereof a
16 statement to such effect. Except for purposes of complying with the
17 internal revenue code, any interest income earned on bond proceeds shall
18 only be used to pay debt service on such bonds.

19 2. Notwithstanding any other provision of law to the contrary, in
20 order to assist the dormitory authority and the urban development corpo-
21 ration in undertaking the financing for project costs for Belmont Race-
22 track renovation project and other state costs associated with such
23 project, the director of the budget is hereby authorized to enter into
24 one or more service contracts with the dormitory authority and the urban
25 development corporation, none of which shall exceed thirty years in
26 duration, upon such terms and conditions as the director of the budget
27 and the dormitory authority and the urban development corporation agree,
28 so as to annually provide to the dormitory authority and the urban
29 development corporation, in the aggregate, a sum not to exceed the prin-
30 cipal, interest, and related expenses required for such bonds and notes.
31 Any service contract entered into pursuant to this section shall provide
32 that the obligation of the state to pay the amount therein provided
33 shall not constitute a debt of the state within the meaning of any
34 constitutional or statutory provision and shall be deemed executory only
35 to the extent of monies available and that no liability shall be
36 incurred by the state beyond the monies available for such purpose,
37 subject to annual appropriation by the legislature. Any such contract
38 or any payments made or to be made thereunder may be assigned and
39 pledged by the dormitory authority and the urban development corporation
40 as security for its bonds and notes, as authorized by this section.

41 § 3. Prior to, and as a condition to the state issuing the bonds
42 described in section two of this act, the franchised corporation shall
43 enter into an agreement with the state allowing the funds dedicated for
44 capital expenditures of the franchised corporation pursuant to paragraph
45 3 of subdivision f and paragraph 3 of subdivision f-1 of section 1612 of
46 the tax law shall be directed to the state for repayment of the debt
47 service on such bonds. The franchised corporation shall further agree
48 that should the corporation receive statutory payments pursuant to
49 subdivision three of section 1355 of the racing, pari-mutuel wagering
50 and breeding law, enacted for the specific purpose of holding the fran-
51 chised corporation harmless for any loss of payments pursuant to para-
52 graph 3 of subdivision f and paragraph 3 of subdivision f-1 of section
53 1612 of the tax law, these payments shall also be directed to the state
54 for repayment of the debt service on such bonds.

55 § 4. Contemporaneously with the state entering into agreements with
56 regards to issuing the bonds described in section one of this chapter,

1 the state and the franchised corporation are authorized to enter into an
2 agreement to determine how the franchised corporation should relinquish
3 its leasehold interest in real property located in South Ozone Park,
4 commonly known as Aqueduct Racetrack, back to the state upon substantial
5 completion of the renovation of Belmont Park.

6 § 5. The New York State Gaming Commission shall ensure that to the
7 extent that the law allows for a franchise agreement with a franchisee
8 other than the franchised corporation, the term of any such franchise
9 agreement awarded after the issuance of any bonds described by section
10 two of this act includes a provision by such franchisee that such fran-
11 chisee will continue to pay the funds required by section three of this
12 act.

13 § 6. The opening paragraph of paragraph 3 of subdivision f of section
14 1612 of the tax law is designated subparagraph (i) and a new subpara-
15 graph (ii) is added to read as follows:

16 (ii) Notwithstanding subparagraph (i) of this paragraph, in the event
17 of the issuance of state personal income tax revenue bonds or state
18 sales tax revenue bonds related to the redevelopment project at Belmont
19 Park racetrack, the amount payable to the franchised corporation for
20 capital expenditures pursuant to subparagraph (i) of this paragraph
21 during any state fiscal year shall instead be deposited into the state
22 general fund up to the amount required to cover any debt service costs
23 incurred by the state in relation to such debt during such fiscal year.
24 Any amount set forth in subparagraph (i) of this paragraph in any fiscal
25 year in excess of the annual debt service costs on such debt shall be
26 deposited in the account of the franchised corporation pursuant to
27 subparagraph (i) of this paragraph; provided, however, that in the event
28 the amount set forth in subparagraph (i) of this paragraph in any fiscal
29 year is less than the debt service cost incurred by the state in
30 relation to such debt, the difference shall be added to the amount to be
31 deposited to the state general fund in the following state fiscal year
32 pursuant to this subparagraph. Once the state has been fully reimbursed
33 for such debt service costs related to the redevelopment project at
34 Belmont Park racetrack, subparagraph (i) of this paragraph shall apply.

35 § 7. The opening paragraph of paragraph 3 of subdivision f-1 of
36 section 1612 of the tax law is designated subparagraph (i) and a new
37 subparagraph (ii) is added to read as follows:

38 (ii) notwithstanding subparagraph (i) of this paragraph, in the event
39 of the issuance of state personal income tax revenue bonds or state
40 sales tax revenue bonds related to the redevelopment project at Belmont
41 Park racetrack, the amount payable to the franchised corporation for
42 capital expenditures pursuant to subparagraph (i) of this paragraph
43 during any state fiscal year shall instead be deposited into the state
44 general fund to the extent necessary to cover, when combined with the
45 amount set forth in subparagraph (ii) of paragraph three of subdivision
46 f of this section, any debt service costs incurred by the state in
47 relation to such debt during such fiscal year. Any amount set forth in
48 subparagraph (i) of this paragraph in any fiscal year that, when
49 combined with the amount set forth in subparagraph (ii) of paragraph
50 three of subdivision f of this section, is in excess of the annual debt
51 service costs on such debt shall be deposited pursuant to subparagraph
52 (i) of this paragraph; provided, however, that in the event the amount
53 set forth in subparagraph (i) of this paragraph in any fiscal year when
54 combined with the amount set forth in subparagraph (ii) of paragraph
55 three of subdivision f of this section, is less than the debt service
56 cost incurred by the state in relation to such debt, the difference

1 shall be added to the amount to be deposited to the state general fund
2 in the following state fiscal year pursuant to this subparagraph. Once
3 the state has been fully reimbursed for such debt service costs related
4 to the redevelopment project at Belmont Park racetrack, subparagraph (i)
5 of this paragraph shall apply.

6 § 8. This act shall take effect immediately.