STATE OF NEW YORK

165

2023-2024 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 4, 2023

Introduced by M. of A. SOLAGES, PRETLOW -- read once and referred to the Committee on Ways and Means

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:

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

§ 2. Issuance of certain bonds or notes. 1. Subject to the provisions of chapter 59 of the laws of 2000, and consistent with any agreements and leases between the franchised corporation designated pursuant to section 206 of the racing, pari-mutuel wagering and breeding law and the people of the state of New York acting by and through the state franchise oversight board, but notwithstanding the provisions of any other law, rule, or regulation to the contrary, the dormitory authority and the urban development corporation are hereby authorized to issue personal income tax or state sales tax bonds in one or more series for

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

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the purpose of funding project costs for the Belmont Racetrack renovation project and other state costs associated with such project. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed four hundred fifty million dollars, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Eligible project costs may include, but not be limited to the cost of design, financing, site investigations, site acquisition and preparation, demolition, construction, rehabilitation, acquisition of machinery and equipment, and infrastructure improvements. Such bonds and notes of the dormitory authority and the urban development corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the dormitory authority and the urban development corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

2. Notwithstanding any other provision of law to the contrary, in order to assist the dormitory authority and the urban development corporation in undertaking the financing for project costs for Belmont Racetrack renovation project and other state costs associated with such project, the director of the budget is hereby authorized to enter into one or more service contracts with the dormitory authority and the urban development corporation, none of which shall exceed thirty years in duration, upon such terms and conditions as the director of the budget and the dormitory authority and the urban development corporation agree, so as to annually provide to the dormitory authority and the urban development corporation, in the aggregate, a sum not to exceed the principal, interest, and related expenses required for such bonds and notes. Any service contract entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of monies available and that no liability shall be incurred by the state beyond the monies available for such purpose, subject to annual appropriation by the legislature. Any such contract or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority and the urban development corporation as security for its bonds and notes, as authorized by this section.

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

§ 4. Contemporaneously with the state entering into agreements with regards to issuing the bonds described in section one of this act, the state and the franchised corporation are authorized to enter into an agreement to determine how the franchised corporation should relinquish its leasehold interest in real property located in South Ozone Park, commonly known as Aqueduct Racetrack, back to the state upon substantial completion of the renovation of Belmont Park.

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

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

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

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

(ii) notwithstanding subparagraph (i) of this paragraph, in the event of the issuance of state personal income tax revenue bonds or state sales tax revenue bonds related to the redevelopment project at Belmont Park racetrack, the amount payable to the franchised corporation for capital expenditures pursuant to subparagraph (i) of this paragraph during any state fiscal year shall instead be deposited into the state general fund to the extent necessary to cover, when combined with the amount set forth in subparagraph (ii) of paragraph three of subdivision f of this section, any debt service costs incurred by the state in relation to such debt during such fiscal year. Any amount set forth in subparagraph (i) of this paragraph in any fiscal year that, when combined with the amount set forth in subparagraph (ii) of paragraph three of subdivision f of this section, is in excess of the annual debt service costs on such debt shall be deposited pursuant to subparagraph (i) of this paragraph; provided, however, that in the event the amount set forth in subparagraph (i) of this paragraph in any fiscal year when combined with the amount set forth in subparagraph (ii) of paragraph

three of subdivision f of this section, is less than the debt service cost incurred by the state in relation to such debt, the difference shall be added to the amount to be deposited to the state general fund in the following state fiscal year pursuant to this subparagraph. Once the state has been fully reimbursed for such debt service costs related to the redevelopment project at Belmont Park racetrack, subparagraph (i) of this paragraph shall apply.

§ 8. This act shall take effect immediately.