

STATE OF NEW YORK

2748

2023-2024 Regular Sessions

IN ASSEMBLY

January 27, 2023

Introduced by M. of A. ZEBROWSKI, DICKENS, STIRPE, COOK, SAYEGH, CRUZ, McDONOUGH, DeSTEFANO, NORRIS, 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:

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

9 § 6-d. Repair reserve funds for municipal corporations, school
10 districts, board of cooperative educational services, district corpo-
11 rations and improvement districts. 1. The governing board of any municipi-
12 pal corporation, school district, board of cooperative educational
13 services, district corporation, or town or county improvement district,
14 may establish a special fund which shall be known as the repair reserve
15 fund of such municipal corporation, school district, board of cooper-
16 ative educational services, district corporation or improvement
17 district. There may be paid into such fund an amount as may be provided
18 therefor by budgetary appropriation or such revenues as are not required
19 by law to be paid into any other fund or account.

20 2. In cases of emergency, moneys in such fund may be expended pursuant
21 to a resolution approved by not less than two-thirds of the members of
22 the governing body of such municipal corporation, school district, board

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

LBD06875-01-3

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

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

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

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

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

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

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

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

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

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