

STATE OF NEW YORK

10129

IN SENATE

April 30, 2026

Introduced by Sen. BORRELLO -- read twice and ordered printed, and when printed to be committed to the Committee on Cities 2

AN ACT relating to the city of Dunkirk fiscal recovery act; to repeal the city of Dunkirk fiscal recovery act; and providing for the repeal of such provisions upon expiration thereof

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

- 1 Section 1. Part DD of chapter 56 of the laws of 2024 relating to the
2 city of Dunkirk fiscal recovery act, is REPEALED.
- 3 § 2. Short title. This act shall be known and may be cited as the
4 "city of Dunkirk fiscal recovery act".
- 5 § 3. Definitions. As used in this act, the following words and terms
6 shall have the following meanings respectively, unless the text shall
7 indicate another or different meaning or intent:
- 8 (a) "Budget" means a current operating budget of the city prepared or
9 adopted pursuant to general, special or local law, being the annual
10 budget and estimate of expenditures to be made during a fiscal year for
11 the general support and current expenses of the government of the city
12 to be paid from taxes or assessments or other current revenues of the
13 city for such year.
- 14 (b) "City" means the city of Dunkirk, in the county of Chautauqua.
- 15 (c) "City council" means the city council of the city.
- 16 (d) "City fiscal affairs officer" means the city fiscal affairs offi-
17 cer of the city.
- 18 (e) "City taxes" means and includes all taxes on real property levied
19 and assessed by the city, based on valuation thereof and shall not mean
20 any rent, rate, fee, special assessment or other charge based on benefit
21 or use.
- 22 (f) "Collecting officer" means the officer empowered to collect and
23 receive city taxes.
- 24 (g) "Deficit bonds" means the bonds authorized to be issued by section
25 four of this act.
- 26 (h) "Deficit notes" means bond anticipation notes issued in antic-
27 ipation of the issuance of deficit bonds.

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

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1 (i) "Financial plan" means the three-year financial plan required by
2 section nine of this act.

3 (j) "Fiscal year" means the fiscal year of the city.

4 (k) "Mayor" means the mayor of the city.

5 (l) "Outstanding", when used with respect to obligations of the city
6 as of any particular date, means all obligations of the city theretofore
7 issued and thereupon being issued except any obligation theretofore paid
8 and discharged or for the payment of the principal of and interest on
9 which money is held by or on behalf of the city, in trust solely and in
10 all events only for the purpose and sufficient to pay in full the prin-
11 cipal and redemption premium, if any, of and interest on such obli-
12 gations.

13 (m) "Special debt service" means, with respect to a fiscal year, the
14 amounts required for the timely payment of (i) all principal due or
15 becoming due and payable in said year with respect to any serial bonds,
16 tax anticipation notes, capital notes or budget notes of the city, and
17 all principal amortization for said year required by law with respect to
18 bond anticipation notes or other securities of the city, and not specif-
19 ically mentioned in paragraph (ii) of this subdivision, (ii) all inter-
20 est due or becoming due and payable in said year with respect to any
21 serial bonds, bond anticipation notes, tax anticipation notes, revenue
22 anticipation notes, capital notes, budget notes or other securities of
23 the city not specifically mentioned herein, and (iii) all sinking fund
24 contributions required in said year with respect to any sinking fund
25 bonds.

26 (n) "Special debt service fund" means the fund which is held by the
27 state comptroller and is described and provided for in section thirteen
28 of this act.

29 (o) "State aid" means all aid and incentives for municipalities pursu-
30 ant to section 54 of the state finance law, any successor type of aid
31 and any new aid appropriated by the state as local government assistance
32 for the benefit of the city.

33 (p) "State comptroller" means the comptroller of the state, pursuant
34 to their authority to supervise the accounts of any political subdivi-
35 sion of the state.

36 Unless the context specifically provides otherwise, any terms used in
37 this act such as revenues, expenditures or expenses shall be construed
38 as such term is construed under applicable accounting principles incor-
39 porated in the uniform system of accounts prescribed by the state comp-
40 troller.

41 § 4. Deficit bond and deficit note issuance authorization. The city is
42 hereby authorized to issue bonds, subject to the provisions of this act,
43 on or before December 31, 2026, in an aggregate principal amount not to
44 exceed seventeen million dollars (\$17,000,000) (exclusive of the costs
45 and expenses incidental to the issuance of the bonds authorized to be
46 issued by this section) for the specific object or purpose of liquidat-
47 ing actual deficits in its general fund, water fund, sewer fund, and the
48 capital projects fund existing at the close of its 2024 fiscal year. In
49 anticipation of the issuance of such bonds, deficit notes are hereby
50 authorized to be issued.

51 § 5. Period of probable usefulness established. It is hereby deter-
52 mined that the financing of the deficits described in section four of
53 this act is an object or purpose of the city for which indebtedness may
54 be incurred, the period of probable usefulness of which is hereby deter-
55 mined to be fifteen years, computed from the date of such deficit bonds
56 or from the date of the first deficit notes, whichever date is earlier.

1 Such deficit bonds and deficit notes shall be general obligations of the
2 city, to which the faith and credit of the city is pledged, and the city
3 shall make an annual appropriation sufficient to pay the principal of
4 and interest on such obligations as the same shall become due.

5 § 6. Limit on amount of deficit bonds. Deficit bonds may not be issued
6 in an amount exceeding the amount of such deficits as certified by the
7 state comptroller. If the city issues deficit notes prior to a determi-
8 nation by the state comptroller pursuant to section six of this act in
9 an amount in excess of the amount of such deficits as confirmed by the
10 state comptroller, the city shall, from funds other than proceeds of
11 bonds or bond anticipation notes, either redeem such deficit notes in
12 the amount by which the amount of such deficit notes exceeds the amount
13 of such deficits as confirmed by the state comptroller or deposit a sum
14 equal to the amount by which such deficit notes exceed the amount of
15 such deficits as confirmed by the state comptroller into the special
16 debt service fund.

17 § 7. Quarterly budget reports and trial balances. For each fiscal year
18 during the effective period of this act, the mayor shall monitor budgets
19 of the city and, for each budget, prepare a quarterly report of summa-
20 rized budget data depicting overall trends of actual revenues and budget
21 expenditures for the entire budget rather than individual line items.
22 Such reports shall compare revenue estimates and appropriations as set
23 forth in such budget with the actual revenues and expenditures made to
24 date. All quarterly reports shall be accompanied by a recommendation by
25 the city fiscal affairs officer setting forth any remedial action neces-
26 sary to resolve any unfavorable budget variance including the overesti-
27 mation of revenues and the underestimation of appropriations, and shall
28 be completed within thirty days of the end of each quarter. The mayor
29 shall also prepare, as part of such report, a quarterly trial balance of
30 general ledger accounts. The above quarterly budgetary reports and quar-
31 terly trial balances shall be prepared in accordance with applicable
32 accounting principles incorporated in the uniform system of accounts
33 prescribed by the state comptroller. These reports shall be submitted to
34 the city fiscal affairs officer, the mayor, the city council, the state
35 director of the budget, the state comptroller, the chair of the assembly
36 ways and means committee, and the chair of the senate finance committee.

37 § 8. Budget review by state comptroller. During the effective period
38 of this act, the city fiscal affairs officer shall submit the proposed
39 budget for the next succeeding fiscal year to the state comptroller no
40 later than thirty days before the date scheduled for the city council's
41 vote on the adoption of the final budget or the last date on which the
42 budget may be finally adopted, whichever is sooner. The state comp-
43 troller shall examine such proposed budget and make such recommendations
44 as deemed appropriate thereon to the city prior to the adoption of the
45 budget, but no later than ten days before the date scheduled for the
46 city council's vote on the adoption of the final budget or the last date
47 on which the budget must be adopted, whichever is sooner. Such recommen-
48 dations shall be made after examination into the estimates of revenues
49 and expenditures of the city. The city council, no later than five days
50 prior to the adoption of the budget, shall review any such recommenda-
51 tions and make adjustments to the proposed budget consistent with any
52 recommendations made by the state comptroller.

53 § 9. Multiyear financial plans. During the effective period of this
54 act, the city fiscal affairs officer shall prepare, along with the
55 proposed budget for the next succeeding fiscal year, a three-year finan-
56 cial plan covering the next succeeding fiscal year and the two fiscal

1 years thereafter. The financial plan shall, at a minimum, contain
2 projected employment levels, projected annual expenditures for personal
3 service, fringe benefits, non-personal services and debt service; appro-
4 priate reserve fund amounts; estimated annual revenues including projec-
5 tion of property tax rates, the value of the taxable real property and
6 resulting tax levy, annual growth in sales tax and non-property tax
7 revenues; and the proposed use of one-time revenue sources. The finan-
8 cial plan shall also identify actions necessary to achieve and maintain
9 long-term fiscal stability, including, but not limited to, improved
10 management practices, initiatives to minimize or reduce operating
11 expenses, and potential shared services agreements with other munici-
12 palities. Within thirty days following the adoption by the city council
13 of the budget for the next succeeding fiscal year and upon the
14 completion of each quarterly budget report pursuant to section eight of
15 this act, the city fiscal affairs officer shall update the financial
16 plan consistent with such adopted budget or such quarterly budget
17 report. Copies of the financial plan and any update shall be provided to
18 the mayor, the city council, the state director of the budget, the state
19 comptroller, the chair of the assembly ways and means committee, and the
20 chair of the senate finance committee.

21 § 10. State comptroller to comment on further debt issuance. During
22 the effective period of this act, the mayor shall notify the state comp-
23 troller at least fifteen days prior to the issuance of any bonds or
24 notes or entering into any installment purchase contract, and the state
25 comptroller may review and make recommendations regarding the afforda-
26 bility to the city of any such proposed issuance or contract.

27 § 11. Private sale of bonds authorized. To facilitate the marketing of
28 (a) deficit bonds, (b) any bonds issued to refund such deficit bonds,
29 and (c) any other bonds to be issued on or before December 31, 2026, the
30 city may, notwithstanding any limitation on the private sales of bonds
31 provided by law and subject to the approval of the state comptroller of
32 the terms and conditions of such sales:

33 (i) arrange for the underwriting of such bonds at private sale through
34 negotiated fees or by sale of such bonds to an underwriter; or

35 (ii) arrange for the private sale of such bonds through negotiated
36 agreement, with compensation for such sales to be provided by negotiated
37 agreement and/or negotiated fee, if required.

38 The cost of such underwriting or private placement shall be deemed to
39 be a preliminary cost for purposes of section 11.00 of the local finance
40 law.

41 § 12. Exceptions to the local finance law. Except as provided in this
42 act, all proceedings in connection with the issuance of such deficit
43 bonds or deficit notes shall be had and taken in accordance with the
44 provisions of the local finance law, provided, however, that any resol-
45 ution or resolutions authorizing the issuance of such bonds or bond
46 anticipation notes shall not be subject to (a) any mandatory or permis-
47 sive referendum, (b) the provisions of section 107.00 of the local
48 finance law with respect to any requirements for a down payment and (c)
49 the provisions of section 10.10 of the local finance law.

50 § 13. Special debt service fund. (a) Upon the issuance of any deficit
51 bonds or deficit notes, the city council shall establish and thereafter
52 maintain a special debt service fund with the state comptroller for the
53 purpose of paying the special debt service due or becoming due in subse-
54 quent fiscal years. Such special debt service fund shall be discontinued
55 upon the expiration of the effectiveness of this act, and any balance
56 remaining in the special debt service fund at that time shall be paid by

1 the state comptroller to the mayor for use by the city in the manner
2 provided by law.

3 (b) The state comptroller shall deposit and pay into the special debt
4 service fund any portion of state aid as the state comptroller deter-
5 mines necessary to ensure sufficient moneys are available to make sched-
6 uled special debt service payments from the special debt service fund
7 over the succeeding twelve month period taking account of the city's
8 receipt of city taxes and state aid during such twelve month period and
9 the availability of other amounts appropriated or set aside by the city
10 to make such payments. Thereafter, the state comptroller shall, as soon
11 as practicable, pay over the remainder of any such state aid to the
12 mayor for use by the city in the manner provided by law.

13 (c) Not later than the first day of each fiscal year beginning after
14 issuance of any deficit bonds or deficit notes, the mayor shall certify
15 to the state comptroller the percentage obtained by dividing the balance
16 obtained by subtracting the amount of the appropriation for such year
17 for a reserve for uncollected taxes from the total amount of city taxes
18 levied and assessed for such year, into the total appropriation in the
19 budget of such year for special debt service, and the percentage so
20 certified shall constitute the debt service percentage for such fiscal
21 year. Immediately upon receipt of any payment during such fiscal year of
22 or on account of any city taxes, the city, its collecting officer and
23 any agent receiving the same shall remit such payment to the state comp-
24 troller. Of each sum so received, the state comptroller shall deposit
25 and pay into the special debt service fund the portion thereof equal to
26 the debt service percentage of the total sum, and shall deposit and pay
27 into the fund such additional amounts as the state comptroller deter-
28 mines necessary to ensure sufficient moneys are available to make sched-
29 uled special debt service payments from the special debt service fund
30 over the succeeding twelve month period taking account of the timing of
31 the city's receipt of city taxes and state aid during such twelve month
32 period and the availability of other amounts appropriated or set aside
33 by the city to make such payments. Thereafter, the state comptroller
34 shall, as soon as practicable, pay over the remainder of such sum to the
35 mayor for use by the city in the manner provided by law.

36 (d) The moneys in the special debt service fund shall be invested in
37 the manner provided by section 11 of the general municipal law,
38 provided, however, that the investments shall be made for and on behalf
39 of the city by the state comptroller upon instructions from the chief
40 fiscal officer of the city which shall be consistent with the city's
41 investment policy adopted pursuant to section 39 of the general municip-
42 al law.

43 (e) The state comptroller shall from time to time during each fiscal
44 year withdraw from the special debt service fund all amounts required
45 for the payment as the same becomes due of all special debt service of
46 such fiscal year and cause the amounts so withdrawn to be applied to
47 such payments as and when due.

48 (f) The special debt service fund and all monies or securities therein
49 or payable thereto in accordance with this section is hereby declared to
50 be city property devoted to essential governmental purposes and accord-
51 ingly, shall not be applied to any purpose other than as provided herein
52 and shall not be subject to any order, judgment, lien, execution,
53 attachment, setoff or counterclaim by any creditor of the city other
54 than a creditor for whose benefit such fund is established and main-
55 tained and entitled thereto under and pursuant to this act.

1 § 14. Agreement with the state. (a) The state does hereby pledge to
2 and agree with the holders of any bonds, notes or other obligations
3 issued by the city during the effective period of this act and secured
4 by such a pledge that the state will not limit, alter or impair the
5 rights hereby vested in the city to fulfill the terms of any agreements
6 made with such holders pursuant to this act, or in any way impair the
7 rights and remedies of such holders or the security for such bonds,
8 notes or other obligations until such bonds, notes or other obligations
9 together with the interest thereon and all costs and expenses in
10 connection with any action or proceeding by or on behalf of such hold-
11 ers, are fully paid and discharged. The city is authorized to include
12 this pledge and agreement of the state in any agreement with the holders
13 of such bonds, notes or other obligations. Nothing contained in this act
14 shall be deemed to (i) obligate the state to make any payments or impose
15 any taxes to satisfy the debt service obligations of the city, (ii)
16 restrict any right of the state to amend, modify, repeal or otherwise
17 alter (A) section 54 of the state finance law or any other provision
18 relating to state aid, or (B) statutes imposing or relating to taxes or
19 fees, or appropriations relating thereto, or (iii) create a debt of the
20 state within the meaning of any constitutional or statutory provisions.
21 The city shall not include in any resolution, contract or agreement with
22 holders of such bonds, notes or other obligations any provision which
23 provides that an event of default occurs as a result of the state exer-
24 cising its rights described in paragraph (ii) of this subdivision.

25 (b) Any provision with respect to state aid shall be deemed executory
26 only to the extent of moneys available, and no liability shall be
27 incurred by the state beyond the moneys available for that purpose, and
28 any such payment by the state comptroller of state aid shall be subject
29 to annual appropriation of state aid by the state legislature.

30 § 15. Rights of the state comptroller and bondholders. (a) In the
31 event that the city shall fail to comply with any provision of this act,
32 and such non-compliance shall continue for a period of 30 days, (i) the
33 state comptroller acting alone, or (ii) a duly appointed representative
34 of the holders of at least 25 per centum in aggregate principal amount
35 of (A) any series of deficit bonds or deficit notes, (B) any series of
36 bonds issued to refund such deficit bonds or deficit notes, or (C) any
37 other series of notes or bonds issued by the city during the effective
38 period of this act, by instrument or instruments filed in the office of
39 the clerk of Chautauqua county and proved or acknowledged in the same
40 manner as a deed to be recorded, may bring an action or commence a
41 proceeding in accordance with the civil practice law and rules to (1)
42 require the city to carry out any of its obligations under this act or
43 (2) enjoin any acts or things which may be unlawful or in violation of
44 the obligations imposed on the city under this act. In addition, the
45 duly appointed representative of the bondholders of any such series of
46 notes or bonds may bring an action or commence a proceeding in accord-
47 ance with the civil practice law and rules to enforce the rights of the
48 holders of such series of notes or bonds.

49 (b) The supreme court in the county of Chautauqua shall have jurisdic-
50 tion of any action or proceeding by the state comptroller or the repre-
51 sentative of such bondholders.

52 § 16. Applicability to city charter and collective bargaining agree-
53 ments. This act shall be subject to the provisions of the Dunkirk city
54 charter and any collective bargaining agreement entered into by the city
55 of Dunkirk.

1 § 17. Local law required. The local legislative body of the city of
2 Dunkirk is hereby authorized and empowered to ratify and approve by
3 local law the provisions of this act.

4 § 18. Severability clause. If any clause, sentence, paragraph, section
5 or part of this act shall be adjudged by any court of competent juris-
6 diction to be invalid, such judgment shall not affect, impair or invali-
7 date the remainder thereof, but shall be confined in its operation to
8 the clause, sentence, paragraph, section or part involved in the contro-
9 versy in which such judgment shall have been rendered. The provisions of
10 this act shall be liberally construed to assist the effectuation of the
11 public purposes furthered hereby.

12 § 19. This act shall take effect immediately; and shall remain in full
13 force and effect until the fifteenth anniversary of the date of first
14 issuance of deficit bonds or deficit notes pursuant to this act, when
15 upon such date the provisions of this act shall be deemed repealed;
16 provided, however, that:

17 (a) this act shall take effect only upon enactment of a local law of
18 the city of Dunkirk as described in section eighteen of this act;

19 (b) the state comptroller shall notify the legislative bill drafting
20 commission upon the occurrence of this act in order that the commission
21 may maintain an accurate and timely effective data base of the official
22 text of the laws of the state of New York in furtherance of effectuating
23 the provisions of section 44 of the legislative law and section 70-b of
24 the public officers law; and

25 (c) the city of Dunkirk shall notify the legislative bill drafting
26 commission upon enactment of such local law as described in section
27 seventeen of this act in order that the commission may maintain an accu-
28 rate and timely effective data base of the official text of the laws of
29 the state of New York in furtherance of effectuating the provisions of
30 section 44 of the legislative law and section 70-b of the public offi-
31 cers law.