§ 6-c. Capital reserve funds for counties, cities, villages, towns and sewer and water improvement districts. 1. As used in this section:

a. The term "governing board", insofar as it is used in reference to a village, shall mean the board of trustees thereof; insofar as it is used in reference to a town, shall mean the town board thereof; insofar as it is used in reference to a county, shall mean the legislative body thereof; insofar as it is used in reference to a city, shall mean the "local legislative body" thereof, as that term is defined in subdivision seven of section two of the municipal home rule law, as amended from time to time; insofar as it is used in reference to a town or county improvement district, shall mean the town board of the town or the legislative body of the county in which such district is located unless, in the case of a town improvement district, such district has a separate board of commissioners, in which case it shall mean such board of commissioners.

b. The term "capital improvement" shall mean:

(1) Any physical public betterment or improvement or any preliminary studies and surveys relative thereto.

(2) Land or rights in land.

(3) Any furnishings, equipment, machinery or apparatus for any physical public betterment or improvement acquired at the time when such betterment or improvement is constructed, reconstructed or acquired.

c. The term "equipment" shall include any equipment, machinery or apparatus not included in the definition of the term "capital improvement" and for the acquisition of which a period of probable usefulness has been provided by law.

d. The term "obligations" shall include bonds, notes, certificates or other evidences of indebtedness.

2. The governing board of any county, city, village, town or sewer and water improvement district may establish capital reserve funds for the financing of all or part of the cost of:

a. The construction, reconstruction or acquisition of a specific capital improvement or the acquisition of a specific item or specific items of equipment.

b. The construction, reconstruction or acquisition of a type of capital improvement or the acquisition of a type of equipment.

3. The provisions of paragraph two shall not apply to:

a. Capital improvements to be constructed, reconstructed or acquired, or equipment to be acquired, on behalf of an improvement district or other similar district located within such municipality other than a sewer and/or water improvement district, or

b. Capital improvements or equipment, all or part of the cost of which is to be borne by assessments for benefit or ad valorem taxes upon the real property within an area of benefit within such municipality other than a sewer and/or water improvement district.

4. If the governing board authorizes the establishment of a capital reserve fund for the financing of all or part of the cost of the construction, reconstruction or acquisition of a specific capital improvement or the acquisition of a specific item or specific items of equipment, it shall set forth in such authorization the estimated maximum cost thereof. However, if the authorization by such governing board of the issuance of obligations for such capital improvement or equipment is required by law to be subject to a permissive or mandatory referendum, then the authorization of the establishment of such a fund shall be subject to a permissive referendum. In the event that the authorization by such governing board of the issuance of obligations for such capital improvement or equipment is required by law to be subject to a permissive or mandatory referendum only if such obligations are to have a maturity of more than five years or not less than some other minimum period, then the authorization of the establishment of such a fund shall be subject to a permissive referendum only if the period of probable usefulness of such capital improvement or equipment is equal to or more than such minimum period of maturity. A permissive referendum on

the authorization of the establishment of such a capital reserve fund shall be governed by:

a. Sections twenty-four, twenty-five and twenty-six of the municipal home rule law, as amended from time to time, so far as they may be applicable, in the case of cities.

b. Article seven of the town law, as amended from time to time, in the case of towns.

c. Article nine of the village law, as amended from time to time, in the case of villages.

5. There may be paid into any fund:

a. Such an amount as may be provided therefor by budgetary appropriation or raised by tax therefor.

b. Such revenues as are not required by law to be paid into any other fund or account, including the proceeds from the sale of any capital improvement or equipment owned by such county, city, village or town. This provision shall not prevent the use of town highway moneys for the establishment of a capital reserve fund, provided that such moneys are expended therefrom for the purpose for which they were levied or received, that the consent of the town superintendent of highways and town board, together with the approval of the county superintendent of highways, is given to the establishment thereof, and that such moneys are only expended therefrom on order of the town superintendent of highways upon audit and with the consent of the town board.

7. The moneys in each such fund shall be deposited and secured in the manner provided by section ten of this article. The governing board or the chief fiscal officer of such municipality, if the governing board shall delegate such duty to him, may invest the moneys in each such fund in the manner provided in section eleven of this article. Any interest earned or capital gains realized on the moneys so deposited or invested shall accrue to and become part of each such fund. The separate identity

of each such fund shall be maintained, whether its assets consist of cash or investments or both.

8. An expenditure shall be made from a fund only by an authorization of the governing board and for a specific capital improvement or a specific item or specific items of equipment, the cost of which may be financed therefrom. However, if a proposed expenditure is from a fund established for a type of capital improvement or equipment and if it is required by law that the authorization by such governing board of the issuance of obligations for such capital improvement or equipment be subject to a permissive or mandatory referendum, then the authorization of such an expenditure shall be subject to a permissive referendum. In the event that the authorization by such governing board of the issuance of obligations for such capital improvement or equipment is required by law to be subject to a permissive or mandatory referendum only if such obligations are to have a maturity of more than five years or not less than some other minimum period, then the authorization of such an expenditure shall be subject to a permissive referendum only if the period of probable usefulness of such capital improvement or equipment is equal to or more than such minimum period of maturity. Such a permissive referendum shall be governed in the manner provided in paragraph four of this section. Notwithstanding any other provision of this section, but subject to the provisions of this paragraph, if a capital reserve fund has been established for a specific capital improvement and it is later determined that a part of the cost of such capital improvement is to be borne by assessments for benefit or ad valorem taxes upon real property within an area of benefit within a municipality, such fund may be expended to pay all or part of the share to be borne by the municipality at large.

9. The governing board may authorize the transfer to the credit of another capital reserve fund of all or part of:

a. The unexpended balance remaining in a fund established for a specific capital improvement or a specific item or specific items of equipment, which improvement has been completed or acquired, or which equipment has been acquired, after deducting from such balance a sum

sufficient to satisfy all outstanding claims arising from the construction, reconstruction or acquisition of such capital improvement or the acquisition of such equipment.

b. The unexpended balance remaining in a fund established for a specific item or specific items of equipment which have not been acquired or a specific capital improvement which has not been completed or acquired, or remaining in a fund established for a type of capital improvement or a type of equipment. If the proposed transfer is from a fund established for a specific capital improvement or a specific item or specific items of equipment, the authorization of such transfer shall be subject to a permissive referendum if the authorization of the creation of a fund for such capital improvement or item or items of equipment was subject to a permissive referendum. A permissive referendum on the authorization of such transfer shall be governed in the manner provided in paragraph four of this section.

c. Nothing in this subdivision shall be construed to authorize the transfer to the credit of another capital reserve fund from a capital reserve fund having a different tax base.

9-a. The governing board also may appropriate for:

1. An object or purpose for which bonds may be issued, or

2. The payment of interest on and principal of indebtedness, other than indebtedness evidenced by bonds and notes described in paragraphs A and D of section five of article eight of the state constitution, and indebtedness for assessable improvements or renewals thereof, all or part of the unexpended balance remaining in a fund established for a specific capital improvement or specific item or items of equipment. Any such appropriation may not be made unless the improvement has been completed or acquired, or the equipment has been acquired, and shall not include any moneys required to satisfy all outstanding claims arising from the construction, reconstruction or acquisition of such capital improvement or the acquisition of such equipment.

10. The chief fiscal officer shall keep a separate account for each fund established. Such account shall show:

a. The date and amount of each sum paid into the fund.

b. The interest earned by such fund.

c. The capital gains or losses resulting from the sale of investments of the fund.

d. The interest or capital gains which have accrued to the fund.

e. The amount and date of each withdrawal from the fund.

f. The assets of the fund, indicating the cash balance therein and a schedule of the amounts invested in federal or state obligations.

The chief fiscal officer, at the termination of each fiscal year, shall render a detailed report of the operation and condition of each of such funds to the governing board.

11. The members of the governing board are hereby declared trustees of such funds and shall be subject to all the duties and responsibilities imposed by law on trustees, and such duties and responsibilities may be enforced by the county, city, town or village, as the case may be, or by any board, commission, agency, officer or taxpayer thereof.

12. The members of the governing board shall be guilty of a misdemeanor if they:

a. Authorize a withdrawal from a fund for any purpose other than for a capital improvement or an item or items of equipment, the cost of which has been authorized to be financed in whole or in part from such fund.

b. Expend any money withdrawn from a fund for a purpose other than that for which it was authorized to be withdrawn.

The provisions of this paragraph shall be considered to be in addition to any other penalties provided by law.

13. Notwithstanding the foregoing provisions of this section, in any town which is located wholly or partly within the Adirondack park and has within its boundaries state lands subject to taxation assessed at more than thirty per centum of the total taxable assessed valuation of the town as determined from the assessment rolls of the town, as completed from time to time, a capital reserve fund shall not be established on and after May first, nineteen hundred forty-eight, unless the state comptroller, on behalf of the state, shall consent thereto, and, on and after May first, nineteen hundred forty-eight, in any such town no expenditure or transfer shall be made from a capital reserve fund heretofore or hereafter established unless the state comptroller, on behalf of the state, shall consent thereto.