§ 10.10 Municipalities and school districts authorized to incur debt to liquidate operating deficits; requirements and procedures; period of probable usefulness. In the case of a municipality or school district that is authorized by a special or general law to incur debt to liquidate an operating deficit:

a. no bonds to fund the liquidation of such a deficit may be issued unless and until the state comptroller shall first review and confirm the existence of the deficit, as well as certify the amount of the deficit. As soon as practicable after the effective date of the law authorizing the incurrence of debt to fund the deficit, but in no event prior to the close of the then current fiscal year of the municipality in the case of a projected deficit, the municipality or school district shall prepare a report detailing the amount and cause of the deficit and submit to the state comptroller such report, together with the municipality's or school district's independent audit report for its last completed fiscal year, if any such audit report has been or is to be prepared, and such other information as the state comptroller may deem necessary. Within thirty days after receiving all necessary reports and information, the state comptroller shall:

1. perform such reviews as may be necessary;

2. confirm the existence and certify the amount of the deficit; and

3. provide notification to the finance board of the municipality or school district as to the existence and amount of any such deficit.

b. bonds to liquidate such deficit may not be issued in an amount exceeding the amount of such deficit as certified by the state comptroller. If the municipality or school district issues bond anticipation notes for the purpose of liquidating such deficit prior to a determination by the state comptroller pursuant to paragraph a of this section in an amount in excess of the amount of such deficit as confirmed by the state comptroller, the municipality or school district shall, from funds other than proceeds of bonds or bond anticipation notes, either redeem such bond anticipation notes in the amount by which

the amount of such bond anticipation notes exceeds the amount of such deficit as confirmed by the comptroller or deposit a sum equal to the amount by which such bond anticipation notes exceed the amount of such deficit as confirmed by the comptroller into a reserve fund for the payment of bonded indebtedness that shall be established pursuant to section six-h of the general municipal law.

c. for each fiscal year occurring during the time deficit bonds or bond anticipation notes issued in anticipation of the sale of such bonds are outstanding, up to and including the last fiscal year during which such debt or debt issued to refund such debt is outstanding, the chief fiscal officer of the municipality or school district on whose behalf such deficit bonds or notes have been issued shall monitor budgets of the municipality or school district and for each budget, prepare a quarterly report of summarized budget data depicting overall trends of actual revenues and budget expenditures for the entire budget rather than individual line items. Such reports shall compare revenue estimates and appropriations as set forth in such budget with the actual revenues and expenditures made to date. All quarterly reports shall be accompanied by a recommendation by the chief executive officer of the municipality or school district setting forth any remedial action necessary to resolve any unfavorable budget variance including the overestimation of revenues and the underestimation of appropriations, and shall be completed within thirty days of the end of each quarter. The chief fiscal officer shall also prepare, as part of such report, a quarterly trial balance of general ledger accounts. The above quarterly budgetary reports and quarterly trial balances shall be prepared in accordance with generally accepted accounting principles. These reports shall be submitted to the governing board and chief executive officer of such municipality or school district, the state director of the budget, the state comptroller, the chair of the assembly ways and means committee, the chair of the senate finance committee and, in the case of a school district, the commissioner of education.

d. beginning with the fiscal year during which the municipality or school district is authorized to incur debt to finance the deficit, to and including the last fiscal year during which such debt or any debt

incurred to refund such debt is outstanding, the chief executive officer or other individual or individuals responsible for the preparation of the tentative budget, or in the case of a town, the preliminary budget, shall submit the tentative or preliminary budget for the next succeeding fiscal year to the state comptroller and, in the case of a school district, also to the commissioner of education, no later than thirty days before the date scheduled for the governing board's vote on the adoption of the final budget or the last date on which the budget may be finally adopted, whichever is sooner. The state comptroller and, in the case of a school district, the commissioner of education, shall examine such proposed budget and make such recommendations as deemed appropriate thereon to the municipality or school district prior to the adoption of the budget, but no later than ten days before the date scheduled for the governing board's vote on the adoption of the final budget or the last date on which the budget must be adopted, whichever is sooner. Such recommendations shall be made after examination into the estimates of revenues and expenditures of such municipality or school district. The governing board of the municipality or school district, no later than five days prior to the adoption of the budget, shall review any such recommendations and may make adjustments to its proposed budget consistent with any recommendations made by the state comptroller and, in the case of a school district, by the commissioner of education. Any recommendations that the board rejects shall be explained in writing to the state comptroller and, in the case of recommendations made by the commissioner of education, to the commissioner. The action or inaction of the state comptroller or the commissioner of education under this section shall not be construed to affect the legal validity of any budget of the municipality or school district nor to affect the powers or duties of the municipality or school district with respect to the local budget process, provided, however, that the municipality or school district may not issue bonds for any object or purpose unless and until adjustments to its proposed budget consistent with any recommendations made by the state comptroller and, in the case of a school district, by the commissioner of education, are made, or any such recommendations that are rejected have been explained in writing to the state comptroller and, in the case of school districts, the commissioner of education.

e. beginning with the fiscal year during which the municipality or school district is authorized to incur debt to finance the deficit, to and including the last fiscal year during which such debt or any debt incurred to refund such debt is outstanding, the chief executive officer or other officer or officers responsible for the preparation of the tentative budget, or in the case of a town, the preliminary budget, of the municipality or school district, within thirty days after the final adoption of the budget for the next succeeding fiscal year, shall prepare a three-year financial plan covering the next succeeding fiscal year and the two fiscal years thereafter. The financial plan shall, at a minimum, contain projected employment levels, projected annual expenditures for personal service, fringe benefits, non-personal services and debt service; appropriate reserve fund amounts; estimated annual revenues including projection of property tax rates, the value of the taxable real property and resulting tax levy, annual growth in sales tax and non-property tax revenues; and the proposed use of one-time revenue sources. Copies of the financial plan shall be provided to the chief executive and chief fiscal officers of the municipality or school district, the state director of the budget, the state comptroller, the chair of the assembly ways and means committee and the chair of the senate finance committee. This financial plan requirement shall not apply to the extent a municipality or school district is subject to a different multi-year financial plan requirement under state law.

f. beginning with the fiscal year during which the municipality or school district is authorized to incur debt to finance the deficit, to and including the last fiscal year during which such debt or any debt incurred to refund such debt is outstanding, the chief fiscal officer of the municipality or school district shall notify the state comptroller at least fifteen days prior to the issuance of any bonds or notes or entering to any installment purchase contract and the state comptroller may review and make recommendations regarding the affordability to the municipality or school district of any such proposed issuance or contract.

g. to facilitate the marketing of bonds authorized pursuant to law to

be issued to fund a deficit, the municipality or school district may, notwithstanding any limitation on the private sales of bonds provided by law and subject to the approval of the state comptroller of the terms and conditions of such sales:

1. arrange for the underwriting of such bonds at private sale through negotiated fees or by sale of such bonds to an underwriter at a price less than the sum of par value of, and the accrued interest on, such obligations; or

2. arrange for the private sale of such bonds through negotiated agreement, with compensation for such sales to be provided by negotiated agreement and/or negotiated fee, if required. The cost of such underwriting or private placement shall be deemed a preliminary cost for purposes of section 11.00 of this title.

h. the financing of a deficit, when authorized by a special or general law as hereinbefore described, is hereby declared to be an object or purpose of the municipality or school district for which indebtedness may be incurred, the period of probable usefulness of which is determined to be ten years, computed from the date of such bonds or the date of the first bond anticipation note issued in anticipation of the sale of such bonds, whichever is earlier.

i. except as provided in this section or in the general or special law authorizing the incurrence of debt to finance the deficit, all proceedings in connection with the issuance of such debt shall be had and taken in accordance with the provisions of this chapter, provided, however, that any resolution or resolutions authorizing the issuance of such bonds shall not be subject to either a mandatory or permissive referendum. To the extent the provisions of this section are inconsistent with any general, special or local law concerning budget procedures, this section shall apply and any budget schedule set forth in any such law shall be modified to conform with this section.