§ 104.10 Additional limitations on the power to contract indebtedness. In addition to the other limitations of this chapter on the power to contract indebtedness:

1. Any municipality, school district or district corporation shall be subject to the limitations contained in any law requiring such municipality, school district or district corporation to adopt, whether or not as a part of an annual budget, a budget of the capital projects which it may undertake, continue, complete or acquire during the twelve months' period for which such budget is adopted.

2. Any county operating under an alternative form of government which provides for the establishment of a county debt commission may establish such a commission for the regulation, pursuant to such law, of the contracting of indebtedness by such county and the units of government within such county.

3. Any town which

(a) Is wholly or partly within the Adirondack park, and

(b) Has within its boundaries state lands subject to taxation assessed at more than thirty per centum of the total taxable assessed valuation of such town as determined from the assessment rolls of the town, as completed from time to time, shall not issue its bonds, bond anticipation notes, capital notes or budget notes if by doing so the amount of its outstanding indebtedness evidenced by bonds, bond anticipation notes, capital notes, budget notes and certificates of indebtedness, plus the amount of the indebtedness proposed to be incurred, shall exceed five percent of such town's revenues for the last year the state comptroller has such data or one hundred thousand dollars whichever is the lesser; provided, however, such obligations may be issued originally by any such town upon the duly verified petition of the owners of at least sixty-five per centum of the taxable real property therein, as such real property appears on the last preceding completed assessment-roll of such town, or upon the certificate of the state comptroller consenting, on behalf of the state, to the original issuance of such obligations. For the purposes of any such petition, the state comptroller may act on behalf of the state. The state comptroller

shall annually calculate the dollar amount equal to five percent of such town's total revenue for the last year the comptroller has such data on file. Such bonds shall be refunded only pursuant to the provisions of section 90.00 or 90.10 of this chapter. Such bond anticipation notes, capital notes and budget notes may be renewed as provided in sections 23.00, 28.00 and 29.00 of this chapter, respectively. The consent of the state comptroller shall not be required under this subdivision in any such town in connection with the issuance of obligations for the purposes of an improvement district if they are issued in accordance with the statement of the proposed manner of financing an improvement as set forth in an application to the state comptroller made pursuant to section one hundred ninety-four of the town law and in compliance with the terms or conditions, if any, of the order of the state comptroller made pursuant to such section. Likewise, such consent shall not be required under this subdivision in connection with the issuance of obligations for the purpose of financing an expenditure in a town improvement district where the expenditure has been approved by the state comptroller.

4. Any town which, without first obtaining the permission of the state comptroller, shall have established or extended an improvement district prior to September first, nineteen hundred forty-five, or which shall establish or extend any such district after August thirty-first, nineteen hundred forty-five, shall not issue its bonds, bond anticipation notes or capital notes for the purposes of any such district or extension, except for improvements undertaken pursuant to sections one hundred ninety-nine, two hundred two-b of the town law, and section 222.5 of the Nassau county civil divisions act, and except when the cost of the district or extension to the typical property or, if different, the cost to the typical one or two family home is not above the average cost threshold as may be annually computed by the state comptroller pursuant to section one hundred ninety-four or two hundred nine-f of the town law, unless it secure the permission of the state comptroller, granted upon a written application signed and verified by the supervisor or such other officer of the town as the town board shall determine. Any such application shall include:

(a) A certified copy of the petition for the creation of the district

(omitting, however, the signatures and acknowledgements or proofs);

(b) An itemized statement of the then outstanding indebtedness of the town for all purposes as evidenced by bonds, bond anticipation notes, capital notes and budget notes; the amount of joint indebtedness contracted or incurred for a joint service or a joint water, sewage or drainage project and the amount of such indebtedness allocated and apportioned to the town, as defined in title one-a of the local finance law; the amount of the indebtedness proposed to be contracted for the improvement; the amount of budgetary appropriations for the payment of any such indebtedness, whether or not such appropriations have been realized as cash, and the amounts, purposes and probable dates of issuance of any bonds, bond anticipation notes, capital notes and budget notes which the town has authorized to be issued but which in fact have not been issued on the date of such application;

(c) A statement of the aggregate assessed valuation of the real property in the district, as such assessed valuations are shown on the last completed assessment roll of the town prior to the date of such application; and

(d) A statement of the average full valuation of the taxable real property of the town. Such average full valuation shall be determined by taking the assessed valuation of the taxable real property of the town as it appears on the assessment roll of the town which was last completed prior to the date of the application, and such valuations as they appear on each of the four preceding rolls; dividing the amount for each such roll by the equalization rate established for it for the assessment of special franchises by the state officer or agency authorized to establish such rates; adding the quotients thus obtained, and dividing the sum thereof by five; and

(e) A certified copy of the resolution authorizing the issuance of the obligations in connection with which the application is made.

The state comptroller in his discretion may require the submission of additional information in such form and detail as he shall deem sufficient, or may cause an investigation to be made, to aid him in making the determinations herein required. Any such application may be amended prior to any final determination. If the state comptroller shall determine (1) that the issuance of the obligations will not cause an

undue burden upon the property of the district, and (2) that amount of the indebtedness of the town for all purposes as evidenced by bonds, bond anticipation notes, capital notes and budget notes, plus the amount of the indebtedness proposed to be incurred for the improvement district, less the amount of budgetary appropriations for the payment of any such indebtedness, whether or not such appropriations have been realized as cash, as of the date of the application filed with the state comptroller, will not exceed fifteen per centum of the average full valuation of the taxable real property of the town he shall grant such application; otherwise, it shall be denied. Such average full valuation shall be determined in the manner provided in this subdivision. If any such application shall be granted by the state comptroller, it shall not be necessary to apply to the state comptroller under the provisions of subdivision three of this section for his consent to the issuance of the obligations described in the application made pursuant to this subdivision. There shall be excluded from the amount of indebtedness to be considered by the state comptroller in making such determination any indebtedness allocated or apportioned or proposed by all the participating municipal corporations to be allocated or apportioned to any municipal corporation other than such town in accordance with the provisions of section 15.10 of the local finance law.

5. Any town, in any county now or hereafter operating under an optional form of government, shall not let any contract or incur any indebtedness whatsoever for any capital improvement for any improvement district therein for which such town intends to issue obligations unless it shall have first secured the consent of the finance board of such county to the issuance of such obligations. Whenever any such town intends to issue obligations for such a purpose, it shall present a petition to the finance board of such county, setting forth the improvement proposed and the amounts and type or types of obligations to be issued and requesting the approval of such county for the issuance of the obligations. The finance board of such county within sixty days after the presentation of such petition, by resolution, shall either approve or disapprove of the issuance of such obligations and shall forward a certified copy of such resolution to the town board of such town.

6. Any fire district which is situated in whole or in part in a town which is wholly or partly within the Adirondack park and has within the town 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, shall not issue its bonds, bond anticipation notes, capital notes or budget notes if by doing so the amount of outstanding indebtedness evidenced by bonds, bond anticipation notes, budget notes and certificates of indebtedness, plus the amount of the indebtedness proposed to be incurred shall exceed five percent of such district's revenues for the last year the comptroller has such data or one hundred thousand dollars whichever is the lesser unless the state comptroller, on behalf of the state, shall consent thereto.

7. The total amount of bonds or capital notes which may be authorized in any fiscal year of the municipal corporation, school district or district corporation to finance advance planning pursuant to section ninety-nine-d of the general municipal law shall not exceed the maximum amount of budget notes which it may issue in such year pursuant to subdivision two or three of paragraph a of section 29.00 of this chapter, as the case may be, provided, however, that for the purposes of this subdivision, amounts which are to be paid in the first instance from improvement district assessments shall be included in computing "the amount of the annual budget" of a town or a county in accordance with section 29.00 of this chapter.