§ 124.10 Exclusion of certain indebtedness for sewage facilities in ascertaining the power of a municipality to contract indebtedness. * a. In ascertaining the power of a municipality to contract indebtedness, there may be excluded any outstanding indebtedness contracted by such municipality on or after January first, nineteen hundred sixty-two, and prior to January first, two thousand twenty-four, for the construction or reconstruction of facilities for the conveyance, treatment and disposal of sewage.

* NB Effective until the effective date of constitutional amendments proposed in S.4597/A.3776

* a. In ascertaining the power of a municipality to contract indebtedness, there may be excluded any outstanding indebtedness contracted by such municipality on or after January first, nineteen hundred sixty-two, and prior to January first, two thousand thirty-four, for the construction or reconstruction of facilities for the conveyance, treatment and disposal of sewage.

* NB Effective upon the effective date of constitutional amendments proposed in S.4597/A.3776

b. The date of contracting any such indebtedness for a particular facility shall be deemed to be the date of the first contract for the construction or reconstruction of such facility or the date of the first obligation issued to finance such construction or reconstruction, whichever date is the earlier.

* c. The term indebtedness, as used in this section, shall include indebtedness evidenced by obligations issued on or after January first, two thousand twenty-four for the purpose of financing any indebtedness contracted for the purposes and within the period specified in paragraph a of this section.

* NB Effective until the effective date of constitutional amendments proposed in S.4597/A.3776

* c. The term indebtedness, as used in this section, shall include indebtedness evidenced by obligations issued on or after January first, two thousand thirty-four for the purpose of financing any indebtedness contracted for the purposes and within the period specified in paragraph a of this section.

* NB Effective upon the effective date of constitutional amendments

d. The provisions of this section shall not be deemed to prevent the exclusion of any refunded indebtedness if the indebtedness refunded was excludable pursuant to this section.

e. Where indebtedness has been excluded pursuant to this section, the revenues, if any, of the facility constructed or reconstructed, during the period for which the exclusion is effective, shall be applied to and actually used for the payment of all costs of operation, maintenance and repairs for such period, and payment of the amounts required in such period for the interest on and amortization of or redemption of the indebtedness excluded, or such revenues shall be deposited in a special fund to be used solely for such payments. The application and use of such payments or the deposits required therefor shall not prohibit a municipality from using any such revenues, in excess of such payments or deposits, for any lawful purpose of the municipality for which such revenues may be used.

f. The chief fiscal officer of a municipality in his discretion may prepare, or on the direction of the finance board shall prepare, a verified itemized statement of outstanding or proposed indebtedness of the municipality contracted or to be contracted for the purposes and within the period specified in paragraph a of this section. Such chief fiscal officer in his discretion may file, or on the direction of the finance board shall file, with the state comptroller a verified application on behalf of the municipality for the purpose of obtaining a certification of the several amounts of such indebtedness to be excluded pursuant to this section. Such itemized statement shall be attached to and form a part of the application. The itemized statement and application shall be in such form and contain such information as shall be prescribed by the state comptroller. In the case of application for a certification of amounts of proposed indebtedness to be excluded, the application shall state the approximate date or dates when such indebtedness, or portions thereof, are proposed to be contracted and whether such indebtedness is to be in the form of a contract for construction or in the form of obligations, or in both such forms.

g. Within fifteen days after filing of such application with the state comptroller, the chief fiscal officer shall cause a notice to be published that such application has been filed with the state comptroller. Such notice shall be published in the official newspaper or newspapers of the municipality, or if there be no such newspaper or newspapers, then the finance board of the municipality shall designate one or more newspapers having a general circulation in the municipality for the publication of such notice. The notice also shall contain a statement of the amount of outstanding indebtedness, if any, to be excluded and a statement of the amount of proposed indebtedness, if any, to be excluded if and when contracted. Proof of publication of such notice shall be filed in the office of the state comptroller. A copy of the itemized statement and application and of all financial statements, documents, computations and other data and information which will be submitted by the chief fiscal officer of the municipality to the state comptroller in support of such application shall be filed in the office of the chief fiscal officer and shall be public records.

h. After the filing of any such application, the state comptroller shall review the facts set forth therein. The state comptroller shall have the power to examine the accounts and records of the municipality with respect to such application. He may also require the chief fiscal officer and other public officers, boards and agencies of the municipality to furnish such additional data and information in their possession as he deems necessary to enable him to ascertain the indebtedness which may be excluded pursuant to paragraph a of this section.

i. The state comptroller shall issue a written certificate setting forth the amounts of any such indebtedness which may be excluded. If the indebtedness described in the certificate is, or is to be, in the form of (1) a contract for construction which is to be financed later by issuance of obligations pursuant to this chapter or pursuant to any special law or (2) bond anticipation notes issued in anticipation of bonds to be issued pursuant to this chapter or pursuant to any special law, such certification also shall be applicable to such obligations or

bonds, as the case may be, when issued. If the state comptroller determines that the indebtedness described in the application, or any part thereof, does not constitute indebtedness described in paragraph a of this section the reasons for such determination shall be given. The certification of the state comptroller shall be conclusive. The certificate of the state comptroller shall not be issued until ten days after the filing of such proof of publication in the office of the state comptroller and shall be issued within forty-five days after such filing. The certificate of the state comptroller shall be effective so long as and to the extent that any such indebtedness described therein is outstanding, or until such certificate is amended, modified, superseded or rescinded by a written certificate of the state comptroller issued upon application of the municipality in the manner provided in paragraph f of this section. The certificate of the state comptroller shall be executed under his hand and seal in duplicate. One of such certificates shall be filed in the department of audit and control and the other in the office of the chief fiscal officer of the municipality.

j. The provisions of this section shall not affect or impair any existing exclusions of indebtedness, or the power to exclude indebtedness granted by any other provision of this chapter or the constitution. However, if any exclusion has been granted by the state comptroller pursuant to section 123.00 of this chapter for any indebtedness for which an exclusion has been granted pursuant to this section, the exclusion of such indebtedness granted pursuant to section 123.00 of this chapter shall cease to be applicable.