

2011-12 NEW YORK STATE EXECUTIVE BUDGET

PUBLIC PROTECTION AND GENERAL GOVERNMENT
ARTICLE VII LEGISLATION

MEMORANDUM IN SUPPORT

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MEMORANDUM IN SUPPORT

A BUDGET BILL submitted by the Governor in
Accordance with Article VII of the Constitution

AN ACT to amend chapter 887 of the laws of 1983, amending the correction law relating to the psychological testing of candidates, in relation to extending the expiration of such chapter; to amend chapter 428 of the laws of 1999, amending the executive law and the criminal procedure law relating to expanding the geographic area of employment of certain police officers, in relation to extending the expiration of such chapter; to amend chapter 886 of the laws of 1972, amending the correction law and the penal law relating to prisoner furloughs in certain cases and the crime of absconding therefrom, in relation to extending the expiration of such chapter; to amend chapter 261 of the laws of 1987, amending chapters 50, 53 and 54 of the laws of 1987, the correction law, the penal law and other chapters and laws relating to correctional facilities, in relation to extending the expiration of such chapter; to amend chapter 55 of the laws of 1992, amending the tax law and other laws relating to taxes, surcharges, fees and funding, in relation to extending the expiration of certain provisions of such chapter; to amend chapter 339 of the laws of 1972, amending the correction law and the penal law relating to inmate work release, furlough and leave, in relation to extending the expiration of such chapter; to amend chapter 60 of the laws of 1994 relating to certain provisions which impact upon expenditure of certain appropriations made by chapter 50 of the laws of 1994 enacting the state operations budget, in relation to extending the expiration of certain provisions of such chapter; to amend chapter 554 of the laws of 1986, amending the correction law and the penal law relating to providing for community treatment facilities and establishing the crime of absconding from the community treatment facility, in relation to extending the expiration of such chapter; to amend chapter 3 of the laws of 1995, amending the correction law and other laws relating to the incarceration fee, in relation to extending the expiration of certain provisions of such chapter; to amend chapter 907 of the laws of 1984, amending the correction law, the New York city criminal court act and

the executive law relating to prison and jail housing and alternatives to detention and incarceration programs, in relation to extending the expiration of certain provisions of such chapter; to amend chapter 166 of the laws of 1991, amending the tax law and other laws relating to taxes, in relation to extending the expiration of certain provisions of such chapter; to amend the vehicle and traffic law, in relation to extending the expiration of the mandatory surcharge and victim assistance fee; to amend chapter 713 of the laws of 1988, amending the vehicle and traffic law relating to the ignition interlock device program, in relation to extending the expiration thereof; to amend chapter 435 of the laws of 1997, amending the military law and other laws relating to various provisions, in relation to extending the expiration date of the merit provisions of the correction law and the penal law of such chapter; to amend chapter 412 of the laws of 1999, amending the civil practice law and rules and the court of claims act relating to prisoner litigation reform, in relation to extending the expiration of the inmate filing fee provisions of the civil practice law and rules and general filing fee provision and inmate property claims exhaustion requirement of the court of claims act of such chapter; to amend chapter 222 of the laws of 1994 constituting the family protection and domestic violence intervention act of 1994, in relation to extending the expiration of certain provisions of the criminal procedure law requiring the arrest of certain persons engaged in family violence; to amend chapter 505 of the laws of 1985, amending the criminal procedure law relating to the use of closed-circuit television and other protective measures for certain child witnesses, in relation to extending the expiration of the provisions thereof; to amend chapter 688 of the laws of 2003, amending the executive law relating to enacting the interstate compact for adult offender supervision, in relation to extending the expiration of certain provisions of such chapter; to amend chapter 3 of the laws of 1995, enacting the sentencing reform act of 1995, in relation to extending the expiration of certain provisions of such chapter; to amend chapter 689 of the laws of 1993 amending the criminal procedure law relating to electronic court appearance in certain counties, in relation to extending the effective date thereof (Part A); to amend chapter 503 of

the laws of 2009 relating to the disposition of certain monies recovered by county district attorneys before the filing of an accusatory instrument, in relation thereto and the effective date thereof (Part B); to amend the correction law, in relation to the closure of correctional facilities (Part C); to amend the tax law, in relation to eliminating certain allowable uses of revenue generated by the cellular surcharge (Part D); to amend the executive law and the alcoholic beverage control law, in relation to removing the salary provision for state liquor authority commissioners, other than the chairman (Part E); to amend the election law, in relation to eliminating certain publishing requirements by state and local boards of election and to repeal certain provisions of the election law relating thereto (Part F); to amend the workers' compensation law, in relation to self-in-surers; and to repeal certain provisions of such law relating thereto (Part G); to amend the executive law and the civil service law, in relation to removing the salary provision for civil service commissioners other than the president (Part H); to amend the state finance law, in relation to aid and incentives for municipalities (Part I); to amend the state finance law, in relation to a program of aid to municipalities in which a video lottery terminal facility is located (Part J); to amend the state finance law, in relation to creating citizen empowerment tax credits, local government citizens re-organization empowerment grants and the local government performance and efficiency program, and streamlining the local government efficiency grant program (Part K); to amend chapter 774 of the laws of 1989 amending the real property tax law relating to certain state lands subject to taxation, in relation to clarifying the state's obligation to make payments with respect to certain lands (Part L); to amend the state finance law, in relation to reappropriation bills (Part M); to provide for the administration of certain funds and accounts related to the 2011-2012 budget; to authorize certain payments and transfers; to amend the state finance law, in relation to the school tax relief fund; to amend the state finance law, in relation to the issuance of revenue bonds and in relation to mental health service facilities financing; to amend chapter 57 of the laws of 2008, providing for the administration of certain funds and accounts related to the 2008-2009 budget, in

relation to effectiveness of certain provisions thereof; to amend the public authorities law, in relation to environmental infrastructure projects; to amend chapter 61 of the laws of 2005, providing for the administration of certain funds and accounts related to the 2005-2006 budget, chapter 81 of the laws of 2002, providing for the administration of certain funds and accounts related to the 2002-2003 budget, chapter 389 of the laws of 1997, providing for the financing of the correctional facilities improvement fund and the youth facility improvement fund, chapter 329 of the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund; to amend the state finance law, in relation to certificates of participation; to amend the private housing finance law, in relation to housing program bonds and notes; to amend the public authorities law, in relation to the issuance of bonds by the dormitory authority and the New York state environmental facilities corporation; to repeal subdivision (b) of section 19-a of part PP of chapter 56 of the laws of 2009, providing funding for certain community projects, relating to increasing such funding, relating to certain monetary transfers; to amend the public authorities law, in relation to voting of directors of local government assistance corporation; to amend the public authorities law, in relation to library construction; to amend the state finance law, in relation to community enhancement facilities projects, to amend chapter 432 of the laws of 1997, amending the state finance law and other laws relating to the issuance of bonds or notes for community enhancement facilities projects, in relation to the amount of bonds issued for community enhancement projects; to amend chapter 84 of the laws of 2002, relating to authorizing the New York state urban development corporation and the dormitory authority of the state of New York to issue bonds or notes for the purpose of financing certain project costs, in relation to providing for the administration of certain funds and accounts related to the 2002-2003 budget; to amend chapter 3 of the laws of 2004, relating to authorizing the New York state urban development corporation and the dormitory authority of the state of New York to issue bonds or notes, in relation to bonds or notes; to amend chapter 59 of the laws of 2004, relating to

authorizing the New York state urban development corporation and the dormitory authority of the state of New York to issue bonds or notes, in relation to bonds or notes; to amend chapter 59 of the laws of 2005, relating to the urban development corporation bonding authority, in relation to the issuance of bonds by the dormitory authority and the New York state urban development corporation; to amend chapter 161 of the laws of 2005, amending the education law and other laws relating to issuance of bonds or notes, in relation to the issuance of bonds by the dormitory authority and the New York state urban development corporation; to amend chapter 174 of the laws of 1968 constituting the New York state urban development corporation act, in relation to financing economic development and regional initiatives and in relation to the issuance of bonds or notes for the purpose of funding project costs for regional economic development council initiatives, communities impacted by the closure of New York state prison and correctional facilities and other states' costs associated with such projects; to amend part JJ of chapter 56 of the laws of 2010, relating to providing for the administration of certain funds and accounts related to the 2010-2011 budget, in relation to the effectiveness thereof; and providing for the repeal of certain provisions upon expiration thereof (Part N); and to repeal section 99-d of the state finance law, relating to community projects fund (Part O)

PURPOSE:

This bill contains provisions needed to implement the Public Protection and General Government portions of the 2011-12 Executive Budget.

This memorandum describes Parts A through O of the bill which are described wholly within the parts listed below.

Part A – Extend various criminal justice programs that would otherwise sunset.

Purpose:

This bill extends for three years various criminal justice programs that would otherwise expire in 2011.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

This bill extends the authorization of various sections of law to ensure the continuation of a host of criminal justice program. All of these provisions have been extended previously and many have been extended multiple times.

Key programs and statutory provisions continued by this bill include: determinate sentencing; inmate work release and furloughs; substance abuse treatment for inmates; alternatives to incarceration; ignition interlock program for individuals convicted of alcohol-related violations; mandatory arrest in cases of domestic violence; and protective measures for child witnesses.

Budget Implications:

Enactment of this bill is necessary to implement the 2011-12 Executive Budget which relies on continuation of these programs in certain Financial Plan projections.

Effective Date:

This bill takes effect immediately.

Part B – Make changes to provisions relating to the disposition of certain monies recovered by New York City county district attorneys and make those provisions permanent.

Purpose:

This bill applies the existing formula for distribution of certain monies recovered by district attorneys in New York City to each recovery made by such district attorneys, and makes the provisions governing such recoveries permanent.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

This bill amends chapter 503 of the laws of 2009, as amended by section 1 of part KK of chapter 56 of the laws of 2010, to adjust the formula under which a county district attorney in New York City retains a portion of recoveries it makes before the filing of an accusatory instrument , and also makes that statute permanent. The existing statute will otherwise expire on March 31, 2011.

Chapter 503 sets forth a formula for dividing up the cumulative amount of such recoveries received by the district attorney within a State fiscal year. Under this bill, the formula will

apply to each recovery, thereby providing the district attorney's office with additional resources to pursue more investigations.

For the past several years, including 2010-11, the Manhattan District Attorney's Office has recovered significant monies from pre-indictment settlements (i.e., pursuant to deferred prosecution agreements). For the past two years, statutory language enacted with the budget has directed a portion of those recoveries to the State and the City in equal portions. This equal distribution is not altered by this bill.

Budget Implications:

Enactment of this bill is necessary to implement the 2011-12 Executive Budget. It is expected to generate an estimated \$75 million in revenue to the State in 2011-12.

Effective Date:

This bill takes effect immediately.

Part C – Eliminate the prison closure notification requirement and modify the type of plan to be developed in the event of a prison closure.

Purpose:

This bill expedites the prison closure process by eliminating the requirement that the Commissioner of the Department of Correctional Services issue notice one-year prior to closing a facility. In addition, this bill provides a process for assisting communities affected by a prison closure to transform their economy.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

Since December 1999, New York's prison population has fallen from a peak of 71,600 inmates by more than 15,000 inmates, resulting in significant unused prison capacity. As a result, the State began to close facilities in 2009. Under current law, the Commissioner of the Department of Correctional Services is required to give notice one year prior to closing a correctional facility, and to prepare an adaptive re-use plan for the facility six months prior to closure. However, the State must be able to act more expeditiously to eliminate excess prison capacity in order to use scarce taxpayer dollars as efficiently and prudently as possible, particularly during a period of fiscal exigency. The transfer of inmates into facilities that are most efficient and offer more rehabilitative services will yield significant recurring savings to taxpayers and is consistent with public safety.

This bill will enable the Commissioner to more effectively manage the State prison system by reducing excess bed capacity through accelerated closure of entire facilities. It also eliminates the requirement for a re-use plan prior to a facility closure and instead

directs the Chairman of the Urban Development Corporation to prepare an economic transformation plan for the impacted community, in consultation with the corresponding regional development council, no later than six months after the prison closure.

Budget Implications:

Enactment of this bill is necessary to implement the 2011-12 Executive Budget as an undetermined amount of savings will be realized from anticipated prison closures.

Effective Date:

This bill takes effect immediately

Part D – Eliminate cell surcharge subsidy to a revolving loan fund.

Purpose:

This bill changes the required use of cellular surcharge revenue by eliminating the annual transfer of \$1.5 million from the Statewide Public Safety Communications Account to the Emergency Services Revolving Loan Fund.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

The Emergency Services Revolving Loan Fund is established in section 97-pp of the State Finance Law as a means to assist local governments in financing firefighter and emergency response equipment such as ambulances and fire engines. Since it is structured as a revolving loan fund (i.e., payments of principal and interest are deposited back into the fund) and presently there is an ample fund balance, elimination of the annual transfer from the Statewide Public Safety Communications Account should not diminish the ability of the Revolving Loan Fund's administrators to make new loans.

Budget Implications:

Enactment of this bill is necessary to implement the 2011-2012 Executive Budget, because it will support essential programs being funded from the Statewide Public Safety Communications Account.

Effective Date:

This bill takes effect immediately.

Part E – Change the compensation for the commissioners of the State Liquor Authority, other than the Chairman, from an annual salary to per diem.

Purpose:

This bill changes the compensation of the Commissioners of the State Liquor Authority, except for the Chairman, from an annual salary to per diem.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

Currently, Commissioners and the Chairman of the State Liquor Authority are compensated with an annual salary established in the Executive Law. The Chairman, designated by the Governor, also serves as the head of the Authority and will not be affected by this bill.

This bill amends Executive Law § 169(1)(f) to remove the Commissioners of the State Liquor Authority, other than the Chairman designated by the Governor as head of the Authority, from the statutory salary list. The bill also amends the Alcoholic Beverage Control Law to provide that the Commissioners other than the Chairman shall receive per diem compensation at \$260 per day and reimbursement for their actual and necessary expenses. Since their duties are not full time, per diem is more appropriate compensation than an annual salary.

Budget Implications:

Enactment of this bill is necessary to implement the 2011-2012 Executive Budget, which assumes \$220,000 in savings associated with this legislation.

Effective Date:

This bill takes effect immediately.

Part F – Eliminate costly and unnecessary election law printing and publication requirements.

Purpose:

This bill eliminates obsolete election law printing and publication requirements.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

The bill's provisions will help the State Board of Elections (SBOE) operate more efficiently by:

- Eliminating requirements for publication in hard-copy newspapers of information related to constitutional amendments and ballot questions in favor of posting and dissemination of such information on SBOE and Department of State's websites; and
- Eliminating the requirement that certified copies of election results be published in hard-copy newspapers and instead require that such results be posted on the applicable county board of elections' website(s).

Budget Implications:

Enactment of this bill is necessary to implement the 2011-2012 Executive Budget as it will generate at least \$70,000 in savings for the State. Counties also should realize savings from this proposal.

Effective Date:

This bill takes effect immediately.

Part G – Provide for the close-out of most private group self-insured workers compensation trusts to mitigate potential risk to the State Financial Plan and to participating employers.

Purpose:

This bill implements the major recommendations of the Task Force on Group Self-Insurance. Specifically, it eliminates, except under certain limited circumstances, the provisions of workers' compensation coverage for private employers by group self-insured trusts ("GSITs") and remove GSITs as a separate category for workers' compensation assessments.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

Under existing law, employers who wish to self-insure for workers' compensation may either self-insure individually or join together and request approval to operate as a GSIT pursuant to Workers' Compensation Law ("WCL") § 50(3-a). The members of a GSIT proportionally share in any surplus which may have been generated by the GSIT, and are jointly and severally liable for any deficit which may occur when the contributions are inadequate to pay all of the GSIT's obligations for a given period. GSITs must assure the Chair of the Workers' Compensation Board of their ability to pay and make a deposit of securities, but they are not required under existing law to post a security for all liabilities, unlike an individual self-insurer.

Since 2006, 19 GSITs have closed voluntarily, and 17 GSITs are insolvent. Recent projections indicate that these groups have a combined deficit of \$800 million. Collection of moneys owed from members of the defaulted GSITs has proven difficult, and litigation has proliferated. To continue paying claims of injured workers' covered by such defaulted GSITs, the Workers' Compensation Board has assessed the "healthy" GSITs and individual self-insurers.

To address this significant problem, Chapter 139 of the Laws of 2008 created a Task Force of Group Self-Insurance (the "Task Force"), of involved stakeholders and state representatives. On June 7, 2010, the Task Force issued a comprehensive report with recommendations. The report found that as presently constituted, GSITs impose an unacceptable risk on the workers' compensation system and on the employers who join them, and that these problems cannot be remedied within the existing structure.

This bill largely implementsthe recommendations of the Task Force. It will provide for the closing of virtually all private GSITs by the end of the year. However, it creates an exception for those groups (anticipated to be very limited in number) that are able to post security for their liabilities in a manner comparable to an individual self-insurer. It will also allow public employers' GSITs to continue operating. In addition, the bill will cease assessments of discontinued GSITs under WCL §§ 15(8) and 151. The employers in such GSITs will procure insurance through other vehicles, and will pay assessments as a result of such coverage. Moreover, terminating these assessments will allow the closed, non-defaulted GSITs to stay financially viable, preventing those GSITs from failing and thereby creating another cycle of defaults, litigation, and funding shortfalls. Terminated GSITs will remain liable (to the extent permitted following the resolution of certain legal challenges) for assessments under WCL section 50(5)(g), which provides funding to run defaulted GSITs. Since those assessments are not made against all employers, ceasing such assessments against terminated GSITs will leave a funding gap that other self insurers will need to make-up.

This bill also repeals WCL Section 50(3-a)(9), relating to the addition of new members to GSITs, amend the WCL to prohibit a GSIT from insuring any liabilities after December 31, 2011 and allow GSITs to self-insure if certain requirements are met. Furthermore, the bill will subject entities that failed to pay a judgment under WCL section 26 within ninety days of notice of such failure to a "stop work" order.

Budget Implications:

Enactment of this bill is necessary to implement the 2011-2012 Executive Budget. If a GSIT becomes insolvent, the WCB must assure continued payment of claims from assessment funds, which are not collected for this purpose. The State has a vested interest in ensuring that these liabilities do not continue to grow, via a solution to the GSIT problem. This bill will address this problem by stemming a significant and growing cycle of financial loss, allowing closed GSITs to wind down their affairs in an orderly manner, and eliminating a workers' compensation option that subjects employers to excessive risk.

Effective Date:

This bill takes effect immediately, except that sections 1 and 6 take effect January 1, 2011 and apply to any assessment cycle beginning on or after such date, subject to WCL § 15(8)(h)(4), as amended by this bill.

Part H – Change the compensation for commissioners of the State Civil Service Commission, other than the President, from an annual salary to per diem.

Purpose:

This bill changes the compensation of commissioners of the State Civil Service Commission, except for the President of the Commission, from an annual salary to a per diem.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

This bill amends Executive Law §169 (1)(f) to remove the commissioners of the State Civil Service Commission, other than the commissioner designated by the Governor as President of the Commission, from the statutory salary list. The bill also amends Civil Service Law § 5(2)(a) to provide that the commissioners of the State Civil Service Commission other than the President shall receive per diem compensation at \$250 per day, and reimbursement for their actual and necessary expenses. Since their duties are not full time, per diem is more appropriate compensation than an annual salary.

Currently, all three commissioners of the State Civil Service Commission are compensated with an annual salary established in the Executive Law. The President of the Commission, designated by the Governor, also serves as the head of the Department of Civil Service and will not be affected by this bill.

Budget Implications:

Enactment of this bill is necessary to implement the 2011-2012 Executive Budget, as it produces savings of \$133,000 from elimination of the salaries of the two commissioners (each currently receive an annual salary of \$90,800), offset by the estimated per diem costs.

Effective Date:

This bill takes effect immediately and applies to current members of the Civil Service Commission.

Part I – Reduce Aid and Incentives for Municipalities (AIM) funding for cities, towns and villages and eliminate AIM for New York City.

Purpose:

This bill eliminates Aid and Incentives for Municipalities (AIM) to New York City (NYC), and reduce AIM to other municipalities by 2 percent.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

This bill reduces total AIM funding in order to achieve General Fund savings necessary to help balance the 2011-12 budget.

Under current law, in 2011-12 cities outside NYC would receive about \$664.8 million of AIM, while towns and villages would receive about \$69.8 million, for a total of \$734.6 million. The City's AIM was eliminated in 2010-11 on a one-year basis.

This bill eliminates AIM to New York City in 2011-12 and thereafter, since the City relies on AIM much less than other municipalities. At approximately 0.5 percent of total General Fund revenues, New York City's AIM reliance is significantly lower than the average AIM reliance for either other cities (22 percent of total General Fund revenues) or towns and villages (0.8 percent of total All Funds revenues). The bill would provide other municipalities with 2 percent less AIM than they received in 2010-11.

Budget Implications:

Enactment of this bill is necessary to implement the 2011-2012 Executive Budget because it achieves approximately \$321.5 million of General Fund savings, broken down as follows: \$301.7 million from New York City, \$17.7 million from other cities and \$2.1 million from towns and villages. After these reductions, in 2011-12 cities would receive \$647.1 million of AIM while towns and villages would receive \$67.6 million, for a total of \$714.7 million.

Effective Date:

This bill takes effect April 1, 2011.

Part J – Eliminate Video Lottery Terminal Aid to all eligible municipalities other than Yonkers.

Purpose:

This bill eliminates aid to all eligible municipalities hosting a video lottery terminal (VLT) facility other than the City of Yonkers.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

This bill amends State Finance Law to eliminate VLT aid to all eligible municipalities other than the City of Yonkers, starting in SFY 2011-12.

The State currently provides approximately \$25.8 million of annual aid to the municipalities that host seven VLT facilities across the State. Of this amount, \$19.6 million is distributed to the City of Yonkers. The other \$6.2 million is split among 15 different municipalities.

This bill would preserve VLT aid to Yonkers because, unlike other recipients of this aid, Yonkers is required to use the funding to support its school district.

Budget Implications:

Enactment of this bill is necessary to implement the 2011-2012 Executive Budget because it achieves approximately \$6.2 million in General Fund savings.

Effective Date:

This bill takes effect immediately.

Part K – Create the Citizen Empowerment Tax Credit, the Citizens Re-organization Empowerment Grants and the Local Government Performance and Efficiency Program, and streamline the Local Government Efficiency Grant Program.

Purpose:

This bill creates the Citizen Empowerment Tax Credit, the Citizens Re-organization Empowerment Grants and the Local Government Performance and Efficiency program, and streamlines the Local Government Efficiency Grant Program.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

This bill ensures that local governments studying, planning for, or implementing a consolidation or dissolution would be provided funding to support these efforts. This funding will be provided through the creation of the Citizens Re-organization Empowerment Grants, valued at up to \$100,000 per grant. The bill requires that local governments that receive additional aid as the result of a consolidation or dissolution use at least 50 percent of this aid for property tax relief. This tax relief will be generated through the creation of the Citizen Empowerment Tax Credit. These reforms are necessary and timely. Since the enactment of the New York Government Reorganization

and Citizen Empowerment Act, there has been increasing interest in, and a significant need for, local government consolidation and dissolution that ensures property tax relief.

This bill also creates the Local Government Performance and Efficiency Program to recognize municipalities that have undertaken actions that improve the overall efficiency of governmental operations and produce quantifiable financial savings that reduce the municipal tax burden on citizens. Awards through this Program, capped at the lesser of \$5 million or \$25 per capita of the involved municipalities, will be determined by the Secretary of State. Ultimately the Program will create incentives for local governments to take actions that will reduce the property tax burden on their citizens.

Budget Implications:

Enactment of this bill is necessary to implement the 2011-2012 Executive Budget because it will encourage local government consolidation or dissolution, improve government operating efficiencies and promote local property tax relief.

Effective Date:

This bill takes effect April 1, 2011.

Part L – Clarify the State’s obligation to make payments with respect to certain lands.

Purpose: This bill clarifies the State’s obligation to make payments with respect to certain lands.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

The State recently purchased lands in the Hemlock and Canadice lake watersheds. This bill clarifies the State’s obligation and ability to make payments to local governments that were previously made by the City of Rochester, by making clear that the appropriation authority set forth in the FY 2011-12 Executive Budget is sufficient for such purpose.

This clarification of the existing law ensures that the State is able to meet its current obligation to make payments pursuant to the statutory language that has been in effect since 1989.

Budget Implications:

Enactment of this bill is necessary to implement the 2011-2012 Executive Budget. It authorizes the State to make two required annual payments, one each in 2011 and 2012, totaling \$600,000 in State Fiscal year 2011-12.

Effective Date:

This bill takes effect immediately.

Part M – Lapse aged State and local reappropriations.

Purpose:

This bill requires that all reappropriations, with the exception of reappropriations for capital projects and federal purposes, lapse five years after the close of the fiscal year in which they were appropriated.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

This bill “cleans-up” budget legislation to ensure that aged reappropriations, an abundance of which are no longer relevant or have cashed-out, are eliminated. The bill employs sound budgetary and accounting principles by ensuring that appropriations are used within a reasonable amount of time or are revisited by decision-makers to determine their relevance and necessity.

The bill requires that all reappropriations, with the exception of reappropriations for capital projects and federal purposes, lapse within five years after of the date on which the original legislation would lapse in accordance with State Finance Law § 99-d. This bill takes effect April 1, 2012, to ensure that State agencies and the Legislature have sufficient time to manage this change.

Budget Implications:

This bill does not have direct budget implications; however, it is necessary to enact appropriate reform beginning with the 2011-12 Budget.

Effective Date:

This bill takes effect April 1, 2012.

Part N – Authorize transfers, temporary loans and amendments to miscellaneous capital/debt provisions, including bond caps.

Purpose:

This bill provides the statutory authorization necessary for the administration of funds and accounts included in the 2011-12 Executive Budget, and proposes certain modifications to improve the State’s General Fund position within the upcoming fiscal year.

Specifically, the bill (1) authorizes temporary loans and deposits of certain revenues to specific funds and accounts, (2) authorizes the transfers and deposits of funds to and across various accounts, (3) continues or extends various provisions of Chapter 56 of the Laws of 2010 in relation to capital projects and certain certifications, (4) authorizes modifications to various debt provisions, and (5) modifies various bond authorizations necessary to implement the budget.

Summary of Provisions, Existing Law, Prior Legislative History, and Statement in Support:

Section 1 of this bill authorizes the Comptroller to make temporary loans to specific State funds and accounts during the 2011-12 fiscal year.

Section 1-a of this bill authorizes the Comptroller to make temporary loans to accounts within specific Federal funds during the 2011-12 fiscal year.

Sections 2 through 5 of this bill authorize the Comptroller to make transfers between designated funds and accounts.

Section 6 of this bill authorizes the Comptroller to deposit funds into the Banking Services Account.

Section 7 of this bill authorizes the Dormitory Authority of the State of New York (DASNY) to transfer \$22 million to the State University of New York (SUNY) for bondable equipment costs, which in turn would be re-paid to the State General Fund.

Section 8 of this bill authorizes the SUNY Chancellor to transfer the estimated tuition revenue balances from the State University Collection Fund to the State University Fund, State University Revenue Offset Account.

Section 9 of this bill authorizes the Comptroller, at the request of the SUNY Chancellor, to transfer up to \$50 million from the State University Income Fund, State University Hospitals Income Reimbursement Account and the State University Income Fund, Long Island Veteran's Home Account to the State University Capital Projects Fund.

Section 10 of this bill authorizes the Comptroller to transfer monies from the State University Collection Fund, Stony Brook Hospital Collection Account, Brooklyn Hospital Collection Account, and Syracuse Hospital Collection Account to the State University Income Fund, State University Hospitals Income Reimbursable Account in amounts sufficient to permit the full transfer of moneys authorized for transfer to the General Fund for SUNY hospital debt service.

Section 11 of this bill authorizes the Comptroller to make transfers between the Miscellaneous Special Revenue Fund, the Patient Income Account, the Mental Hygiene Program Fund Account, or the General Fund in any combination, up to \$350 million.

Section 12 of this bill authorizes the Comptroller to transfer the unencumbered balance of any Special Revenue Fund to the General Fund, up to \$500 million.

Section 13 of this bill authorizes the Comptroller to transfer the unencumbered balance of any non-General fund or account, in any combination, to the General Fund, up to \$75 million.

Section 14 of this bill authorizes the transfer of \$100 million from the Power Authority of the State of New York to the credit of the General Fund by January 31, 2012.

Section 14-a of this bill authorizes a public benefit corporation to make voluntary contributions to the State at any time from available public benefit corporation funds in such amounts as deemed to be feasible and advisable by such public benefit corporation's governing board after due consideration of the public benefit corporation's legal and financial obligations.

Section 15 of this bill authorizes the Foundation for Science, Technology, and Innovation to make a contribution to the State Treasury to the credit of the General Fund for \$500,000.

Section 16 of this bill amends State Finance Law (SFL) § 97-rrr to allow the State Comptroller to make deposits in the School Tax Relief Fund in fiscal year 2011-12.

Section 17 of this bill repeals § 19-a(b) of Part PP of Chapter 56 of the Laws of 2009, providing funding for certain community projects.

Section 18 of this bill authorizes the Comptroller to deposit reimbursements for certain capital spending from appropriations into the Correctional Facilities Capital Improvement Fund by a Chapter of the Laws of 2011.

Sections 19 through 34 of this bill authorize the Comptroller to deposit reimbursements for certain capital spending from multiple appropriations contained in various chapters of the laws of 2001 through 2011 into various funds, including the Capital Projects Fund.

Section 35 amends SFL § 68-b(8) to make permanent the ability of the DASNY and the Empire State Development Corporation (ESDC) to issue Personal Income Tax (PIT) Revenue Bonds for any authorized purposes.

Section 36 of this bill amends SFL § 68-a(2) to extend the authorization to issue Mental Health Bonds under the PIT credit structure.

Section 37 of this bill amends § 51 of part RR of Chapter 57 of the Laws of 2008, to make permanent provisions in existing law relating to the treatment of refundings with variable rate obligations or swaps.

Section 38 of this bill increases the bond cap for financing environmental infrastructure projects from \$903 million to \$916 million.

Section 39 of this bill increases the bond cap for financing of capital projects for the Division of Military and Naval Affairs from \$18 million to \$21 million.

Section 40 of this bill increases the bond cap for financing improvements to State office buildings and other facilities from \$165.8 million to \$205.8 million.

Section 41 of this bill increases the bond cap for financing Certificates of Participation from \$751 million to \$784 million.

Section 42 of this bill increases the bond cap for financing correctional facilities from \$6.164 billion to \$6.490 billion.

Section 43 of this bill increases the bond cap for financing the Youth Facilities Improvement Fund from \$379.5 million to \$429.5 million.

Section 44 of this bill increases the bond cap for financing housing programs from \$2.532 billion to \$2.636 billion.

Section 45 of this bill increases the bond cap for financing SUNY student dormitory facilities from \$1.230 billion to \$1.561 billion.

Section 46 of this bill increases the bond cap for financing local highway projects from \$6.287 billion to \$6.695 billion.

Sections 47 and 48 of this bill amend provisions relating to the governance of the Board of the Local Government Assistance Corporation (LGAC) and timing of certain provisions relating to the competitive sale of bonds.

Section 49 of this bill increases the bond cap for library facilities from \$70 million to \$84 million.

Sections 50 through 58 of this bill amend various economic development bond caps for the purpose of reallocating \$231 million of existing bonding authorizations into a new bond cap authorizing the financing of project costs for the Regional Economic Development Council Initiative, the Economic Transformation Program and other associated State costs.

Section 58-a of this bill provides a technical change relating to the effective date of a bond cap.

Section 59 of this bill makes it effective immediately, and deemed in full force and effect on and after April 1, 2011; provided, however, that sections one through fourteen-a and

eighteen through twenty-eight of this bill shall expire March 31, 2012, when upon such date, the provisions of such sections shall be deemed repealed.

This bill is necessary to execute a balanced Financial Plan in accordance with the 2011-12 Executive Budget. Similar legislation is enacted annually that authorizes the transfer of funds budgeted in the Financial Plan (such transfers do not have permanent statutory authorization), and provides for other transactions necessary to maintain a balanced Financial Plan.

In addition, the SFL requires statutory authorization for funds and accounts to receive temporary loans from the State Treasury. Similar provisions were enacted to implement the 2010-11 Budget, and they must be extended to implement the 2011-12 Budget.

Budget Implications:

Enactment of this bill is necessary to implement the 2011-12 Executive Budget. Similar legislation is enacted annually to authorize the transfer of funds budgeted in the Financial Plan, and to provide for other transactions, including temporary loans from the State Treasury for cash flow purposes. This bill is also necessary to reimburse projected Capital Projects Fund spending with the proceeds of bonds sold by public authorities, to ensure the continued borrowing necessary for certain State-supported debt issuances to implement the budget, and to permit the State to carry out basic administrative functions.

Effective Date:

This bill takes effect immediately and would be deemed in full force and effect on and after April 1, 2011; provided, however, that sections one through fourteen-a and eighteen through twenty-eight of this bill shall expire March 31, 2012, when upon such date, the provisions of such sections shall be deemed repealed.

Part O – Repeal the Community Projects Fund.

Purpose:

This bill provides the statutory authorization to repeal section 99-d of the State Finance Law, relating to the community projects fund.

Summary of Provisions, Existing Law, Prior Legislative History, and Statement in Support:

Section 1 of this bill repeals SFL § 99-d, in relation to the community projects fund.

Section 2 of this bill authorizes the Comptroller to transfer undisbursed monies to the general fund/state purposes account on or after September 16, 2011.

Budget Implications:

The Community Projects Fund was created in 1996 to account for spending and appropriations made to individual civic, cultural, religious and charitable organizations.

On average, Community Projects Fund spending totals roughly \$155 million a year. In 2009-10, spending was roughly \$141 million.

In the current fiscal situation, such expenditures from the Community Project Fund are inconsistent with the need to reduce discretionary spending and restore structural budget balance.

Effective Date:

This bill takes effect September 16, 2011.

The provision of this act shall take effect immediately, provided, however, that the applicable effective date of each part of this act shall be as specifically set forth in the last section of such part.