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STATE OF NEW YORK

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IN SENATE
CHAP 80 LAWS OF 2004

May 11, 2004

Introduced by Sen. VOLKER -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public authorities law, the tax law and the local finance law, in relation to revenues of the Buffalo fiscal stability authority

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. Subdivision 21 of section 3851 of the public authorities
2 law, as added by chapter 122 of the laws of 2003, is amended to read as
3 follows:
- 4 21. "Revenues" means revenues of the authority consisting of city tax
5 revenues, school district tax revenues, state aid revenues, and all
6 other aid, rents, fees, charges, gifts, payments and other income and
7 receipts paid or payable to the authority or a trustee for the account
8 of the authority, to the extent such amounts are pledged to bondholders.
- 9 § 2. Section 3851 of the public authorities law is amended by adding
10 three new subdivisions 26, 27 and 28 to read as follows:
- 11 26. "School district tax revenues" means the portion of the county's
12 "net collections," as defined in section twelve hundred sixty-two of the
13 tax law, payable to the city's dependent school district by the county
14 pursuant to the authority of subdivision (a) of section twelve hundred
15 sixty-two of the tax law.
- 16 27. "Cash flow borrowings" means:
- 17 (a) notes issued by the authority on behalf of the city, the city's
18 dependent school district or any other covered organization, the
19 proceeds of which are used to address temporary cash flow needs of the
20 city, the city's dependent school district or the applicable covered
21 organization; and
- 22 (b) bonds, notes and other obligations issued by the authority to
23 refund notes of the authority described in paragraph (a) of this subdi-
24 vision.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [] is old law to be omitted.

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1 28. "Obligations of the city" means bonds, notes and other evidences
2 of indebtedness issued or incurred by the city.

3 § 3. Paragraph (a-1) of subdivision 2 of section 3857 of the public
4 authorities law, as added by chapter 122 of the laws of 2003, is amended
5 to read as follows:

6 (a-1) Prior to the approval or disapproval of the financial plan of
7 the city by the authority, the authority shall request community, educa-
8 tional or other entity or entities to seek public input and comment
9 relating to the city's and/or any covered organization's financial plan.
10 Such community, educational or other entity or entities shall report to
11 the authority on such public input and comment ten days after the city
12 has submitted the financial plan to the authority. The authority shall
13 evaluate any proposals submitted to the authority for cost savings
14 and/or service delivery enhancement in the city, and shall periodically,
15 at least twice a year, summarize in a public report the authority's
16 findings with respect to such proposals that, in the opinion of the
17 authority, merit further consideration based on their potential impact
18 on the city's budget. The authority shall provide public notice of the
19 dates on which it plans to make such public reports.

20 § 4. Subdivisions 1, 3 and 4 of section 3861 of the public authorities
21 law, as added by chapter 122 of the laws of 2003, are amended to read as
22 follows:

23 1. The city shall determine and declare whether it requests the
24 authority to undertake a financing of costs, including costs of the
25 city's dependent school district or any other covered organization. Any
26 such request shall be made by and through the mayor after approval by
27 the council. Any such financing shall be consistent with the adopted
28 budget and financial plan of the city required under sections thirty-
29 eight hundred fifty-six and thirty-eight hundred fifty-seven of this
30 title, as applicable.

31 3. Upon approval by the authority, in its discretion in accordance
32 with the provisions of this title, of such financing request, the
33 authority may enter into agreements with the city, for itself or on
34 behalf of the city's dependent school district or any other covered
35 organization, as applicable, and the city, acting by the mayor, approved
36 by the council, may enter into agreements with the authority in accord-
37 ance with the provisions of this title as to the financing of costs by
38 the authority, the application of revenues to the authority to secure
39 its bonds, notes or other obligations, and further assurances in respect
40 of the authority's receipt of such revenues and the fiscal affairs of
41 the city, including but not limited to the manner of preparation of
42 budget reports and financial plans as provided for in sections thirty-
43 eight hundred fifty-six and thirty-eight hundred fifty-seven of this
44 title, as applicable. The authority's revenues shall not be deemed funds
45 of the city. Any such agreements with the city may be pledged by the
46 authority to secure its bonds, notes or other obligations and may not be
47 modified thereafter except as provided by the terms of the pledge.

48 4. Such agreements with the city shall (a) describe the particular
49 financeable costs to be financed in whole or in part by the authority,
50 (b) describe the plan for the financing of the costs, (c) set forth the
51 method by which and by whom and the terms and conditions upon which
52 money provided by the authority shall be disbursed to the city for
53 itself or on behalf of the city's dependent school district or other
54 covered organization, as applicable, (d) where appropriate, provide for
55 the payment of such costs by the city under such contracts as shall be
56 awarded by the city or for the city to make a capital contribution of

1 such proceeds as city funds to another entity for the payment or
2 reimbursement of such costs, and (e) require every contract entered into
3 by the city, or another entity receiving funds from the city, for costs
4 to be financed in whole or in part by the authority to be subject to the
5 provisions of the city charter and other applicable laws governing
6 contracts of the city or such entity, as the case may be.

7 § 5. Subdivision 1 of section 3862 of the public authorities law, as
8 added by chapter 122 of the laws of 2003, is amended to read as follows:

9 1. The authority shall have the power and is hereby authorized from
10 time to time to issue bonds, notes or other obligations in such princi-
11 pal amounts as it may determine to be necessary pursuant to section
12 thirty-eight hundred sixty-one of this title to pay any financeable
13 costs and to fund reserves to secure such bonds, notes or other obli-
14 gations, including incidental expenses in connection therewith;
15 provided, however, the aggregate principal amounts of such bonds, notes
16 or other obligations outstanding at any one time shall not exceed one
17 hundred seventy-five million dollars, and such bonds shall be tax exempt
18 to the maximum extent practicable, as provided by section thirty-eight
19 hundred sixty-nine of this title. Bonds, notes or other obligations
20 issued by the authority [to] (a) to pay reasonable costs of issuance, as
21 determined by the authority, (b) to establish debt service reserve
22 funds, [or] (c) to refund or advance refund any outstanding bonds or
23 notes of the city or the authority, or (d) as cash flow borrowings shall
24 not count against the above limit on outstanding bonds, notes or other
25 obligations of the authority, nor shall any accretion of principal of
26 bonds that would constitute interest under the Internal Revenue Code of
27 1986, as amended, count against such limit; provided, however, that the
28 aggregate principal amount of cash flow borrowings outstanding at any
29 one time shall not exceed one hundred forty-five million dollars.

30 § 6. Section 3862 of the public authorities law is amended by adding a
31 new subdivision 7-a to read as follows:

32 7-a. Whenever a series of bonds, notes or other obligations of the
33 authority is issued pursuant to this section for purposes other than
34 deficit financing authorized by section thirty-eight hundred fifty-seven
35 of this title, the payment of the proceeds of such series of bonds,
36 notes or other obligations to the city may be, at the request of the
37 authority, evidenced by obligations of the city issued in accordance
38 with applicable provisions of the state constitution and local finance
39 law then in effect at the time any such obligations are issued, provided
40 that the principal amount of the authority's bonds, notes or other obli-
41 gations issued in connection with any such exchange shall not exceed the
42 principal amount of such obligations of the city and accrued interest
43 thereon at the stated rate to the date of such exchange, and provided
44 further, however, that the principal payments on any such issue of city
45 obligations shall in no event be scheduled to fall on a date later than
46 the date on which falls a corresponding amount of scheduled principal
47 payments on the series of bonds, notes or other obligations of the
48 authority originally issued to provide such proceeds or issued to refund
49 bonds, notes or other obligations issued to provide such proceeds.

50 § 7. Section 3864 of the public authorities law, as added by chapter
51 122 of the laws of 2003, is amended to read as follows:

52 § 3864. Intercept of city tax revenues, school district tax revenues
53 and state aid revenues. 1. The state comptroller, in accordance with
54 section twelve hundred sixty-one of the tax law, shall pay at least
55 monthly to the authority, (a) for the period beginning upon the effec-
56 tive date of this title through June thirtieth, two thousand thirty-sev-

1 en, [the] city tax revenues [from the county's taxes imposed pursuant to
 2 the authority of section twelve hundred ten of the tax law. During such
 3 period] and, (b) for the period beginning July first, two thousand four,
 4 and ending June thirtieth, two thousand thirty-seven, during which the
 5 county sets aside net collections for educational purposes pursuant to
 6 the authority of subdivision (a) of section twelve hundred sixty-two of
 7 the tax law, school district tax revenues. During the period beginning
 8 on the effective date of this title through June thirtieth, two thousand
 9 thirty-seven, the county shall impose such taxes pursuant to the author-
 10 ity of subdivision (a) of section twelve hundred ten of the tax law at a
 11 rate of no less than three percent. In addition, during such [period]
 12 periods, respectively, the state comptroller shall [make such payments
 13 of] pay to the authority (i) city tax revenues [to the authority] pursu-
 14 ant to the then current agreement under subdivision (c) of section
 15 twelve hundred sixty-two of the tax law among the county and the cities
 16 in the county and (ii) school district tax revenues; provided however,
 17 in the event that such agreement among the county and such cities shall
 18 have expired or been terminated during such period, notwithstanding any
 19 other provision of general, special or local law to the contrary, the
 20 state comptroller shall make such payments of city tax revenues to the
 21 authority pursuant to the provisions of paragraph two of subdivision (d)
 22 of section twelve hundred sixty-two of the tax law.

23 2. Commencing on the effective date of this title, and until June
 24 thirtieth, two thousand thirty-seven, the state comptroller shall pay
 25 state aid revenues to the authority.

26 3. The city shall have no right, title, or interest in the city tax
 27 revenues or state aid revenues paid to the authority pursuant to this
 28 section; and the school district shall have no right, title, or interest
 29 in the school district tax revenues paid to the authority pursuant to
 30 this section.

31 § 8. Subdivisions 1, 2 and 5 of section 3865 of the public authorities
 32 law, as added by chapter 122 of the laws of 2003, are amended to read as
 33 follows:

34 1. Subject to the provisions of this title, the directors of the
 35 authority shall receive, accept, invest, administer, expend and disburse
 36 for its corporate purposes all [money] moneys of the authority from
 37 whatever [sources] source derived including (a) [city tax] revenues[;]
 38 and (b) [state aid revenues; (c) the] proceeds of bonds, notes or other
 39 obligations[; and (d) any other payments, gifts or appropriations to the
 40 authority from any other source].

41 2. Subject to the provisions of any contract with bondholders, [(a)
 42 the money] revenues of the authority shall be paid to the authority and
 43 shall not be commingled with any other money[, and (b) all money
 44 received by the authority which, together with other money of the
 45 authority available for the expenses of the authority, the payment of
 46 debt service and payments to reserve funds, exceeds the amount required
 47 for such purposes, as determined by the authority, shall be transferred
 48 to the city as frequently as practicable].

49 5. Revenues of the authority shall be applied in the following order
 50 of priority: first to pay debt service or for set asides to pay debt
 51 service on the authority's bonds, notes, or other obligations[;] and to
 52 replenish any reserve funds securing such bonds, notes or other obli-
 53 gations of the authority, in accordance with the provision of any inden-
 54 ture or bond resolution of the authority; then to pay the authority's
 55 operating expenses not otherwise provided for; and then, subject to the
 56 authority's [agreements] agreement with the city, for itself or on

1 behalf of the city's dependent school district and any other covered
2 organization, to transfer as frequently as practicable the balance of
3 revenues not required to meet contractual or other obligations of the
4 authority to the city or the city's dependent school district as
5 [frequently as practicable] provided in subdivision seven of this
6 section.

7 § 9. Section 3865 of the public authorities law is amended by adding a
8 new subdivision 7 to read as follows:

9 7. On a monthly basis, the authority shall prepare and provide to the
10 city and the city's dependent school district a detailed separate
11 accounting of all revenues received and payments and debt service set
12 asides made, as attributable to the city and the city's dependent school
13 district. Such accounting shall reflect (a) the amount of state aid
14 revenues, city tax revenues and school district tax revenues received
15 during such month, (b) the respective portion of debt service paid or
16 set aside during such month by the authority for its notes, bonds and
17 other obligations attributable to the city and the city's dependent
18 school district; (c) the respective portion of reserve fund replenish-
19 ment made or set aside during such month by the authority in connection
20 with its notes, bonds and other obligations attributable to the city and
21 the city's dependent school district; and (d) the respective portion of
22 administrative expenses of the authority paid or set aside during such
23 month by the authority attributable to the city and the city's dependent
24 school district. As soon as practicable after each monthly payment or
25 set aside, the authority shall make respective payments of the remaining
26 monthly balance or revenues to the city and the city's dependent school
27 district in accordance with such separate accounting. To the extent that
28 such respective monthly payments of the remaining balance of revenues
29 result in an overpayment or underpayment to the city or the city's
30 dependent school district, the authority shall in the immediately subse-
31 quent month, after making debt service payments or debt service set
32 asides, replenishing any reserve funds and paying the administrative
33 expenses of the authority for such month, make an adjustment in favor of
34 the city or the city's dependent school district, as the case may be,
35 before determining the remaining amount of the balance of revenues for
36 such subsequent month and paying such remaining monthly balance of
37 revenues to the city and the city's dependent school district. Nothing
38 in this title shall be deemed to restrict the authority of the state
39 comptroller and the commissioner of taxation and finance to adjust for
40 overpayments or underpayments pursuant to the tax law.

41 § 10. Section 3866 of the public authorities law, as added by chapter
42 122 of the laws of 2003, is amended to read as follows:

43 § 3866. Agreement with the state. 1. The state does hereby pledge to
44 and agree with the holders of any issue of bonds, notes or other obli-
45 gations issued by the authority pursuant to this title and secured by
46 such a pledge that the state will not limit, alter or impair the rights
47 hereby vested in the authority to fulfill the terms of any agreements
48 made with such holders pursuant to this title, or in any way impair the
49 rights and remedies of such holders or the security for such bonds,
50 notes or other obligations [for so long as] until such bonds, notes or
51 other obligations [are outstanding] together with the interest thereon
52 and [until] all costs and expenses in connection with any action or
53 proceeding by or on behalf of such holders, are fully paid and
54 discharged. The authority is authorized to include this pledge and
55 agreement of the state in any agreement with the holders of such bonds,
56 notes or other obligations. Nothing contained in this title shall be

1 deemed to restrict [the] any right of the state to amend, modify, repeal
2 or otherwise alter: (a) section fifty-four of the state finance law or
3 any other provision relating to state aid, or (b) statutes imposing or
4 relating to taxes or fees, or appropriations relating thereto.

5 2. The authority shall not include within any resolution, contract or
6 agreement with holders of the bonds, notes or other obligations issued
7 under this title any provision which provides that a default occurs as
8 a result of the state exercising its right to amend, repeal, modify or
9 otherwise alter: (a) section fifty-four of the state finance law or any
10 other provision relating to state aid or (b) [such] statutes imposing or
11 relating to taxes, fees, or appropriations relating thereto. Nothing in
12 this title shall be deemed to obligate the state to make any payments or
13 impose any taxes to satisfy the debt service obligations of the authori-
14 ty.

15 § 11. The public authorities law is amended by adding a new section
16 3866-a to read as follows:

17 § 3866-a. Agreement with the county. 1. The county does hereby coven-
18 ant and agree with the holders of any issue of bonds, notes or other
19 obligations issued by the authority pursuant to this title and secured
20 by such covenant and agreement that the county will not limit, alter or
21 impair the rights hereby vested in the authority to fulfill the terms of
22 any agreements made with such holders pursuant to this title, or in any
23 way impair the rights and remedies of such holders or the security for
24 such bonds, notes or other obligations until such bonds, notes or other
25 obligations, together with the interest thereon and all costs and
26 expenses in connection with any action or proceeding by or on behalf of
27 such holders are fully paid and discharged. The authority is authorized
28 to include this covenant and agreement of the county in any agreement
29 with the holders of such bonds, notes or other obligations. Nothing
30 contained in this title shall be deemed to restrict any right of the
31 county to amend, modify, repeal or otherwise alter any local laws, ordi-
32 nances or resolutions imposing or relating to taxes or fees, or appro-
33 priations relating to such taxes or fees, or setting aside net
34 collections for educational purposes pursuant to the authority of subdivi-
35 sion (a) of section twelve hundred sixty-two of the tax law, so long
36 as, after giving effect to such amendment, modification or other alter-
37 ation, the aggregate amount as then projected by the authority of (i)
38 sales and compensating use taxes to be imposed pursuant to the authority
39 of section twelve hundred ten of the tax law and paid to the city and
40 (ii) all net collections for educational purposes to be set aside by the
41 county pursuant to the authority of subdivision (a) of section twelve
42 hundred sixty-two of the tax law and paid to the city's dependent school
43 district during each of the authority's fiscal years following the
44 effective date of such amendment, modification or other alteration shall
45 be not less than two hundred percent of maximum annual debt service on
46 authority bonds then outstanding. Notwithstanding anything to the
47 contrary in this section, the county further agrees that it shall impose
48 taxes pursuant to the authority of subdivision (a) of section twelve
49 hundred ten of the tax law at the rate of no less than three percent.

50 2. The authority shall not include within any resolution, contract or
51 agreement with holders of the bonds, notes or other obligations issued
52 under this title any provision which provides that a default occurs as a
53 result of the county exercising its right to amend, repeal, modify or
54 otherwise alter such taxes, fees or appropriations or such net
55 collections set aside for educational purposes. Nothing in this title
56 shall be deemed to obligate the county to make any payments or impose

1 any taxes or set aside net collections for educational purposes pursuant
2 to the authority of subdivision (a) of section twelve hundred sixty-two
3 of the tax law; except that the county shall impose taxes pursuant to
4 the authority of subdivision (a) of section twelve hundred ten of the
5 tax law at the rate of no less than three percent.

6 § 12. Section 3867 of the public authorities law, as added by chapter
7 122 of the laws of 2003, is amended to read as follows:

8 § 3867. Agreement with the city. 1. The city hereby covenants and
9 agrees with the holders of bonds, notes or other obligations issued by
10 the authority pursuant to this title, that the city will not take
11 actions which limit, alter or [in any way] impair the rights and reme-
12 dies of such holders or the security for such bonds, notes or other
13 obligations [while] until such bonds, notes or other obligations [are
14 outstanding], together with the interest thereon and all costs and
15 expenses in connection with any action or proceeding by or on behalf of
16 such holders are fully paid and discharged. The authority is authorized
17 to include this covenant and agreement of the city in any agreement with
18 the holders of such bonds, notes or other obligations. Nothing contained
19 in this title shall be deemed to restrict the right of the city to
20 amend, modify, repeal or otherwise alter any local law, ordinance or
21 resolution imposing or relating to taxes or fees, or appropriations
22 relating thereto, including sales and compensating use taxes imposed
23 pursuant to the authority of section twelve hundred ten of the tax law,
24 so long as, after giving effect to such amendment, modification or other
25 alteration, the aggregate amount as then projected by the authority of
26 (i) sales and compensating use taxes to be imposed pursuant to the
27 authority of section twelve hundred ten of the tax law and paid to the
28 city and (ii) all net collections for educational purposes to be set
29 aside by the county pursuant to the authority of subdivision (a) of
30 section twelve hundred sixty-two of the tax law and paid to the city's
31 dependent school district during each of the authority's fiscal years
32 thereafter, shall be not less than two hundred percent of maximum annual
33 debt service on authority bonds then outstanding. The city further
34 covenants and agrees that (i) it will not take any action, including the
35 imposition of sales and compensating use taxes preempting the county's
36 taxes, to terminate or alter the terms of the agreement among the coun-
37 ty, the city and the other cities in the county under subdivision (c) of
38 section twelve hundred sixty-two of the tax law that would reduce or
39 eliminate the amount of net collections that the county distributes or
40 is to distribute to the city prior to June thirtieth, two thousand thir-
41 ty-seven, without the authority's prior approval, and (ii) if the city
42 imposes sales and compensating use taxes, it shall do so pursuant to
43 subdivision (a) of section twelve hundred ten of the tax law at the
44 maximum rate authorized by such section.

45 2. The authority shall not include within any resolution, contract or
46 agreement with holders of the bonds, notes or other obligations issued
47 under this title any provision which provides that a default occurs as a
48 result of the city exercising its right to amend, repeal, modify or
49 otherwise alter such taxes, fees or appropriations. Nothing in this
50 title shall be deemed to obligate the city to make any payments or
51 impose any taxes; except that, if the city imposes sales and compensat-
52 ing use taxes, it shall do so pursuant to subdivision (a) of section
53 twelve hundred ten of the tax law at the maximum rate authorized by such
54 section.

1 § 13. Subdivisions (a) and (c) of section 1261 of the tax law, as
2 amended by chapter 122 of the laws of 2003, are amended to read as
3 follows:

4 (a) All taxes, penalties and interest imposed by cities, counties or
5 school districts under the authority of section twelve hundred ten,
6 twelve hundred eleven, twelve hundred twelve or twelve hundred twelve-A
7 of this article, which are collected by the commissioner, shall be
8 deposited daily with such responsible banks, banking houses or trust
9 companies, as may be designated by the state comptroller, to the credit
10 of the comptroller, in trust for the cities, counties or school
11 districts imposing the tax or for the Nassau county interim finance
12 authority or the Buffalo fiscal stability authority created by the
13 public authorities law, to the extent that net collections from taxes
14 imposed by Nassau county are payable to the Nassau county interim
15 finance authority or to the extent that net collections from taxes
16 imposed by Erie county or by the city of Buffalo are payable to the
17 Buffalo fiscal stability authority, or for any public benefit corpo-
18 ration to which the tax may be payable pursuant to law. Such deposits
19 and deposits received pursuant to subdivision (b) of section twelve
20 hundred fifty-two of this article shall be kept in trust and separate
21 and apart from all other monies in the possession of the comptroller.
22 The comptroller shall require adequate security from all such deposito-
23 ries of such revenue collected by the commissioner, including the depos-
24 its received pursuant to subdivision (b) of section twelve hundred
25 fifty-two of this article. Any amount payable to such authorities pursu-
26 ant to the public authorities law shall, at the time it is otherwise
27 payable to Nassau county [or], Erie county or the city of Buffalo,
28 respectively, as specified in this section, be paid instead to such
29 respective authority. Any amount payable to a public benefit corporation
30 pursuant to law shall, at the time it is otherwise payable to the taxing
31 jurisdiction as specified in this section, be paid instead to such
32 public benefit corporation.

33 (c) The comptroller, after reserving such refund fund and such costs
34 shall, on or before the twelfth day of each month pay to the appropriate
35 fiscal officers of the foregoing taxing jurisdictions the taxes, penal-
36 ties and interest imposed by such jurisdictions under the authority of
37 sections twelve hundred ten through twelve hundred twelve-A, collected
38 by the commissioner pursuant to this article during the next preceding
39 calendar month, provided, however, that the comptroller shall on or
40 before the last day of June and December make a partial payment consist-
41 ing of the collections made during and including the first twenty-five
42 days of said months to said fiscal officers of the foregoing taxing
43 jurisdictions. However, the taxes, penalties and interest from the addi-
44 tional one percent rate which the city of Yonkers is authorized to
45 impose pursuant to section twelve hundred ten, after the comptroller has
46 reserved such refund fund and such cost shall be paid to the special
47 sales and compensating use tax fund for the city of Yonkers established
48 by section ninety-two-f of the state finance law at the times set forth
49 in the preceding sentence. However, the taxes, penalties and interest
50 which the county of Nassau [or], the county of Erie, to the extent the
51 county of Erie is contractually or statutorily obligated to allocate and
52 apply or pay net collections to the city of Buffalo and to the extent
53 that such county has set aside net collections for educational purposes
54 attributable to the Buffalo school district, or the city of Buffalo is
55 authorized to impose pursuant to section twelve hundred ten of this
56 article, other than such taxes in the amounts described, respectively,

1 in subdivisions one and two of section one thousand two hundred sixty-
2 two-e of this [article] part, during the period that such section
3 authorizes Nassau county to establish special or local assistance
4 programs thereunder, together with any penalties and interest related
5 thereto, and after the comptroller has reserved such refund fund and
6 such costs, shall, commencing on the next payment date after the effec-
7 tive date of this sentence and of each month thereafter, until such date
8 as the Nassau county interim finance authority shall have no obligations
9 outstanding, or the Buffalo fiscal stability authority shall cease to
10 exist, be paid by the comptroller to the Nassau county interim finance
11 authority to be applied by the Nassau county interim finance authority,
12 or to the Buffalo fiscal stability authority to be applied by the
13 Buffalo fiscal stability authority, as the case may be, in the following
14 order of priority: first pursuant to the Nassau county interim finance
15 authority's contracts with bondholders or the Buffalo fiscal stability
16 authority's contracts with bondholders, respectively, then to pay the
17 Nassau county interim finance authority's operating expenses not other-
18 wise provided for or the Buffalo fiscal stability authority's operating
19 expenses not otherwise provided for, respectively, and then pursuant to
20 the Nassau county interim finance authority's agreements with the county
21 of Nassau, which agreements shall require the Nassau county interim
22 finance authority to transfer such taxes, penalties and interest remain-
23 ing after providing for contractual or other obligations of the Nassau
24 county interim finance authority, and subject to any agreement between
25 such authority and the county of Nassau, to the county of Nassau as
26 frequently as practicable or pursuant to the Buffalo fiscal stability
27 authority's agreements with the city of Buffalo, which agreements shall
28 require the Buffalo fiscal stability authority to transfer such taxes,
29 penalties and interest remaining after providing for contractual or
30 other obligations of the Buffalo fiscal stability authority, and subject
31 to any agreement between such authority and the city of Buffalo, to the
32 city of Buffalo or the city of Buffalo school district, as the case may
33 be, as frequently as practicable. During the period that the comptroller
34 is required to make payments to the Nassau county interim finance
35 authority described in the previous sentence, the county of Nassau shall
36 have no right, title or interest in or to such taxes, penalties and
37 interest required to be paid to the Nassau county interim finance
38 authority, except as provided in such authority's agreements with the
39 county of Nassau. During the period that the comptroller is required to
40 make payments to the Buffalo fiscal stability authority described in the
41 second previous sentence, the city of Buffalo and such school district
42 shall have no right, title or interest in or to such taxes, penalties
43 and interest required to be paid to the Buffalo fiscal stability author-
44 ity, except as provided in such authority's agreements with the city of
45 Buffalo. The amount so payable shall be certified to the comptroller by
46 the commissioner or the commissioner's delegate, who shall not be held
47 liable for any inaccuracy in such certificate. Provided, however, any
48 such certification may be based on such information as may be available
49 to the commissioner at the time such certificate must be made under this
50 section and may be estimated on the basis of percentages or other
51 indices calculated from distributions for prior periods. Where the
52 amount so paid over to any city, county, school district or the special
53 sales and compensating use tax fund for the city of Yonkers in any such
54 distribution or to such authority is more or less than the amount then
55 due to such city, county, school district or such fund or to such
56 authority, the amount of the overpayment or underpayment shall be certi-

1 filed to the comptroller by the commissioner or the commissioner's dele-
2 gate, who shall not be held liable for any inaccuracy in such certifi-
3 cate. The amount of the overpayment or underpayment shall be so
4 certified to the comptroller as soon after the discovery of the overpay-
5 ment or underpayment as reasonably possible and subsequent payments and
6 distributions by the comptroller to such city, county, school district
7 or the special sales and compensating use tax fund for the city of Yonk-
8 ers or to such authority shall be adjusted by subtracting the amount of
9 any such overpayment from or by adding the amount of any such underpay-
10 ment to such number of subsequent payments and distributions as the
11 comptroller and the commissioner shall consider reasonable in view of
12 the amount of the overpayment or underpayment and all other facts and
13 circumstances.

14 § 14. The opening paragraph of paragraph a and paragraph b of section
15 57.00 of the local finance law, the opening paragraph of paragraph a as
16 amended by chapter 685 of the laws of 2003 and paragraph b as amended by
17 chapter 528 of the laws of 2002, are amended to read as follows:

18 Bonds shall be sold only at public sale and in accordance with the
19 procedure set forth in this section and sections 58.00 and 59.00 of this
20 title, except as otherwise provided in this paragraph. Bonds may be sold
21 at private sale to the United States government or any agency or instru-
22 mentality thereof, the state of New York municipal bond bank agency, to
23 any sinking fund or pension fund of the municipality, school district or
24 district corporation selling such bonds, or, in the case of sales by the
25 city of New York prior to July first, two thousand four, also to the
26 municipal assistance corporation for the city of New York or to any
27 other purchaser with the consent of the mayor and the comptroller of
28 such city and approval of the state comptroller, or, in the case of
29 sales by the county of Nassau prior to December thirty-first, two thou-
30 sand seven, also to the Nassau county interim finance authority with the
31 approval of the state comptroller, or, in the case of sales by the city
32 of Buffalo prior to June thirtieth, two thousand thirty-seven, also to
33 the Buffalo fiscal stability authority with the approval of the state
34 comptroller, or, in the case of bonds or other obligations of a munici-
35 pality issued for the construction of any sewage treatment works, sewage
36 collecting system, storm water collecting system, water management
37 facility, air pollution control facility or solid waste disposal facili-
38 ty, also to the New York state environmental facilities corporation, or,
39 in the case of bonds or other obligations of a school district or a city
40 acting on behalf of a city school district in a city having a population
41 in excess of one hundred twenty-five thousand but less than one million
42 inhabitants according to the latest federal census, issued to finance or
43 refinance the cost of school district capital facilities or school
44 district capital equipment, as defined in section sixteen hundred seven-
45 ty-six of the public authorities law, also to the dormitory authority of
46 the state of New York. Bonds of a river improvement or drainage district
47 established by or under the supervision of the department of environ-
48 mental conservation may be sold at private sale to the State of New York
49 as investments for any funds of the state which by law may be invested,
50 provided, however, that the rate of interest on any such bonds so sold
51 shall be approved by the water power and control commission and the
52 state comptroller. Bonds may also be sold at private sale as provided in
53 section 63.00 of this title. No bonds shall be sold on option or on a
54 deferred payment plan, except that options to purchase, effective for a
55 period not exceeding one year, may be given:

1 b. Bonds shall be sold without limitation as to rate of interest and
 2 for a sum not less than the par value of, and the accrued interest on,
 3 such obligations except as authorized by this chapter, and may also be
 4 sold by municipalities at private sale to the state of New York municipi-
 5 pal bond bank agency and to the New York state environmental facilities
 6 corporation, and in addition by the city of New York to the municipal
 7 assistance corporation for the city of New York, and by the county of
 8 Nassau to the Nassau county interim finance authority, and by the city
 9 of Buffalo to the Buffalo fiscal stability authority, at such rate or
 10 rates of interest as may be agreed upon by and between the issuing muni-
 11 cipality and either of such agency or corporation, as the case may be.
 12 When sold at public sale, the rate of interest shall be determined in
 13 the manner provided in section 59.00 of this title. However, the agency
 14 or corporation prescribing the terms, form and contents of such bonds,
 15 subject to the foregoing provisions of this paragraph, may fix a maximum
 16 rate of interest at which such bonds shall be sold.

17 § 15. If any section, part or provision of this act shall be adjudged
 18 unconstitutional or invalid or ineffective by any court of this state,
 19 any party in interest shall have a direct appeal as of right to the
 20 court of appeals of the state of New York, and such appeal shall have
 21 preference over all other causes. Service upon the adverse party of a
 22 notice of appeal shall stay the effect of the judgment or order appealed
 23 from pending the hearing and determination of the appeal.

24 § 16. Separability. If any clause, sentence, paragraph, section or
 25 part of this act be adjudged by any court of competent jurisdiction to
 26 be unconstitutional, invalid, or ineffective, such judgment shall not
 27 affect, impair or invalidate the remainder thereof but shall be confined
 28 in its operation to the clause, sentence, paragraph, section or part
 29 thereof directly involved in the controversy in which such judgment
 30 shall have been rendered.

31 § 17. This act shall take effect immediately.

APPROVED

MAY 24 2004

My E. Patelli

STATE OF NEW YORK
 DEPARTMENT OF STATE
FILED

JUN 01 2004

MISCELLANEOUS
 & STATE RECORDS

