

Workers' Compensation Reserve – A814

Authorized by: General Municipal Law Section 6-j

Purpose:

To pay for compensation and benefits, medical, hospital, or other expenses authorized by Article 2 of the Workers' Compensation Law and to pay the expenses of administering a self-insurance program.

Who May Establish:

All school districts that are self-insured for workers' compensation.

How Reserve is Established:

The reserve may be created by resolution of the Board of Education.

How Reserve is Used:

Budgetary appropriations are how funds are accessed.

Source of Funds:

The reserve is funded by budgetary appropriations and other sums as may be legally appropriated.

Interest Earnings:

Interest earnings on the moneys deposited for this reserve shall accrue to and become part of the reserve.

Use of Unexpended Balances:

If at the end of any fiscal year, moneys in the fund exceed the amounts required to be paid for compensation, benefits, and expenses, plus any additional amount required to pay all pending claims, the Board of Education, within 60 days of the close of the fiscal year, may elect to transfer all or part of the excess amount to certain other reserves funds, or may apply all or part of the excess to the budget appropriation of the next succeeding fiscal year. If the district ceases to be a self-insurer, moneys remaining in the fund may be transferred to certain other reserve funds, but only to the extent moneys in the fund exceed an amount sufficient to pay all authorized expenditures, both accrued and contingent.

Unemployment Insurance Reserve – A815

Authorized by: General Municipal Law Section 6-m

Purpose:

To reimburse the State Unemployment Insurance Fund for payments made to claimants where the municipality has elected to use the “benefit reimbursement” method.

Who May Establish:

All school districts and BOCES that have elected to become liable for payments in lieu of contributions under Article 18 of the Labor Law.

How Reserve is Established:

The reserve may be created by resolution of the Board of Education.

How Reserve is Used:

By budgetary appropriations. Expenditures may only be made as required by law to pay into the Unemployment Insurance Fund an amount equivalent to the amount of benefits paid to claimants and charged to the account of school district or BOCES in accordance with Labor Law Section 518(1) (e).

Source of Funds:

The reserve is funded by budgetary appropriations, from certain other reserves funds, subject to permissive referendum; other funds that may be legally appropriated.

Interest Earnings:

Interest earnings on the moneys deposited for this reserve shall accrue to and become part of the reserve.

Use of Unexpended Balances:

If at the end of any fiscal year, the moneys in the fund exceed amounts required to be paid into the Unemployment Insurance Fund as noted above, plus any additional amounts required to pay all pending claims, the Board, within 60 days of the close of the fiscal year, may elect to transfer all or part of the excess amounts to certain other reserve funds, or apply all or a part of the excess to the budget appropriation of the next succeeding fiscal year. If the district or BOCES terminated its election to become liable for payments in lieu of contributions (converts to the “tax contribution” basis), moneys remaining in the fund may be transferred to certain other reserve funds, to the extent moneys in the fund exceed amounts sufficient to pay all pending claims.

Retirement Contributions Reserve – A827 (ERS) and A828 (TRS)

Authorized by: General Municipal Law Section 6-r, as amended by Chapter 59, Laws of 2019

Purpose:

Since 2004, the reserve was for the payment of retirement contributions which was defined as all or a portion of the amount payable, for school districts and BOCES, to the New York State and Local Employees' Retirement System pursuant to Section 17 of the Retirement and Social Security Law. The law was amended in 2019 to authorize a sub-fund within the Retirement Contribution Reserve Fund to finance retirement contributions to the NYS Teachers Retirement System and/or offset all or some of the amount deducted from the moneys apportioned to the district from the state under Education Law §521 (e.g., collection of employer contributions to TRS).

Who May Establish:

All school districts (except a school district in a city with a population of 125,000 or more) and BOCES that are "participating employers" as defined in Retirement and Social Security Law Section 2(20).

How Reserve is Established:

The reserve may be created by resolution of the Board of Education. There must be an established Retirement Contributions Reserve Fund before a sub-fund for TRS contributions can be established by a resolution of the Board of Education as the sub-fund must exist "within" the Retirement Contributions Reserve.

How Reserve is Used:

By budgetary appropriations to finance retirement contributions and/or to offset all or a portion of the amount deducted from the moneys apportioned to the participating employer from the state for the support of common schools pursuant to §521 of the Education Law.

Source of Funds:

The reserve is funded by: (a) budgetary appropriations or taxes raised for the reserve, (b) revenues that are not required by law to be paid into any other fund or account, (c) amounts from reserve funds established pursuant to General Municipal Law Sections 6-c, 6-d, 6-e, 6-f, or 6-g or pursuant to Education Law Section 3651 subject to public hearing requirements, (d) other funds that may be legally appropriated.

Interest Earnings:

Interest earnings on the moneys deposited for this reserve shall accrue to and become part of the reserve.

Retirement Contributions Reserve – A827 (ERS) and A828 (TRS) **(continued)**

Limitation on Contributions to the TRS Sub-Fund:

The amount of moneys contributed annually to the TRS sub-fund cannot exceed 2% of the total compensation or salaries of all teachers employed by the district who are members of TRS paid during the immediately preceding fiscal year. Nor can the balance of the sub-fund exceed 10% of the total compensation or salaries of all teachers employed by the district who are members of TRS paid during the immediately preceding fiscal year.

Use of Unexpended Balances:

The Board may authorize the transfer of a portion of the money in the retirement contribution reserve to a reserve fund established pursuant to Sections 6-c, 6-d, 6-e, 6-f or 6-g of the General Municipal Law or a reserve fund established pursuant to Section 3651 of the Education Law. Such a transfer is subject to a public hearing. In addition, by resolution, the Board may authorize the transfers of monies from the Retirement Contribution Reserve for ERS to or from the sub-fund for TRS. If the Board determines that the retirement contribution reserve is no longer needed, the Board may terminate the fund by resolution. The resolution must transfer any moneys remaining in the retirement contribution reserve to one or more reserve funds established pursuant to Sections 6-c, 6-d, 6-e, 6-f, or 6-g of the General Municipal Law or one or more reserve funds established pursuant to Section 3651 of Education Law.

Special Provisions:

Within 60 days of the end of the fiscal year, the Chief Financial Officer shall report to the Board on the status of the reserve.

The ERS (A827) and TRS (A828) portions of the Retirement Contribution Reserve should be accounted for separately. Accounting records should be maintained that account for contributions, interest earnings and eligible expenditures by each sub-fund of the Reserve.

Reserve for Property Loss – A861

Authorized by: Education Law Section 1709 [8-c] (school districts), 1950[4] [cc] (BOCES).

Purpose:

For the payment of self-insured property loss claims.

Who May Establish:

Most school districts and BOCES.

How Reserve is Established:

The reserve may be created by resolution of the Board of Education.

How Reserve is Used:

By budgetary appropriations to fund purposes that the original reserve was established for unless approved by the voters, except that such board may authorize use of such funds other than amounts allocated for unsettled claims or suits including expenses in connection therewith to pay premiums for insurance policies purchased to insure subsequent losses in areas previously self-insured, in the event of dissolution of the self-insurance plan.

Source of Funds:

From budgetary appropriations.

Special Provisions:

For School Districts: The total amount of reserve cannot exceed three per centum, exclusive of any planned balance presently authorized, of the annual budget of the district. In the event that 3%, exclusive of any planned balance presently authorized, of the annual budget of the district would result in less than \$15,000, the total reserve funds may be for an amount not to exceed \$15,000.

For BOCES: The total amount of reserve cannot exceed three per centum, exclusive of any planned balance presently authorized, of the annual budget of the BOCES.

For School Districts and BOCES: The reserve cannot be reduced below total amounts estimated to be necessary to cover incurred but unsettled claims or suits, including related expenses, other than by payment of losses for which such amounts were established.

Interest Earnings:

Interest earnings on the moneys deposited for this reserve shall accrue to and become part of the reserve.

Reserve for Liability Claims – A862

Authorized by: Education Law Section 1709 [8-c] (school districts), 1950[4] [cc] (BOCES).

Purpose:

For the payment of self-insured liability claims.

Who May Establish:

Most school districts and BOCES.

How Reserve is Established:

The reserve may be created by resolution of the Board of Education.

How Reserve is Used:

By budgetary appropriations to fund purposes that the original reserve was established for unless approved by the voters, except that such board may authorize use of such funds other than amounts allocated for unsettled claims or suits including expenses in connection therewith to pay premiums for insurance policies purchased to insure subsequent losses in areas previously self-insured, in the event of dissolution of the self-insurance plan.

Source of Funds:

From budgetary appropriations.

Special Provisions:

For School Districts: The total amount of reserve cannot exceed three per centum, exclusive of any planned balance presently authorized, of the annual budget of the district. In the event that 3%, exclusive of any planned balance presently authorized, of the annual budget of the district would result in less than \$15,000, the total reserve funds may be for an amount not to exceed \$15,000.

For BOCES: The total amount of reserve cannot exceed three per centum, exclusive of any planned balance presently authorized, of the annual budget of the BOCES.

For School Districts and BOCES: The reserve cannot be reduced below total amounts estimated to be necessary to cover incurred but unsettled claims or suits, including related expenses, other than by payment of losses for which such amounts were established.

Interest Earnings:

Interest earnings on the moneys deposited for this reserve shall accrue to and become part of the reserve.

Insurance Reserve – A863

Authorized by: General Municipal Law Section 6-n

Purpose:

To fund certain uninsured losses, claims, actions, or judgments for which the local government is authorized or required to purchase or maintain insurance, with a number of exceptions. An insurance reserve fund may also be used to pay for expert or professional services in connection with the investigation, adjustment, or settlement of claims, actions, or judgments.

An insurance reserve may be not used to pay for uninsured losses, claims, actions, or judgments for which the following types of insurance are authorized: life insurance, annuities, accident and health insurance, workers' compensation and employers' liability insurance, fidelity and surety insurance, credit insurance, title insurance, residual value insurance, mortgage guarantee insurance or to make payments in lieu of unemployment insurance contributions under Article 18 of the Labor Law. In addition, an insurance reserve may not pay for any loss, claim, action, or judgment for which it has established a reserve fund under any other provision of law.

Who May Establish:

School districts (except a school district in a city of 125,000 or more) and BOCES.

How Reserve is Established:

The reserve may be created by resolution of the Board of Education.

How Reserve is Used:

By budgetary appropriations.

Source of Funds:

By budgetary appropriations, amounts from any other fund authorized by the General Municipal Law subject to permissive referendum, such other funds as may be legally appropriated.

Interest Earnings:

Interest earnings on the moneys deposited for this reserve shall accrue to and become part of the reserve.

Insurance Reserve – A863 (continued)

Special Provisions:

The amount paid into this reserve fund during any fiscal year is limited to the greater of \$33,000 or 5 percent of the total annual budget for that year. This is no limit on the cash balance.

Moneys in the fund may be used to fund the payment of actions or claims that have been compromised or settled with judicial approval, except where the amount of the settlement or compromise does not exceed \$25,000.

Separate accounting records must be maintained for each kind of risk in the Insurance Reserve Fund.

Within 60 days of the end of the fiscal year, the Chief Financial Officer shall report to the Board on the status of the reserve.

Use of Unexpended Balances:

If funds are no longer needed, the money remaining in the fund may be transferred to another reserve fund authorized by the General Municipal Law or a reserve fund established under Education Law Section 3651, but only to the extent that the moneys in the fund exceed a sum sufficient to pay all liabilities incurred or accrued against the funds, as certified to the Board by the fiscal and legal officers of the district prior to the discontinuance of the fund.

Reserve for Tax Certiorari – A864

Authorized by: Education Law Section 3651(1-a)

Purpose:

To pay judgments and claims in tax certiorari proceedings in accordance with Article 7 of the Real Property Tax Law.

Who May Establish:

School districts only.

How Reserve is Established:

The reserve may be created by resolution of the Board of Education.

How Reserve is Used:

By budgetary appropriations.

Source of Funds:

By budgetary appropriations.

Interest Earnings:

Interest earnings on the moneys deposited for this reserve shall accrue to and become part of the reserve.

Special Provisions:

The total amount in the reserve may not exceed the amount that might reasonably be deemed necessary to meet anticipated tax certiorari judgments and claims.

If a school district is located wholly or partly within the Adirondack Park and has State lands subject to taxation assessed at more than 30 percent of aggregate taxable assessed valuation in the district, the establishment of this reserve is subject to consent of the State Comptroller, on the recommendation of the Commissioner of Education.

The school authorities must annually render a detailed report of the operation and condition of each reserve fund under Section 3651, with a copy of the report provided to the Commissioner of Education.

Reserve for Tax Certiorari – A864 (continued)

Use of Unexpended Balances:

Funds that are not expended for the payment of judgments or claims arising out of tax certiorari proceedings for the tax roll in the year the moneys are deposited to the fund and/or that will not be “reasonably required to pay any such judgments or claim”, must be returned to the general fund on or before the first day of the fourth fiscal year following the deposit of such moneys to the reserve fund. If the proceeding or claim has been finally determined or otherwise terminated or disposed of after the exhaustion of all appeals, then moneys are deemed no longer reasonably required and should be returned to the general fund.

Other Considerations:

This reserve is for potential losses from tax certiorari proceedings. In certain areas of the State, the potential loss is not retained by the school district and therefore it may be unnecessary to establish a Reserve for Tax Certiorari Claims for these districts. Here are some examples:

Nassau County Guaranty:

In 1938, Nassau County requested authority from the State of New York for the County to have county-wide property assessment jurisdiction for the entire County. Later, in 1948, the State Legislature decreed that Nassau County would be held responsible for costs and penalties resulting from its errors in assessment.

Suffolk County Tax Act:

Includes a requirement that “any final order in a proceeding under Article 7 of the Real Property Tax Law which orders or directs the correction of striking of an assessment appearing on that portion of a town assessment roll applicable to a school district, shall be binding on such town.” Thus, the responsibility for the loss of any tax revenue stays with the town, not the school district.

Reserve for Taxes Raised Outside of Tax Limit – A874

Authorized by: Education Law Section 3651 (1-b)

Purpose:

To offset the uncollected real property taxes due and owing to such a district in instances where the city or county is not required, pursuant to Real Property Tax Law Section 1332, to pay the amount of unpaid taxes to the treasurer of the school district.

Who May Establish:

Only small city school districts.

How Reserve is Established:

The reserve may be created by resolution of the Board of Education.

Source of Funds:

By budgetary appropriations.

Interest Earnings:

Interest earnings on the moneys deposited for this reserve shall accrue to and become part of the reserve.

Special Provisions:

The amount of funds in the reserve is limited to certain limitations set forth in Section 3651 (1-b).

The school authorities must annually render a detailed report of the operation and condition of each reserve fund under Section 3651, with a copy of the report provided to the Commissioner of Education.

Use of Unexpended Balances:

May be liquidated if voters determine the original purpose for which the fund was established is no longer needed. Proceeds must be first applied to pay off any outstanding bonded indebtedness, with the remaining balance, if any, applied to reduce the annual tax levy subject to certain limitations set in the law.

Reserve for Employee Benefits and Accrued Liabilities – A867

Authorized by: General Municipal Law Section 6-p

Purpose:

To pay for any accrued “employee benefit” due an employee on termination of the employee’s service.

“Employee benefit” is defined in GML Section 6-p as “cash payment of the monetary value of accrued and accumulated but unused and unpaid sick leave, personal leave, holiday leave, vacation time, time allowances granted in lieu of overtime compensation and any other forms of payment for accrued but unliquidated time earned by municipal employees and payable to municipal employees upon termination of service, whether by retirement or otherwise...”

Lump sum payments upon separation from service that are calculated in a manner unrelated to accrued, unliquidated leave time credits are not payable from the employee benefits and accrued liabilities reserve per 2006 Op St Comp No. 2006-8, at 19.

<https://www.osc.state.ny.us/legal-opinions/opinion-2006-8>

The reserve may not be used to fund the cost of health insurance for retirees per 2004 Ops St Comp No. 2004-8, at 23.

<https://www.osc.state.ny.us/legal-opinions/opinion-2004-8>

Expenditures may be made from an employee benefit accrued liability reserve fund for the payment of all or part of the cost, including interest, of:

- (a) The cash payment of the monetary value of accumulated or accrued and unused sick time, holiday leave, vacation leave, time allowance granted in lieu of overtime compensation and other forms of payment for accrued leave time and benefits due to an employee upon termination of employment and separation from service “as required by ordinance, local law, collective bargaining agreement or Section 6 of the Civil Service Law”.
- (b) The reasonable costs of the administration of the reserve fund
- (c) Expert or professional services rendered in connection with the investigation, adjustment or settlement of claims, actions or judgments relating to claims for accrued employee benefits.

Who May Establish:

School districts (except a school district in a city of 125,000 or more) and BOCES.

Reserve for Employee Benefits and Accrued Liabilities – A867 (continued)

How Reserve is Established:

The reserve may be created by resolution of the Board of Education.

How Reserve is Used:

By budgetary appropriations.

Source of Funds:

By budgetary appropriations, amounts from certain other reserve funds subject to permissive referendum, other funds as may be legally appropriated.

Interest Earnings:

Interest earnings on the moneys deposited for this reserve shall accrue to and become part of the reserve.

Special Provisions:

No expenditures shall be made from an employee benefit and accrued liability reserve fund for any employee benefit for which a reserve fund has already been established under any other provision of law.

Use of Unexpended Balances:

If funds are no longer needed, the money remaining in the fund may be transferred to any other reserve fund authorized by General Municipal Law or a reserve fund established under Education Law Section 3651, but only to the extent that the moneys in the fund exceed a sum sufficient to pay all liabilities incurred or accrued against the employee benefit and accrued liabilities fund, as certified to the Board by the fiscal and legal officers of the district prior to the discontinuance of the fund.

Capital Reserve – A878

Authorized by: Education Law Section 3651(1)

Purpose:

To pay the cost of any object or purpose for which bonds may be issued by, or for the objects or purposes of, a school district pursuant to the Local Finance Law.

Who May Establish:

School districts only.

How Reserve is Established:

The reserve may be created by with approval by a majority of qualified voters, except in city school districts in a city having a population of 125,000 or more where the Board of Education can establish the reserve.

The notice for the voter approval must state:

- That a proposition to establish a reserve fund will be submitted
- The purpose of the fund
- The ultimate amount of the reserve
- The probable term of the reserve
- The source from which the funds will be obtained

The proposition must specify:

- The purpose of the fund
- The ultimate amount of the reserve
- The probable term of the reserve
- The source from which the funds will be obtained

How Reserve is Used:

By voter authorization, except for school districts in a city having a population of 125,000 or more (then budgetary appropriations). Expenditures must be for specific purpose specified in the proposition.

Source of Funds:

Generally, an annual amount necessary to meet the requirements of the proposition under Section 3651 (1); also, the voters may from time to time direct district authorities to pay moneys derived from any other source into a Section 3651 (1) reserve. Again, voter approval is not required for a school district in a city with population of 125,000 or more.

Capital Reserve – A878 (continued)

Interest Earnings:

Interest earnings on the moneys deposited for this reserve shall accrue to and become part of the reserve.

Special Provisions:

If a school district is located wholly or partly within the Adirondack Park and has State lands subject to taxation assessed at more than 30 percent of aggregate taxable assessed valuation in the district, the establishment of this reserve is subject to consent of the State Comptroller, on the recommendation of the Commissioner of Education.

The school authorities must annually render a detailed report of the operation and condition of each reserve fund under Section 3651, with a copy of the report provided to the Commissioner of Education.

Use of Unexpended Balances:

All or any part of the reserve established pursuant to Education Law Section 3651 (1) may be transferred to another reserve fund established pursuant to that section with voter approval. Also, when voters determine the original purpose of the reserve fund is no longer desirable, the reserve fund may be liquidated by applying the balance first to any outstanding debt and then, subject to certain limitations, to the annual tax levy. Voter approval is not required on transfers from or liquidation of reserve funds in a school district in a city having a population of 125,000 or more.

Reserve for Repairs – A882

Authorized by: General Municipal Law Section 6-d

Purpose:

To pay for certain repairs to capital improvements or equipment. The type of repairs must not recur annually or at shorter intervals.

Who May Establish:

School districts.

How Reserve is Established:

The reserve may be created by resolution of the Board of Education. However, an appropriation to a repair reserve fund is not an ordinary contingent expense and therefore, voter approval is required to fund a repair reserve.

How Reserve is Used:

A resolution appropriating money from a repair reserve fund is subject to a public hearing and at least five days must elapse between the publication of the notice of hearing and the date specified for the hearing.

In an emergency, moneys in a repair reserve may be expended without giving notice and without holding a public hearing. To make such an emergency expenditure, the Board of Education must pass a resolution approved by at least a two-thirds vote. In addition, at least one-half of the expenditures must be repaid in the next fiscal year and the balance repaid by the end of the fiscal year after that.

Source of Funds:

By budgetary appropriations, reserves that are not required by law to be paid into any other fund or account (e.g., transfers from unexpended balances of existing appropriations, surplus moneys).

Interest Earnings:

Interest earnings on the moneys deposited for this reserve shall accrue to and become part of the reserve.

Reserve for Repairs – A882 (continued)

Use of Unexpended Balances:

All or any part of a repair reserve fund may generally be transferred to a capital reserve fund, or a reserve fund established under Education Law Section 3651. Subject to a public hearing with 15 days' notice, unexpended balances may also be transferred to a Retirement Contribution Reserve Fund, established pursuant to GML Section 6-r.

Mandatory Reserve for Debt – A884, V884

Authorized by: General Municipal Law Section 6-l

Purpose:

To generally restrict the use of (1) the proceeds of the cash sale of a capital improvement and (2) state and federal aid received for a capital improvement, generally to the retirement of outstanding obligations issued to finance such improvement.

Who Must Establish:

School districts upon the cash sale of a capital improvement, financed by obligations that remain outstanding at the time of sale. Also, must be established when school districts have outstanding indebtedness incurred to finance a capital improvement and federal and State aid is received for this improvement, to the extent the aid is not applied directly to the payment of a part of the cost of improvement or to retire indebtedness issued in anticipation of such aid (i.e., revenue anticipation notes).

How Reserve is Established:

Creation of the reserve is mandatory as outlined above.

How Reserve is Used:

By budgetary appropriations. Funds may only be used to retire the obligations issued to finance the capital improvement sold or for which State or federal aid is received or other obligations of at least equal weighted average life.

Source of Funds:

Proceeds from the cash sale of a capital improvement that was financed by obligations that remain outstanding at the time of the sale; State and federal aid received for a capital improvement financed by obligations that are outstanding at the time the aid is received.

Interest Earnings:

Interest earnings on the moneys deposited for this reserve shall accrue to and become part of the reserve.