

RESOLUTION NO. 2015024

RE: AUTHORIZING PAYMENT FROM THE INSURANCE RESERVE FUND OF 2014 UNENCUMBERED VOUCHERS – DEPARTMENT OF HUMAN RESOURCES/RISK MANAGEMENT (A.1910.12)

Legislators BORCHERT and FLESLAND offer the following and move its adoption:

WHEREAS, the submission of vouchers following the close of the 2014 budget year has shown that there are outstanding 2014 payment invoices in the Department of Human Resources/Risk Management in the sum of \$205,332 for services to said department, and

WHEREAS, said charges were proper except that appropriations were depleted for 2014 and, therefore, no funds remained to encumber, and

WHEREAS, the charges reflected by said vouchers remain unpaid, and

WHEREAS, the County of Dutchess maintains an insurance reserve fund pursuant to Section 6-n of the General Municipal Law in connection with the defense of tort cases, and

WHEREAS, the State Comptroller has, pursuant to County Law Section 362, expressed the opinion that claims for services rendered to a County in an earlier year may be paid in a later year if the services were valid when made and if there are moneys legally available to be used for such purposes (Opinion 69-686), and

WHEREAS, the County Attorney has requested that the sum of \$205,332 be made available to be used to pay these outstanding invoices, now, therefore, be it

RESOLVED, that the sum of \$205,332 from the insurance reserve fund created pursuant to Section 6-n of the General Municipal Law be released for payment of said invoices, and be it further

RESOLVED, that payment from 2015 funds in hereby approved, and be it

RESOLVED, that the Commissioner of Finance is authorized and directed to amend the 2015 adopted County Budget as follows:

APPROPRIATIONS

Increase

A.1910.12.4444

Attys/Assgnd Counsel

\$205,332

REVENUES

Increase

A.9998.95110.07

Approp. Fund Balance -- Appropriated  
Reserve Insurance Reserve

\$205,332

CA-24-15

KPB/ca/G-0749

1/15/15

Fiscal Impact: See attached statement

STATE OF NEW YORK

ss:

COUNTY OF DUTCHESS

This is to certify that I, the undersigned Clerk of the Legislature of the County of Dutchess have compared the foregoing resolution with the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 22nd day of January, 2015, and that the same is a true and correct transcript of said original resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Legislature this 22<sup>nd</sup> day of January, 2015.

CAROLYN MORRIS, CLERK OF THE LEGISLATURE

## FISCAL IMPACT STATEMENT

NO FISCAL IMPACT PROJECTED

### APPROPRIATION RESOLUTIONS *(To be completed by requesting department)*

Total Current Year Cost \$ 205,332

Total Current Year Revenue \$ 205,332  
and Source  
Appropriated Reserve Insurance Reserve

Source of County Funds *(check one)*:  
 Existing Appropriations,  Contingency,  
 Transfer of Existing Appropriations,  Additional Appropriations,  Other *(explain)*.

Identify Line Items(s):

Related Expenses: Amount \$ \_\_\_\_\_  
Nature/Reason:

Anticipated Savings to County: \_\_\_\_\_

Net County Cost (this year): \_\_\_\_\_  
Over Five Years: \_\_\_\_\_

#### Additional Comments/Explanation:

Resolution authorizes outstanding 2014 invoices for the Department of Human Resources/Risk Management to be paid from funds available in the 6-n insurance reserve fund.

Prepared by: Rachel Kashimer, Budget Office

Prepared On: 1/15/2015

McKinney's Consolidated Laws of New York Annotated  
General Municipal Law (Refs & Annos)  
Chapter 24. Of the Consolidated Laws  
Article 2. General Municipal Finances (Refs & Annos)

McKinney's General Municipal Law § 6-n

§ 6-n. Insurance reserve fund

Effective: November 21, 2014

Currentness

1. a. "Municipal corporation," as used in this section, shall mean a municipal corporation, as defined in section two of this chapter, school district, except a school district in a city with a population of one hundred twenty-five thousand or more, board of cooperative educational services, fire district, a district corporation and a special improvement district governed by a separate board of commissioners.

b. "Judgments", "actions" and "claims", as used in this section, shall mean those judgments, actions and claims against the municipal corporation that arise out of those kinds of risks for which expenditures may be made pursuant to subdivision two of this section.

2. (a) The governing board of any municipal corporation may establish a reserve fund to be known as the insurance reserve fund. Upon the creation of the fund, the municipality may make expenditures from the fund for any loss, claim, action or judgment for which the municipal corporation is authorized or required to purchase or maintain insurance, except those kinds of risks for which insurance is authorized pursuant to paragraph one, two, three, fifteen, sixteen, seventeen, eighteen, twenty-two or twenty-three of subsection (a) of section one thousand one hundred thirteen of the insurance law, or for payments in lieu of contributions under article eighteen of the labor law; provided however, that no municipality shall make an expenditure from such fund for any loss, claim, action or judgment for which the municipal corporation has established a reserve fund under any other provision of law; provided, further that in the case of the Scarsdale union free school district, an insurance reserve fund may be established and such school district may make expenditures from such reserve fund for any loss, claim, action or judgment for which the school district is authorized or required to purchase or maintain insurance for the kinds of risks for which insurance is authorized pursuant to paragraph three of subsection (a) of section one thousand one hundred thirteen of the insurance law.

(b) Notwithstanding any other provision of law to the contrary, where a municipal corporation has previously established a reserve fund under another provision of law for a type of risk for which expenditures may be made under paragraph (a) of this subdivision, the municipal corporation may, by resolution, discontinue such other reserve fund and transfer any unexpended balance to the reserve fund established under this section; provided, however, that to the extent such unexpended balance is subject to any liabilities incurred or accrued against the other reserve fund, any unexpended balances so transferred shall only be used for such incurred or accrued liabilities including expenses in connection therewith. Prior to the discontinuance of the other reserve fund, the fiscal and legal officers of the municipal corporation shall certify to the governing board thereof the amount that may be necessary to satisfy all liabilities incurred or accrued against it.

3. There may be paid into such fund:

a. Such amounts as may be provided by budgetary appropriations;

b. Amounts from any other fund authorized by this chapter by resolution subject to permissive referendum; and

c. Such other funds as may be legally appropriated.

4. The amount paid into such fund during any fiscal year shall not exceed the greater of thirty-three thousand dollars or five per centum of the total budget for such fiscal year.

5. The moneys in such fund shall be deposited and secured in the manner provided by section ten of this article. The governing board, or the chief fiscal officer of such municipal corporation, if the governing board shall delegate such duty to him, may invest the moneys in such fund in the manner provided by section eleven of this article. Any interest earned or capital gain realized on the money so deposited or invested shall accrue to and become part of such fund.

6. The chief fiscal officer shall account for this fund separate and apart from all other funds of the municipal corporation. Such accounting shall show: the source, date and amount of each sum paid into the fund; the interest earned by such fund; capital gains or losses resulting from the sale of investments of this fund; the order, purpose thereof, date and amount of each payment from this fund; the assets of the fund, indicating cash balance and a schedule of investments. The chief fiscal officer, within sixty days of the end of each fiscal year, shall furnish a detailed report of the operation and condition of this fund to the governing board. The chief fiscal officer shall also keep a separate account for each kind of risk funded pursuant to subdivision two of this section.

7. Notwithstanding any provision of law to the contrary, municipal corporations shall not have the power to enter into agreements, among themselves or one for the other, to pool their reserve fund established pursuant to subdivision two of this section for the payment of judgments, actions and claims.

8. Any action or claim shall be compromised or settled by the governing board, officer or employee of the municipal corporation authorized to settle or compromise actions or claims on behalf of the municipal corporation.

9. An expenditure may be made from this fund for the payment of all or part of the cost, including interest, of:

a. Judgments;

b. Actions that have been compromised or settled and that have been approved by the court in which the action or proceeding is pending;

c. Claims that have been settled or compromised and that have been approved by a justice of the supreme court of the judicial district in which the municipal corporation is located;

d. The uninsured portion of any loss to property owned by the municipal corporation if such loss arises out of a kind of risk described in subdivision two of this section.

e. Expert or professional services rendered in connection with the investigation, adjustment or settlement of claims, actions or judgments.

10. The order of the court or the justice approving such settlement or compromise may be granted upon motion of the body, officer or employee of the municipal corporation authorized to do so, supported by an affidavit setting forth the cause of action or claim against the municipal corporation and also such other information which, in its or his opinion, will enable the court or justice to arrive at a determination that such compromise or settlement is just, reasonable and to the interest of the municipal corporation. Such body, officer or employee may also present the affidavit of other persons in support of such motion. The court or the justice, in order to arrive at such a determination, may require such body, officer or employee to present additional information by a supplementary affidavit or affidavits or may require other persons to present additional information by their affidavits.

11. Notwithstanding subdivisions eight and nine of this section or any other provision of law to the contrary, the governing body of any municipal corporation may, without judicial approval, compromise or settle any action or claim and make an expenditure from this fund where the amount of such settlement or compromise does not exceed twenty-five thousand dollars.

12. The members of the governing board shall be guilty of a misdemeanor if they:

a. Authorize a withdrawal from this fund for any purpose except as provided in this section; or

b. Expend any money withdrawn from this fund for a purpose other than as provided in this section.

13. If, after the establishment of such fund, the municipality determines that such fund is no longer needed, the moneys remaining in such fund may be transferred to any other reserve fund of the municipal corporation authorized by this chapter that is comprised of moneys which were raised on the same tax base as the moneys in the reserve fund established under this section or section thirty-six hundred fifty-one of the education law, only to the extent that the moneys in this fund shall exceed the sum sufficient to pay all liabilities incurred or accrued against it. Prior to the discontinuance of such fund, the fiscal and legal officers of such municipal corporation shall certify to the governing board thereof the amount that may be necessary to retain in such fund to satisfy all liabilities incurred or accrued against it and such sum shall be retained in the fund for payment of such amounts or until later certified that such funds are no longer needed.

#### Credits

(Added L.1979, c. 684, § 2. Amended L.1984, c. 377, § 1; L.1984, c. 805, § 27; L.1986, c. 819, § 1; L.1988, c. 350, § 1; L.1992, c. 708, § 11; L.2014, c. 433, § 1, eff. Nov. 21, 2014.)

Notes of Decisions (9)

McKinney's General Municipal Law § 6-n, NY GEN MUN § 6-n  
Current through L.2014, chapters 1 to 550.

McKinney's Consolidated Laws of New York Annotated  
County Law (Refs & Annos)  
Chapter 11. Of the Consolidated Laws  
Article 7. Finance (Refs & Annos)

McKinney's County Law § 362

§ 362. General budgetary controls

Currentness

1. A separate account shall be kept of each appropriation by the chief fiscal officer. Each such account shall show the amount appropriated, the amount encumbered but remaining unexpended, the several amounts expended therefrom and the unencumbered balance.
2. Whenever any liability of any nature shall be incurred for or by an administrative unit, the head of such unit shall file in the office of the chief fiscal officer a written statement signed by him or his authorized agent setting forth the nature and amount of the liability, or an estimate thereof if the exact amount is unknown, and the appropriation against which it is chargeable; provided that the state comptroller may prescribe, as a part of a uniform system of keeping accounts for counties, that such written statements need not be filed in those cases where he shall determine that compliance with the requirements of this subdivision would be impractical.
3. No expenditure, or contract which in any manner involves the expenditure of money or the incurring of any pecuniary liability, shall be made or entered into by any administrative unit, officer or employee, unless an amount has been appropriated and is available therefor or has been authorized to be borrowed pursuant to the local finance law. No fund or appropriation account shall be overdrawn at any time; nor shall one fund or appropriation account be drawn upon to pay any claim chargeable to another. Nothing in this subdivision shall prevent the making of a contract or lease for a term exceeding one year when authorized by law; nor shall anything in this subdivision require a county which has entered into a contract or lease for a term exceeding one year to pay during the current fiscal year any amounts larger than those which become due and owing during that year under the terms of such lease or contract.
4. Whenever during a fiscal year it shall appear probable to the budget officer that the moneys available for such year will be insufficient to meet the amounts appropriated, he shall forthwith notify the board of supervisors of this fact, stating the probable amount of such deficiency in funds. The budget officer may include his recommendations as to the action which should be taken. The board of supervisors after such investigation as is deemed necessary may reduce any appropriation or appropriations by resolution so as to prevent the making of expenditures in excess of moneys available. Nothing in this subdivision shall permit the reduction of an appropriation below the minimum amount required by law to be appropriated, nor shall any appropriation be reduced by more than the unencumbered balance therein. This subdivision shall not apply to counties adopting the provisions of section three hundred seventy-five.

**Credits**

(L.1950, c. 691. Amended L.1951, c. 686; L.1951, c. 687; L.1952, c. 509, § 6.)

Notes of Decisions (8)