

STATE OF NEW YORK

8476

IN SENATE

May 8, 2018

Introduced by Sen. MARCELLINO -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law, in relation to authorizing capital outlays for a school construction project less than \$250,000; in relation to state aid adjustments for prior years; and in relation to payment schedules for multi-year recoveries for state aid and providing extensions for late filings of transportation contracts in extenuating circumstances

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

Section 1. Paragraphs a and c of subdivision 5 of section 3604 of the education law, paragraph a as amended by chapter 161 of the laws of 2005 and paragraph c as added by chapter 82 of the laws of 1995, are amended to read as follows:

a. State aid adjustments. All errors or omissions in the apportionment shall be corrected by the commissioner. Whenever a school district has been apportioned less money than that to which it is entitled, the commissioner may allot to such district the balance to which it is entitled. Whenever a school district has been apportioned more money than that to which it is entitled, the commissioner may, by an order, direct such moneys to be paid back to the state to be credited to the general fund local assistance account for state aid to the schools, or may deduct such amount from the next apportionment to be made to said district, provided, however, that, upon notification of excess payments of aid for which a recovery must be made by the state through deduction of future aid payments, a school district may request that such excess payments be recovered by deducting such excess payments from the payments due to such school district and payable in the month of June in (i) the school year in which such notification was received and (ii)

~~[the two succeeding school years, provided further that there shall be no interest penalty assessed against such district or collected by the state. Such request shall be made to the commissioner in such form as the commissioner shall prescribe, and shall be based on documentation that the total amount to be recovered is in excess of one percent of the~~

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

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~~district's total general fund expenditures for the preceding school year. The amount to be deducted in the first year shall be the greater of (i) the sum of the amount of such excess payments that is recognized as a liability due to other governments by the district for the preceding school year and the positive remainder of the district's unreserved fund balance at the close of the preceding school year less the product of the district's total general fund expenditures for the preceding school year multiplied by five percent, or (ii) one third of such excess payments. The amount to be recovered in the second year shall equal the lesser of the remaining amount of such excess payments to be recovered or one third of such excess payments, and the remaining amount of such excess payments shall be recovered in the third year]~~ in up to ten succeeding school years, as determined by the commissioner in regulations, wherein the commissioner shall establish any eligibility requirements and/or payment schedule for such multi-year recovery.

Provided further that, notwithstanding any other provisions of this subdivision, any pending payment of moneys due to such district as a prior year adjustment payable pursuant to paragraph c of this subdivision for aid claims that had been previously paid as current year aid payments in excess of the amount to which the district is entitled and for which recovery of excess payments is to be made pursuant to this paragraph, shall be reduced at the time of actual payment by any remaining unrecovered balance of such excess payments, and the remaining scheduled deductions of such excess payments pursuant to this paragraph shall be reduced by the commissioner to reflect the amount so recovered. The commissioner shall certify no payment to a school district based on a claim submitted later than three years after the close of the school year in which such payment was first to be made. For claims for which payment is first to be made in the nineteen hundred ninety-six--ninety-seven school year, the commissioner shall certify no payment to a school district based on a claim submitted later than two years after the close of such school year. For claims for which payment is first to be made in the nineteen hundred ninety-seven--ninety-eight school year and thereafter, the commissioner shall certify no payment to a school district based on a claim submitted later than one year after the close of such school year. Provided, however, no payments shall be barred or reduced where such payment is required as a result of a final audit of the state. It is further provided that, until June thirtieth, nineteen hundred ninety-six, the commissioner may grant a waiver from the provisions of this section for any school district if it is in the best educational interests of the district pursuant to guidelines developed by the commissioner and approved by the director of the budget.

c. Payment of moneys due for prior years. State aid payments due for prior years in accordance with the provisions of this subdivision shall be paid either: (i) from funds available in the general support for public school appropriation as a result of the deduction of excess payments of aid pursuant to paragraph a of this subdivision, or (ii) within the limit of the appropriation designated therefor provided, however, that each eligible claim shall be payable in the order that it has been approved for payment by the commissioner, but in no case shall a single claim draw down more than forty percent of the appropriation so designated for a single year, and provided further that no claim shall be set aside for insufficiency of funds to make a complete payment, but shall be eligible for a partial payment in one year and shall retain its priority date status for appropriations designated for such purposes in future years.

§ 2. Subparagraph 1 of paragraph b of subdivision 6-f of section 3602 of the education law, as added by section 19 of part H of chapter 83 of the laws of 2002, is amended to read as follows:

(1) has a total project cost of [~~one hundred thousand dollars~~] two hundred fifty thousand dollars or less; provided however, that for any district, no more than one project shall be eligible pursuant to this subparagraph for an apportionment within the same school year; and/or

§ 3. Subdivision 2 of section 3625 of the education law, as amended by chapter 474 of the laws of 1996, is amended to read as follows:

2. Filing of transportation contracts. a. Every transportation contract shall be filed with the department within one hundred twenty days of the commencement of service under such contract, subject to the provisions of paragraph b of this subdivision. No transportation expense shall be allowed for a period greater than one hundred twenty days prior to the filing of any contract for the transportation of pupils with the education department. No contract shall be considered filed unless it bears an original signature of the superintendent of a school district or the designee of the superintendent and the sole trustee or president of the board of education of the school district. The final approval of any such contract by the commissioner shall not, however, obligate the state to allow transportation expense in an amount greater than the amount that would be allowed under the provisions of this part. The state, acting through the department of audit and control, may examine any and all accounts of the contractor in connection with a contract for the transportation of pupils, and every such contract shall contain the following provision: "The contractor hereby consents to an audit of any and all financial records relating to this contract by the department of audit and control."

b. Notwithstanding the provisions of paragraph a of this subdivision, the commissioner may consider extenuating circumstances, including but not limited to possession of a signed and dated return receipt from the department indicating that such transportation contract was timely filed, or evidence of a fire or other natural disaster or catastrophic event that disrupted operations or destroyed files prior to the commencement of the contract or during the contract period, or any other extenuating circumstance defined by the commissioner in regulations which resulted in a contract or contracts not being filed within the one hundred twenty day filing period and may, in his or her discretion, extend the period for filing of such contract or contracts.

§ 4. This act shall take effect July 1, 2018, provided that if this act shall become a law after such date, it shall take effect immediately and shall be deemed to have been in full force and effect on and after July 1, 2018.