S T A T E O F N E W Y O R K

11433

I N A S S E M B L Y

June 14, 2010

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Nolan) -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public authorities law, in relation to authorizing the New York city school construction authority to obtain certain demographic data and utilize such data in connection with the authority's five-year educational facilities capital plan; and to amend the education law, in relation to requiring consideration of student demographic data in connection with approval of five-year educational facilities capital plans and to require the publication of findings and commentary on such plan

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 13 of section 1728 of the public authorities law, as added by chapter 738 of the laws of 1988, is amended and two new subdivisions 13-a and 13-b are added to read as follows:

13. To enter into agreements with the city's department of city planning to render any services the authority may request, including but not limited to professional and technical assistance by planning experts, engineers, architects and any other staff as may be necessary, and the use of the premises, personnel, equipment, ACCESS TO RELEVANT DATA and personal property of the department of city planning. The authority shall provide for reimbursement to the department of city planning from the authority for any expenses incurred by the department of city planning in carrying out the terms of any such agreements;

13-A. TO ENTER INTO AGREEMENTS WITH THE CITY'S DEPARTMENT OF HEALTH AND MENTAL HYGIENE TO RENDER ANY SERVICES THE AUTHORITY MAY REQUEST, INCLUDING BUT NOT LIMITED TO ACCESS TO BIRTH RATE DATA. THE AUTHORITY SHALL PROVIDE FOR REIMBURSEMENT TO THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE FROM THE AUTHORITY FOR ANY EXPENSES INCURRED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;

13-B. TO COORDINATE WITH THE OFFICE OF CITY PLANNING AND DEPARTMENT OF HEALTH AND MENTAL HYGIENE TO CREATE UNIFORM, CITYWIDE POPULATION PROJECTIONS BASED ON DATA PRODUCED BY THE OFFICE OF CITY PLANNING AND DEPART-

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

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MENT OF HEALTH AND MENTAL HYGIENE. SUCH PROJECTIONS SHALL BE USED IN THE CREATION AND IMPLEMENTATION OF THE AUTHORITY'S FIVE-YEAR EDUCATIONAL FACILITIES CAPITAL PLAN;

S 2. Section 1731 of the public authorities law, as added by chapter 738 of the laws of 1988, is amended to read as follows:

S 1731. Community participation. 1. Prior to the commencing of new construction or building additions of an educational facility, or the acquisition of real property or any interest therein for such purpose, the authority shall file a copy of the site plan of such facility in its offices and shall provide a copy thereof to the city board, the city planning commission and the community school board and community board of the district in which the facility will be located. SUCH PLAN SHALL INCLUDE DATA ON PROJECTED STUDENT POPULATION FOR THE DISTRICT OR DISTRICTS AFFECTED, THE SOURCE OF THAT DATA AND THE RATIONALE FOR THE PROPOSED CONSTRUCTION OR ADDITION. Upon request, any other person shall be furnished with such plan or a summary thereof. The authority shall publish in a newspaper of general circulation in the city a notice of the filing of such plan and the availability of the plan and a summary thereof. Such plan shall include, in the case of any project for which the acquisition of real property or interest therein is proposed, the recommended site, any alternate sites considered, and any rationale as to why the alternate sites were not selected.

2. Within thirty days after publication of the notice required under subdivision one of this section, a public hearing with sufficient public notice shall be held by each affected community school board on any or all aspects of the site plan and by each affected community board on aspects of the site plan which relate to the general public use of the educational facility and to its impact on the surrounding community, INCLUDING BUT NOT LIMITED TO THE RESPONSIVENESS OF THE SITE PLAN TO PROJECTED CHANGES IN POPULATION IN THE AFFECTED DISTRICTS. The affected board may request the attendance of representatives of the authority or the city board at a hearing and the authority or the city board shall comply with such requests. If the proposed project affects two or more school districts or community boards, then a hearing may be held jointly by the affected community school boards and/or the affected community boards. Any affected community school board, together with any affected community board, may at their mutual discretion, elect to conduct a hearing jointly.

3. Within forty-five days after publication of such notice, each affected community school board or community board shall prepare and submit to the authority, written comments on the site plan. Any other organization or person shall also have the opportunity to present written comments on the plan during this period. Each comment received by the authority on such plan at any time prior to action being taken by the authority on the plan shall be considered by the authority in connection with such action.

4. After due consideration of such comments, if any, the authority may affirm, modify or withdraw the plan. UPON FINAL DETERMINATION BY THE AUTHORITY REGARDING THE PLAN, THE AUTHORITY SHALL MAKE PUBLIC THE COMMENTS SUBMITTED PURSUANT TO SUBDIVISION THREE OF THIS SECTION AS WELL AS THE AUTHORITY'S ASSESSMENT OF SUCH COMMENTS. SUCH ASSESSMENT SHALL INCLUDE:

A. A SUMMARY AND AN ANALYSIS OF THE ISSUES RAISED AND SIGNIFICANT ALTERNATIVES SUGGESTED IF ANY;

B. A STATEMENT OF THE REASONS WHY ANY SIGNIFICANT ALTERNATIVES WERE OR WERE NOT INCORPORATED INTO THE FINAL PLAN; AND

C. A DESCRIPTION OF ANY CHANGES MADE TO THE PROPOSED PLAN AS A RESULT OF PUBLIC COMMENTS RECEIVED.

5. Nothing herein shall preclude the authority from holding hearings on the site plan, provided, however, that any such hearings on the site plan shall be conducted within the period specified in subdivision three of this section.

S 3. Subparagraph 1 of paragraph (c) and paragraph (e) of subdivision 3 of section 2590-b of the education law, as amended by chapter 345 of the laws of 2009, are amended to read as follows:

(1) each community district shall: (i) be a suitable size for efficient policy-making and economic management; (ii) contain a reasonable number of pupils; (iii) be compact and contiguous, contained within county lines, and to the maximum extent possible, keep intact communities and neighborhoods; [and] (iv) bear a rational relationship to geographic areas for which the city of New York plans and provides services; AND (V) BE CREATED UTILIZING, AT A MINIMUM, DATA PROVIDED BY THE OFFICE OF CITY PLANNING AND THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE TO ENSURE A COMPREHENSIVE CITYWIDE PLAN FOR GROWTH;

(e) The city board of education shall hold public hearings in each borough on the recommendations submitted by the study group and may adopt, revise or reject in whole or in part such recommendations, or, may request the study group to submit adjusted recommendations. THE CITY BOARD OF EDUCATION SHALL MAKE PUBLIC THE COMMENTS SUBMITTED AS A PART OF SUCH PUBLIC HEARINGS AS WELL AS THE BOARD'S ASSESSMENT OF SUCH COMMENTS. SUCH ASSESSMENT SHALL INCLUDE:

(I) A SUMMARY AND AN ANALYSIS OF THE ISSUES RAISED AND SIGNIFICANT ALTERNATIVES SUGGESTED IF ANY;

(II) A STATEMENT OF THE REASONS WHY ANY SIGNIFICANT ALTERNATIVES WERE OR WERE NOT INCORPORATED INTO THE FINAL PLAN; AND

(III) A DESCRIPTION OF ANY CHANGES MADE TO THE PROPOSED PLAN AS A RESULT OF PUBLIC COMMENTS RECEIVED.

The final recommendations shall be adopted by the city board of education no later than February first, nineteen hundred ninety-five to take effect July first, nineteen hundred ninety-six, provided that such revised boundaries adopted by the city board pursuant to this chapter shall be used for purposes of community school board elections to be held on the first Tuesday in May, nineteen hundred ninety-six.

S 4. Subdivision 11 of section 2590-e of the education law, as added by chapter 123 of the laws of 2003, is amended to read as follows:

11. Approve zoning lines, as submitted by the superintendent, consistent with the regulations of the chancellor, applicable to schools under the jurisdiction of the community district. SUCH APPROVAL SHALL BE BASED IN PART ON THE APPROPRIATENESS OF THE PROPOSED ZONING LINES, AND BASED IN PART ON DATA PROVIDED BY THE OFFICE OF CITY PLANNING AND THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE INCLUDING BIRTH RATE DATA.

S 5. Subdivision 1 of section 2590-p of the education law, as added by chapter 738 of the laws of 1988, is amended to read as follows:

1. In accordance with subdivision three of this section, the chancellor shall prepare proposed five-year educational facilities capital plans. Each such plan shall describe each program element proposed in the plan, and shall set forth an estimate of the cost of each program element, an estimate of the capital funding required each year and the expected sources of such funding. The plan shall also set forth an estimate of the cost of each project identified in the plan, shall assign priorities to the projects included therein and shall state the year in which each such project's design and construction is proposed to be

initiated and estimated to be completed. IN PREPARING THE PLAN AND EACH PROJECT CONTAINED THEREIN, THE CHANCELLOR SHALL CONSIDER THE EFFECT OF DATA PROVIDED BY THE OFFICE OF CITY PLANNING AND THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, INCLUDING BIRTH RATE DATA.

S 6. Paragraph b of subdivision 3 of section 2590-p of the education law, as amended by chapter 345 of the laws of 2009, is amended to read as follows:

b. Commencing on November first, nineteen hundred ninety-three, and every five years thereafter, the chancellor shall submit a proposed five-year educational facilities capital plan to take effect on the succeeding July first to each community district education council, which shall conduct a public hearing and shall prepare and submit recommendations to the chancellor on or before January first of the ensuing year with respect to matters in the plan that involve that school district. The chancellor shall consider the recommendations received from the community district education councils, and, on or before February first of such year, shall submit a final proposed five-year educational facilities capital plan to the city board for its approval pursuant to paragraph (d) of subdivision one of section twenty-five hundred ninety-g of this article. UPON CONSIDERATION OF THE RECOMMENDATIONS OF THE COMMUNITY SCHOOL DISTRICT EDUCATION COUNCILS, THE BOARD SHALL MAKE PUBLIC THE RECOMMENDATIONS SUBMITTED PURSUANT TO THIS PARAGRAPH, AS WELL AS THE BOARD'S ASSESSMENT OF SUCH RECOMMENDATIONS. SUCH ASSESSMENT SHALL INCLUDE:

(I) A SUMMARY AND AN ANALYSIS OF THE ISSUES RAISED AND SIGNIFICANT ALTERNATIVES SUGGESTED IF ANY;

(II) A STATEMENT OF THE REASONS WHY ANY SIGNIFICANT ALTERNATIVES WERE OR WERE NOT INCORPORATED INTO THE FINAL PLAN; AND

(III) A DESCRIPTION OF ANY CHANGES MADE TO THE PROPOSED PLAN AS A RESULT OF THE RECOMMENDATIONS RECEIVED.

S 7. Paragraph b of subdivision 3 of section 2590-p of the education law, as added by chapter 738 of the laws of 1988, is amended to read as follows:

b. Commencing on November first, nineteen hundred ninety-three, and every five years thereafter, the chancellor shall submit a proposed five-year educational facilities capital plan to take effect on the succeeding July first to each community school board, which shall conduct a public hearing and shall prepare and submit recommendations to the chancellor on or before January first of the ensuing year with respect to matters in the plan that involve that school district. The chancellor shall consider the recommendations received from the community school boards, and, on or before February first of such year, shall submit a final proposed five-year educational facilities capital plan to the city board for its approval. On or before March first of such year, the city board shall approve the five-year educational facilities capital plan submitted by the chancellor or such plan as is determined by the city board. UPON CONSIDERATION OF THE RECOMMENDATIONS OF THE COMMUNITY SCHOOL BOARDS, THE BOARD SHALL MAKE PUBLIC THE RECOMMENDATIONS SUBMITTED PURSUANT TO THIS PARAGRAPH, AS WELL AS THE BOARD'S ASSESSMENT OF SUCH RECOMMENDATIONS. SUCH ASSESSMENT SHALL INCLUDE:

(I) A SUMMARY AND AN ANALYSIS OF THE ISSUES RAISED AND SIGNIFICANT ALTERNATIVES SUGGESTED IF ANY;

(II) A STATEMENT OF THE REASONS WHY ANY SIGNIFICANT ALTERNATIVES WERE OR WERE NOT INCORPORATED INTO THE FINAL PLAN; AND

(III) A DESCRIPTION OF ANY CHANGES MADE TO THE PROPOSED PLAN AS A RESULT OF THE RECOMMENDATIONS RECEIVED.

S 8. Paragraph a of subdivision 6 of section 2590-p of the education law, as added by chapter 738 of the laws of 1988, is amended to read as follows:

a. For each project included in an approved five-year educational facilities capital plan, the chancellor shall develop a detailed scope of the project, which shall include the following: (i) the purposes and public to be served, (ii) the programs to be conducted in the facility, (iii) the gross amounts of space and bulk for any building or structure, (iv) identification of the intent to use architectural, engineering or other consultant services and estimated fees for such consultant services (v) the schedule of design and construction, (vi) the total estimated project costs, including costs for site acquisition, preparation and tenant relocation, design, construction and equipment, (vii) maximum estimated expenditures for the project for each fiscal year until its completion, (viii) costs associated with maintenance and operation of the physical plant [and]; (ix) THE EFFECT OF DATA PROVIDED BY THE OFFICE OF CITY PLANNING AND THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, INCLUDING BIRTH RATE DATA FOR EACH PROJECT INCLUDED IN THE PLAN; AND (X) such other information as the chancellor shall specify. In the event, a project consists of a program element without identification of the particular education facility at which such project is to be performed, the detailed scope of the project shall specify the nature of the work to be performed, applicable price and quality standards, a list of the schools eligible for such work, annual performance targets and the total estimated costs of such project during each fiscal year until its completion.

S 9. This act shall take effect immediately; provided:

a. the amendments to subdivision 3 of section 2590-b of the education law made by section three of this act shall not affect the expiration of such section and shall expire and be deemed repealed therewith;

b. the amendments to subdivision 11 of section 2590-e of the education law made by section four of this act shall not affect the repeal of such subdivision and shall expire and be deemed repealed therewith; and

c. the amendments to paragraph b of subdivision 3 of section 2590-p of the education law made by section six of this act shall be subject to the expiration and reversion of such section pursuant to section 34 of chapter 91 of the laws of 2002, as amended, when upon such date the provisions of section seven of this act shall take effect.