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

3291

2009-2010 Regular Sessions

I N A S S E M B L Y

January 26, 2009

Introduced by M. of A. EDDINGTON -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to enacting the "truth in voting act"

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

Section 1. Legislative intent. The legislature hereby finds that the decisions and determinations of our school districts impact not only the children attending those schools, but our communities as a whole. Nowhere is this more prevalent than in the school budget process.

School districts are required to provide the public with notice and information regarding the annual school budget hearing and the school budget vote. However, in the event a budget is defeated, this process may sometimes be used to push through budgets by disseminating information that may be confusing, misleading and intimidating. Residents of a school district must never feel compelled to vote for a budget based upon speculation or threats of broad sweeping cuts. Often people must choose between an untenable school property tax increase or the possible reduction or elimination of important educational programs such as full-day kindergarten, athletics, advanced placement courses, etc. If the school board's plan is to cut or reduce such programs, they need to be specific in how the cuts will be made. In order to ensure that people are armed with enough information to make an informed decision, residents need to be made aware of whether the cuts are to be made across the board or whether they are to be more narrowly tailored. For instance, where a school district opts to eliminate athletics, they must articulate which sports and at what level the cost will be made (elementary, freshmen, junior varsity, varsity, etc.). Also, where a school district opts to reduce or eliminate advanced placement courses, music, art or reading programs, it must specify each course by name. Attached to each initiative to be reduced or eliminated must be a dollar amount

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

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so that it is clearly evident to the taxpayer how much money the school district would save from such measures.

Residents must be afforded the most accurate information possible regarding the decisions made by their local school board. It must be the goal of every school district to enlighten the public regarding the choices made in deciding where and how school property tax dollars are spent.

Furthermore, this legislation would allow local taxpayers to know first hand, the consequences that accompany a contingent budget should the initial school budget be defeated. It would require school districts to compose a detailed list of those programs that would be reduced or eliminated under a contingent budget.

It is the intent of this legislation to provide the public with detailed information pertaining to the school budget process. Voters must be armed with knowledge rather than driven by rumors. Such information should be written in a manner that is clear, concise and easily understood by the average reader. It is the hope of the legislature that this legislation will provide communities with greater understanding of the school budget process and encourage participation of the public in their local school systems.

S 2. This act shall be known and may be cited as the "truth in voting act".

S 3. Subdivision 1 and paragraph a of subdivision 2-a of section 2022 of the education law, subdivision 1 as amended by section 8 of part C of chapter 58 of the laws of 1998 and paragraph a of subdivision 2-a as added by section 3 of part A of chapter 60 of the laws of 2000, are amended to read as follows:

1. Notwithstanding any law, rule or regulation to the contrary, the election of trustees or members of the board of education, [and] the vote upon the appropriation of the necessary funds to meet the estimated expenditures, AND THE VOTE UPON A BOND RESOLUTION, in any common school district, union free school district, central school district or central high school district shall be held at the annual meeting and election on the third Tuesday in May, provided, however, that such election shall be held on the second Tuesday in May if the commissioner at the request of a local school board certifies no later than March first that such election would conflict with religious observances. When such election or vote is taken by recording the ayes and noes of the qualified voters attending, a majority of the qualified voters present and voting, by a hand or voice vote, may determine to take up the question of voting the necessary funds to meet the estimated expenditures for a specific item separately, and the qualified voters present and voting may increase the amount of any estimated expenditures or reduce the same, except for teachers' salaries, and the ordinary contingent expenses of the schools. The sole trustee, board of trustees or board of education of every common, union free, central or central high school district and every city school district to which this article applies shall hold a budget hearing not less than seven nor more than fourteen days prior to the annual meeting and election or special district meeting at which a school budget vote will occur, and shall prepare and present to the voters at such budget hearing a proposed school district budget AND A PROPOSED CONTINGENT BUDGET for the ensuing school year.

a. Commencing with the proposed budget for the [two thousand one--two thousand two] TWO THOUSAND NINE--TWO THOUSAND TEN school year, such notice shall also include [a description of how total spending and the tax levy resulting from the proposed budget would compare with a

projected contingency budget adopted pursuant to section two thousand twenty-three of this article, assuming that such contingency budget is adopted on the same day as the vote on the proposed budget. Such comparison shall be in total and by component (program, capital and administrative), and shall include a statement of the assumptions made in estimating the projected contingency budget], IN A FORM AND MANNER PRESCRIBED BY THE COMMISSIONER, A DETAILED LIST CONSISTING OF ANY AND ALL PROGRAMS, INITIATIVES AND ACTIVITIES THAT ARE TO BE REDUCED, ELIMINATED OR IN ANY OTHER WAY AFFECTED BY THE CONTINGENT BUDGET PROPOSAL FOR THE ENSUING SCHOOL YEAR. SUCH LIST SHALL BE IN AN ITEMIZED FORMAT DETAILING EVERY COURSE, PROGRAM, CURRICULAR ACTIVITY AND EXTRACURRICULAR ACTIVITY BY NAME, SO AS TO PORTRAY AN ACCURATE DEPICTION OF THE EFFECTS A CONTINGENT BUDGET WILL HAVE ON A SCHOOL DISTRICT. IN ADDITION, EACH ITEM LISTED SHALL HAVE A DOLLAR AMOUNT CORRESPONDING TO IT IN ORDER TO CLEARLY DEPICT THE AMOUNT SUCH REDUCTION OR ELIMINATION ACTUALLY DECREASES THE TOTAL SPENDING THE INITIAL BUDGET PROPOSES.

S 4. Subdivision 2-a of section 2022 of the education law is amended by adding a new paragraph c to read as follows:

C. NO SCHOOL DISTRICT SHALL USE PUBLIC FUNDS TO DISSEMINATE PARTISAN INFORMATION REGARDING A VOTE OR AN ELECTION. FURTHER, A SCHOOL DISTRICT SHALL NOT ALLOW ACCESS TO A SCHOOL'S CHANNELS OF COMMUNICATION OR TRANSPORTATION TO ESPOUSE A PARTISAN POSITION.

S 5. Paragraph a of subdivision 7 of section 1608 of the education law, as amended by chapter 238 of the laws of 2007, is amended and two new subdivisions 4-a and 8 are added to read as follows:

a. Each year, commencing with the proposed budget for the two thousand--two thousand one school year, the trustee or board of trustees shall prepare a property tax report card, pursuant to regulations of the commissioner, and shall make it publicly available by transmitting it to local newspapers of general circulation, appending it to copies of the proposed budget made publicly available as required by law, making it available for distribution at the annual meeting, and otherwise disseminating it as required by the commissioner. Such report card shall include: (i) the amount of total spending and total estimated school tax levy that would result from adoption of the proposed budget and the percentage increase or decrease in total spending and total school tax levy from the school district budget for the preceding school year; [and] (ii) the projected enrollment growth for the school year for which the budget is prepared, and the percentage change in enrollment from the previous year; [and] (iii) the percentage increase in the consumer price index, as defined in paragraph c of this subdivision; [and] (iv) the projected amount of the unappropriated unreserved fund balance that will be retained if the proposed budget is adopted, the projected amount of the reserved fund balance, the projected amount of the appropriated fund balance, the percentage of the proposed budget that the unappropriated unreserved fund balance represents, the actual unappropriated unreserved fund balance retained in the school district budget for the preceding school year, and the percentage of the school district budget for the preceding school year that the actual unappropriated unreserved fund balance represents; AND (V) THE AMOUNT OF UNEXPENDED SURPLUS FUNDS. FOR PURPOSES OF THIS PARAGRAPH, THE TERM "SURPLUS FUNDS" SHALL MEAN ANY AND ALL OPERATING FUNDS IN EXCESS OF TWO PERCENT OF THE CURRENT SCHOOL YEAR BUDGET, REGARDLESS OF THE ACCOUNT IN WHICH SUCH FUNDS ARE HELD.

4-A. THE PROGRAM COMPONENT, CAPITAL COMPONENT AND THE ADMINISTRATIVE COMPONENT SHALL BE PRESENTED TO THE QUALIFIED VOTERS IN A SINGLE PROPOSITION. THERE SHALL BE NO SEPARATE PROPOSITIONS FOR ANY EXPENDITURE

REQUIRED TO BE INCLUDED IN THE BUDGET UNDER SUBDIVISION FOUR OF THIS SECTION.

8. EACH YEAR THE BOARD OF EDUCATION SHALL PREPARE A SCHOOL BUDGET COMPARISON CARD PURSUANT TO REGULATIONS OF THE COMMISSIONER AND SHALL MAKE IT PUBLICLY AVAILABLE BY TRANSMITTING IT TO LOCAL NEWSPAPERS OF GENERAL CIRCULATION, APPENDING IT TO COPIES OF THE PROPOSED BUDGET MADE PUBLICLY AVAILABLE AS REQUIRED BY LAW, MAKING IT AVAILABLE FOR DISTRIBUTION AT THE ANNUAL MEETING AND OTHERWISE DISSEMINATING IT AS REQUIRED BY THE COMMISSIONER. SUCH COMPARISON CARD SHALL INCLUDE:

A. THE TOTAL DOLLAR AMOUNT APPROPRIATED IN THE SCHOOL BUDGET ADOPTED THE PREVIOUS YEAR;

B. THE TOTAL DOLLAR AMOUNT ACTUALLY SPENT PURSUANT TO THE SCHOOL BUDGET ADOPTED THE PREVIOUS YEAR;

C. THE TOTAL AMOUNT TO BE APPROPRIATED UNDER THE PROPOSED BUDGET FOR THE ENSUING YEAR;

D. THE MAXIMUM AMOUNT OF MONEY AVAILABLE UNDER THE CONTINGENT BUDGET CAP FOR THE ENSUING YEAR; AND

E. THE TOTAL DOLLAR AMOUNT TO BE APPROPRIATED UNDER THE PROPOSED CONTINGENT BUDGET FOR THE ENSUING YEAR.

S 6. Subdivision 7 of section 2601-a of the education law, as added by chapter 474 of the laws of 1996, is amended and two new subdivisions 3-a and 8 are added to read as follows:

7. Each year, the board of education shall prepare a school district report card, pursuant to regulations of the commissioner, and shall make it publicly available by transmitting it to local newspapers of general circulation, appending it to copies of the proposed budget made publicly available as required by law, making it available for distribution at the annual meeting, and otherwise disseminating it as required by the commissioner. Such report card shall include measures of the academic performance of the school district, on a school by school basis, and measures of the fiscal performance of the district, as prescribed by the commissioner. Pursuant to regulations of the commissioner, the report card shall also compare these measures to statewide averages for all public schools, and statewide averages for public schools of comparable wealth and need, developed by the commissioner. Such report card shall include, at a minimum, any information on the school district regarding pupil performance and expenditure per pupil required to be included in the annual report by the regents to the governor and the legislature pursuant to section two hundred fifteen-a of this chapter, THE AMOUNT OF UNEXPENDED SURPLUS FUNDS; and any other information required by the commissioner. FOR PURPOSES OF THIS SUBDIVISION, THE TERM "SURPLUS FUNDS" SHALL MEAN ANY AND ALL OPERATING FUNDS IN EXCESS OF TWO PERCENT OF THE CURRENT SCHOOL YEAR BUDGET, REGARDLESS OF THE ACCOUNT IN WHICH SUCH FUNDS ARE HELD. School districts (i) identified as having fifteen percent or more of their students in special education, or (ii) which have fifty percent or more of their students with disabilities in special education programs or services sixty percent or more of the school day in a general education building, or (iii) which have eight percent or more of their students with disabilities in special education programs in public or private separate educational settings shall indicate on their school district report card their respective percentages as defined in this paragraph and paragraphs (i) and (ii) of this subdivision as compared to the statewide average.

3-A. THE PROGRAM COMPONENT, CAPITAL COMPONENT AND THE ADMINISTRATIVE COMPONENT SHALL BE PRESENTED TO THE QUALIFIED VOTERS IN A SINGLE PROPOSITION. THERE SHALL BE NO SEPARATE PROPOSITIONS FOR ANY EXPENDITURE

REQUIRED TO BE INCLUDED IN THE BUDGET UNDER SUBDIVISION FOUR OF THIS SECTION.

8. EACH YEAR THE BOARD OF EDUCATION SHALL PREPARE A SCHOOL BUDGET COMPARISON CARD PURSUANT TO REGULATIONS OF THE COMMISSIONER AND SHALL MAKE IT PUBLICLY AVAILABLE BY TRANSMITTING IT TO LOCAL NEWSPAPERS OF GENERAL CIRCULATION, APPENDING IT TO COPIES OF THE PROPOSED BUDGET MADE PUBLICLY AVAILABLE AS REQUIRED BY LAW, MAKING IT AVAILABLE FOR DISTRIBUTION AT THE ANNUAL MEETING AND OTHERWISE DISSEMINATING IT AS REQUIRED BY THE COMMISSIONER. SUCH COMPARISON CARD SHALL INCLUDE:

A. THE TOTAL DOLLAR AMOUNT APPROPRIATED IN THE SCHOOL BUDGET ADOPTED THE PREVIOUS YEAR;

B. THE TOTAL DOLLAR AMOUNT ACTUALLY SPENT PURSUANT TO THE SCHOOL BUDGET ADOPTED THE PREVIOUS YEAR;

C. THE TOTAL AMOUNT TO BE APPROPRIATED UNDER THE PROPOSED BUDGET FOR THE ENSUING YEAR;

D. THE MAXIMUM AMOUNT OF MONEY AVAILABLE UNDER THE CONTINGENT BUDGET CAP FOR THE ENSUING YEAR; AND

E. THE TOTAL DOLLAR AMOUNT TO BE APPROPRIATED UNDER THE PROPOSED CONTINGENT BUDGET FOR THE ENSUING YEAR.

S 7. The education law is amended by adding a new section 141 to read as follows:

S 141. DISCLOSURE OF VIOLATIONS. THE COMMISSIONER MAY REQUIRE THAT UPON THE FINDING THAT A SCHOOL DISTRICT HAS VIOLATED ANY PROVISION OF THIS CHAPTER, NOTICE OF SUCH VIOLATION SHALL BE PUBLICIZED BY TRANSMITTING A DESCRIPTION OF THE COMMISSIONER'S FINDINGS TO THE SCHOOL NEWSLETTER OR PAPER. SUCH DESCRIPTION SHALL BE PUBLISHED AT LEAST TWICE BEFORE THE ANNUAL BUDGET HEARING. FURTHER, NOTICE OF AND A DESCRIPTION OF EACH VIOLATION SHALL BE READ INTO THE RECORD AT THE NEXT SUCCEEDING ANNUAL BUDGET HEARING.

S 8. This act shall take effect immediately.