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

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2009-2010 Regular Sessions

I N A S S E M B L Y

June 16, 2009

Introduced by M. of A. HOYT, PEOPLES, SCHROEDER -- read once and referred to the Committee on Education

AN ACT to amend chapter 605 of the laws of 2000, relating to the construction of new educational facilities, the financing of such facilities, and the financing of the rehabilitation and reconstruction of existing facilities in the city of Buffalo, in relation to the financing of additional projects for the rehabilitation and reconstruction of existing facilities in the city of Buffalo

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

Section 1. Legislative findings. The legislature hereby finds and determines:

The scope of projects to be financed in Phase V has been expressly authorized in this legislation and is subject to the approval of the commissioner of education. In addition, such financing may result in certain additional project funding financing costs which are not incurred in typical school district general obligation bond issues.

S 2. Subdivisions (b) and (d) of section 16 of chapter 605 of the laws of 2000, relating to the construction of new educational facilities, the financing of such facilities, and the financing of the rehabilitation and reconstruction of existing facilities in the city of Buffalo, as amended by chapter 492 of the laws of 2008, are amended and three new subdivisions (l), (m) and (n) are added to read as follows:

(b) A project for the renovation, rehabilitation or reconstruction of an educational facility of the city school district that was either:

(i) approved by the commissioner prior to February 1, 2003; or

(ii) submitted to the commissioner and identified as project number 0074-005, project number 7999-010, project number 0006-013, project number 0033-008, project number 0037-007, project number 0039-011, project number 0069-011, project number 0082-004, project number 0090-006, project number 0091-011, project number 0094-012, project

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

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number 0095-012, project number 0192-007, project number 0200-011, project number 0304-011, project number 7999-011, project number 7999-012, project number 7999-013, project number 0676-001, and project number 2606-004; or

(iii) submitted to the commissioner and identified as project number 0027-008, project number 0032-008, project number 0043-010, project number 0045-007, project number 0076-007, project number 0195-027, project number 0205-014, project number 0206-013, project number 0301-012, project number 7999-014, and project number 7999-015; or

(iv) submitted to the commissioner and identified as project number 0003-010, project number 0017-008, project number 0054-006, project number 0072-007, project number 0081-006, project number 0084-003, project number 0093-005, project number 0203-015, project number 0305-009, project number 0306-012, project number 7999-016, and project number 7999-017 may be financed through a special program agreement with the state of New York municipal bond bank agency pursuant to the provisions of section 2435-a of the public authorities law; OR

(V) SUBMITTED TO THE COMMISSIONER AND IDENTIFIED AS PROJECT NUMBER 0018-004, PROJECT NUMBER 0053-007, PROJECT NUMBER 0059-007, PROJECT NUMBER 0061-010, PROJECT NUMBER 0064-006, PROJECT NUMBER 0065-010, PROJECT NUMBER 0202-012, PROJECT NUMBER 7999-018, AND PROJECT NUMBER 7999-019 MAY BE FINANCED THROUGH A SPECIAL PROGRAM AGREEMENT WITH THE STATE OF NEW YORK MUNICIPAL BOND BANK AGENCY PURSUANT TO THE PROVISIONS OF SECTION 2435-A OF THE PUBLIC AUTHORITIES LAW.

Provided, however, that no more than nine projects submitted pursuant to paragraph (i) of this subdivision and twenty projects submitted pursuant to paragraph (ii) of this subdivision and eleven projects submitted pursuant to paragraph (iii) of this subdivision and twelve projects submitted pursuant to paragraph (iv) of this subdivision AND NINE PROJECTS SUBMITTED PURSUANT TO PARAGRAPH (V) OF THIS SUBDIVISION, once approved for aid by the commissioner, may be financed pursuant to this subdivision. It shall be the duty of the JSC board, the city school district and the city to compare the financing available for such projects through the Erie county industrial development agency with financing available through the state of New York municipal bond bank agency, and to employ the financing mechanism that will result in the lowest cost to the taxpayers of the city and the state. It shall be the duty of the JSC board, the city school district, the city and the Erie county industrial development agency to share with the state of New York municipal bond bank agency any information in their possession that is required by the state of New York municipal bond bank agency to determine the cost of financing such projects and to compute the interest rate that would have been applicable to a bond issuance by the state of New York municipal bond bank agency in the event that financing is obtained through the Erie county industrial development agency. Any failure to provide such information within thirty days of receipt of a request from the state of New York municipal bond bank agency shall be deemed to be a failure of the city school district to submit the data needed to compute the apportionment of state building aid, and the commissioner shall withhold such apportionment until such information is fully submitted. Upon request of the commissioner, the director of the state of New York municipal bond bank agency shall submit such reports as the commissioner may require on the financing of such projects and/or the interest rate that would have been applicable to such projects if they had been financed through such agency.

(d) Notwithstanding subdivision (a) of this section, contracts for the renovation, rehabilitation or reconstruction of an educational facility that has been submitted to the commissioner and identified as project number 7999-010, project number 7999-012, project number 0676-001, project number 7999-015 [and], project number 7999-016, AND PROJECT NUMBER 7999-019 need not be awarded pursuant to the process required in such subdivision.

(L) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, IF THE TOTAL PROJECT COST ASSOCIATED WITH THE PROJECTS AUTHORIZED PURSUANT TO PARAGRAPH (V) OF SUBDIVISION (B) OF THIS SECTION EXCEEDS THE ESTIMATED TOTAL PROJECT COST OF 195 MILLION DOLLARS, THEN THE JSC BOARD SHALL REPORT SUCH INFORMATION, ALONG WITH EXPLANATORY DOCUMENTATION REGARDING THE INCREASE IN COST, TO THE GOVERNOR, THE NEW YORK STATE COMPTROLLER, THE COMMISSIONER, THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY.

(M) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE JSC BOARD SHALL SUBMIT ESTIMATED PROJECT COSTS FOR THE PROJECTS AUTHORIZED PURSUANT TO PARAGRAPH (V) OF SUBDIVISION (B) OF THIS SECTION AFTER THE COMPLETION OF SCHEMATIC PLANS AND SPECIFICATIONS FOR REVIEW BY THE COMMISSIONER. IF THE TOTAL PROJECT COSTS ASSOCIATED WITH SUCH PROJECTS EXCEED THE SUM OF THE ESTIMATED INDIVIDUAL APPROVED COST ALLOWANCES OF EACH BUILDING PROJECT BY MORE THAN THE LESSER OF $20 MILLION OR TEN PERCENT OF THE APPROVED COSTS, AND THE CITY SCHOOL DISTRICT HAS NOT OTHERWISE DEMONSTRATED TO THE SATISFACTION OF THE NEW YORK STATE EDUCATION DEPARTMENT THE AVAILABILITY OF ADDITIONAL LOCAL SHARES FOR SUCH EXCESS COSTS, THEN THE JSC BOARD SHALL NOT PROCEED WITH THE PREPARATION OF FINAL PLANS AND SPECIFICATIONS FOR SUCH PROJECTS UNTIL THE PROJECTS HAVE BEEN REDESIGNED OR VALUE-ENGINEERED TO REDUCE ESTIMATED PROJECT COSTS SO AS NOT TO EXCEED THE ABOVE COST LIMITS.

(N) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE JSC BOARD SHALL SUBMIT ESTIMATED PROJECT COSTS FOR THE PROJECTS AUTHORIZED PURSUANT TO PARAGRAPH (V) OF SUBDIVISION (B) OF THIS SECTION AFTER THE COMPLETION OF FIFTY PERCENT OF THE FINAL PLANS AND SPECIFICATIONS FOR REVIEW BY THE COMMISSIONER. IF THE TOTAL PROJECT COSTS ASSOCIATED WITH SUCH PROJECTS EXCEED THE SUM OF THE ESTIMATED INDIVIDUAL APPROVED COST ALLOWANCE OF EACH BUILDING PROJECT BY MORE THAN THE LESSER OF 20 MILLION DOLLARS OR TEN PERCENT OF THE APPROVED COSTS, AND THE CITY SCHOOL DISTRICT HAS NOT OTHERWISE DEMONSTRATED TO THE SATISFACTION OF THE NEW YORK STATE EDUCATION DEPARTMENT THE AVAILABILITY OF ADDITIONAL LOCAL SHARE FOR SUCH EXCESS COSTS, THEN THE JSC BOARD SHALL NOT PROCEED WITH THE COMPLETION OF THE REMAINING FIFTY PERCENT OF THE PLANS AND SPECIFICATIONS FOR SUCH PROJECTS UNTIL THE PROJECTS HAVE BEEN REDESIGNED OR VALUE-ENGINEERED TO REDUCE ESTIMATED PROJECT COSTS SO AS NOT TO EXCEED THE ABOVE COST LIMITS.

S 3. This act shall take effect immediately.