

Seventh Extraordinary Session

I N S E N A T E

June 28, 2009

Introduced by COMMITTEE ON RULES -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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:

- 1 Section 1. Legislative findings. The legislature hereby finds and
2 determines:
3 The scope of projects to be financed in Phase V has been expressly
4 authorized in this legislation and is subject to the approval of the
5 commissioner of education. In addition, such financing may result in
6 certain additional project funding financing costs which are not
7 incurred in typical school district general obligation bond issues.
8 S 2. Subdivisions (b) and (d) of section 16 of chapter 605 of the laws
9 of 2000, relating to the construction of new educational facilities, the
10 financing of such facilities, and the financing of the rehabilitation
11 and reconstruction of existing facilities in the city of Buffalo, as
12 amended by chapter 492 of the laws of 2008, are amended and three new
13 subdivisions (l), (m) and (n) are added to read as follows:
14 (b) A project for the renovation, rehabilitation or reconstruction of
15 an educational facility of the city school district that was either:
16 (i) approved by the commissioner prior to February 1, 2003; or
17 (ii) submitted to the commissioner and identified as project number
18 0074-005, project number 7999-010, project number 0006-013, project
19 number 0033-008, project number 0037-007, project number 0039-011,
20 project number 0069-011, project number 0082-004, project number

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

LBD14305-01-9

1 0090-006, project number 0091-011, project number 0094-012, project
2 number 0095-012, project number 0192-007, project number 0200-011,
3 project number 0304-011, project number 7999-011, project number
4 7999-012, project number 7999-013, project number 0676-001, and project
5 number 2606-004; or

6 (iii) submitted to the commissioner and identified as project number
7 0027-008, project number 0032-008, project number 0043-010, project
8 number 0045-007, project number 0076-007, project number 0195-027,
9 project number 0205-014, project number 0206-013, project number
10 0301-012, project number 7999-014, and project number 7999-015; or

11 (iv) submitted to the commissioner and identified as project number
12 0003-010, project number 0017-008, project number 0054-006, project
13 number 0072-007, project number 0081-006, project number 0084-003,
14 project number 0093-005, project number 0203-015, project number
15 0305-009, project number 0306-012, project number 7999-016, and project
16 number 7999-017 may be financed through a special program agreement with
17 the state of New York municipal bond bank agency pursuant to the
18 provisions of section 2435-a of the public authorities law; OR

19 (V) SUBMITTED TO THE COMMISSIONER AND IDENTIFIED AS PROJECT NUMBER
20 0018-004, PROJECT NUMBER 0053-007, PROJECT NUMBER 0059-007, PROJECT
21 NUMBER 0061-010, PROJECT NUMBER 0064-006, PROJECT NUMBER 0065-010,
22 PROJECT NUMBER 0202-012, PROJECT NUMBER 7999-018, AND PROJECT NUMBER
23 7999-019 MAY BE FINANCED THROUGH A SPECIAL PROGRAM AGREEMENT WITH THE
24 STATE OF NEW YORK MUNICIPAL BOND BANK AGENCY PURSUANT TO THE PROVISIONS
25 OF SECTION 2435-A OF THE PUBLIC AUTHORITIES LAW.

26 Provided, however, that no more than nine projects submitted pursuant
27 to paragraph (i) of this subdivision and twenty projects submitted
28 pursuant to paragraph (ii) of this subdivision and eleven projects
29 submitted pursuant to paragraph (iii) of this subdivision and twelve
30 projects submitted pursuant to paragraph (iv) of this subdivision AND
31 NINE PROJECTS SUBMITTED PURSUANT TO PARAGRAPH (V) OF THIS SUBDIVISION,
32 once approved for aid by the commissioner, may be financed pursuant to
33 this subdivision. It shall be the duty of the JSC board, the city school
34 district and the city to compare the financing available for such
35 projects through the Erie county industrial development agency with
36 financing available through the state of New York municipal bond bank
37 agency, and to employ the financing mechanism that will result in the
38 lowest cost to the taxpayers of the city and the state. It shall be the
39 duty of the JSC board, the city school district, the city and the Erie
40 county industrial development agency to share with the state of New York
41 municipal bond bank agency any information in their possession that is
42 required by the state of New York municipal bond bank agency to deter-
43 mine the cost of financing such projects and to compute the interest
44 rate that would have been applicable to a bond issuance by the state of
45 New York municipal bond bank agency in the event that financing is
46 obtained through the Erie county industrial development agency. Any
47 failure to provide such information within thirty days of receipt of a
48 request from the state of New York municipal bond bank agency shall be
49 deemed to be a failure of the city school district to submit the data
50 needed to compute the apportionment of state building aid, and the
51 commissioner shall withhold such apportionment until such information is
52 fully submitted. Upon request of the commissioner, the director of the
53 state of New York municipal bond bank agency shall submit such reports
54 as the commissioner may require on the financing of such projects and/or
55 the interest rate that would have been applicable to such projects if
56 they had been financed through such agency.

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

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

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

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

45 S 3. This act shall take effect immediately.