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

4464

2009-2010 Regular Sessions

I N A S S E M B L Y

February 4, 2009

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

AN ACT to amend the education law, in relation to the conditions under which school districts are entitled to the apportionment of state funds

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

Section 1. Paragraph a of subdivision 5 of section 3604 of the education law, as amended by chapter 161 of the laws of 2005, is 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 district's total general fund expenditures for the preceding school

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

LBD08262-01-9

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. 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. PROVIDED FURTHER, HOWEVER, THAT WHEN A SCHOOL DISTRICT THAT RECEIVED AN EXCESS APPORTIONMENT CAN DEMONSTRATE, IN A MANNER PROVIDED BY THE COMMISSIONER, THAT THE DISTRICT IS OWED OUTSTANDING AID REPAYMENTS PREVIOUSLY APPROVED BY THE STATE COMPTROLLER UNDER THE SAME OR A SIMILAR AID APPORTIONMENT IDENTIFIED BY THE COMMISSIONER, THEN THE EXCESS APPORTIONMENT SHALL BE OFFSET AGAINST THE OUTSTANDING AID PAYMENTS. IF THE OUTSTANDING AID PAYMENTS EXCEED THE EXCESS APPORTIONMENT, SUCH EXCESS APPORTIONMENT SHALL NOT BE RECOVERED FROM THE SCHOOL DISTRICT, AND THE AMOUNT OF OUTSTANDING AID PAYMENTS OWED THE SCHOOL DISTRICT SHALL BE REDUCED BY AN AMOUNT EQUAL TO THE EXCESS APPORTIONMENT. IF THE EXCESS APPORTIONMENT EXCEEDS THE AMOUNT OF OUTSTANDING AID PAYMENTS DUE THAT SCHOOL DISTRICT, THE AMOUNT OF FUNDS TO BE RECOVERED SHALL EQUAL THE EXCESS APPORTIONMENT TO THE SCHOOL DISTRICT MINUS OUTSTANDING AID PAYMENTS TO SUCH DISTRICT, AND THE SCHOOL DISTRICT SHALL HAVE NO CLAIM TO THE OUTSTANDING AID PAYMENTS USED TO OFFSET THE EXCESS APPORTIONMENT. IF MULTIPLE AID PAYMENTS ARE DUE A SCHOOL DISTRICT, THEN ANY EXCESS APPORTIONMENT SHALL FIRST BE NETTED FROM THE APPORTIONMENT NEXT SCHEDULED TO BE PAID TO THE SCHOOL DISTRICT. IF AN OUTSTANDING AID PAYMENT, OR A PORTION OF AN OUTSTANDING AID PAYMENT, IS STILL DUE AFTER NETTING OUT ANY EXCESS APPORTIONMENT, THE AMOUNT OF THE OUTSTANDING AID PAYMENT SHALL RETAIN ITS PLACE IN THE PRIOR YEAR ADJUSTMENT APPROVAL DATE ORDER QUEUE. 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.

S 2. This act shall take effect on the first of July next succeeding the date on which it shall have become a law.