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

3861

2011-2012 Regular Sessions

I N S E N A T E

March 8, 2011

Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the general municipal law, in relation to establishing within the office of the state comptroller, the school inspector general

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

Section 1. The general municipal law is amended by adding a new section 33-b to read as follows:

S 33-B. SCHOOL INSPECTOR GENERAL. 1. THE SCHOOL INSPECTOR GENERAL FOR SCHOOL DISTRICTS LOCATED OUTSIDE THE CITY OF NEW YORK (SIG) SHALL BE ESTABLISHED WITHIN THE OFFICE OF THE STATE COMPTROLLER FOR THE PURPOSE OF REVIEWING, AT HIS OR HER DISCRETION, THE FINANCIAL AFFAIRS OF ANY SUCH SCHOOL DISTRICTS. SUCH REVIEW MAY INCLUDE, BUT SHALL NOT BE LIMITED TO:

(A) EXAMINING AND EVALUATING THE FINANCIAL RECORDS, TRANSACTIONS, CONTRACTS, REVENUES AND EXPENDITURES GENERATED BY A SCHOOL DISTRICT EACH YEAR;

(B) EXAMINING AND EVALUATING BUDGETING AND ACCOUNTING PROCEDURES AND PROCESSES;

(C) RECEIVING COMPLAINTS RELATING TO ALLEGED FRAUDULENT OR ILLEGAL ACTIVITIES OF SUCH SCHOOL DISTRICTS AND INVESTIGATING SUCH COMPLAINTS;

(D) EXAMINING AND REVIEWING ALL CONSTRUCTION CONTRACTS ENTERED INTO BY SUCH SCHOOL DISTRICTS; AND

(E) REVIEWING PROCUREMENT COMPETITIVE BIDDING PROCEDURES.

2. THE SIG SHALL BE ENTITLED TO REQUEST, UTILIZE AND/OR RECEIVE SUCH INFORMATION AND RESOURCES FROM THE DEPARTMENT OF EDUCATION AND ANY SCHOOL DISTRICTS WITHIN HIS OR HER JURISDICTION, AS THE SIG MAY REASONABLY REQUEST, TO CARRY OUT PROPERLY HIS OR HER RESPONSIBILITY AND DUTIES AS DESCRIBED IN THIS SECTION.

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

LBD06578-01-1

3. IN CONJUNCTION WITH, AND IN FURTHERANCE OF THE POWERS CONFERRED ON THE OFFICE OF THE STATE COMPTROLLER BY THE PROVISIONS OF THIS ARTICLE, THE SIG SHALL HAVE THE POWER TO:

(A) ACCESS ALL SCHOOL DISTRICT FINANCIAL DOCUMENTS AND RECORDS, WHICH SHALL INCLUDE BUT NOT BE LIMITED TO, AN ACCOUNTING OF ALL REVENUES AND THE SPECIFIC SOURCES OF REVENUE FOR THE SCHOOL DISTRICT, ALL EXPENDITURE RECORDS AND THE EXACT NATURE OF THOSE EXPENDITURES, ALL CONTRACTS AND THE NAMES OF ALL SCHOOL DISTRICT CONTRACTORS, ALL REIMBURSEMENTS RECEIVED BY THE DISTRICT AND THEIR SOURCE, ALL CASH RECEIPTS AND PAYMENTS BY SOURCE AND PURPOSE;

(B) ACCESS ALL BACKUP FINANCIAL, BUDGETING AND ACCOUNTING DOCUMENTATION AND OTHER DATA THAT MAY BE NECESSARY TO VERIFY, CONFIRM AND RECONSTRUCT ALL OF THE TRANSACTIONS MADE BY THE SCHOOL DISTRICT IN A GIVEN YEAR;

(C) ACCESS ANY PRIOR YEAR'S FINANCIAL, BUDGETING AND ACCOUNTING DOCUMENTATION AND OTHER DATA WHENEVER NECESSARY SO AS TO VERIFY, CONFIRM AND RECONSTRUCT THE SCHOOL DISTRICT'S CURRENT FINANCIAL SITUATION;

(D) ASSESS THE SCHOOL DISTRICT'S CURRENT FINANCIAL ACCOUNTING AND BUDGETARY PRACTICES AND RECORDS REGARDING SCHOOL BOARD ACTIONS TO ENSURE THAT ASSUMPTIONS MADE RELATING TO THE BUDGET ARE ACCURATE AND CONSISTENT FROM YEAR TO YEAR, TO ENSURE THAT ALL INFORMATION REGARDING THE BUDGET HAS BEEN PROPERLY DISCLOSED PURSUANT TO ANY APPLICABLE LAW, RULE OR REGULATION, TO ENSURE THAT SUCH PRACTICES AND RECORDS ARE CONSISTENT WITH ESTABLISHED STANDARDS AND STATE LAW, RULES OR REGULATIONS, TO ENSURE THAT SUCH PRACTICES AND RECORDS PROVIDE FOR ACCURATE PROTECTIONS AGAINST THEFT OR OTHER ABUSES AND THAT ANY FILINGS THAT ARE REQUIRED BY THE DEPARTMENT OF EDUCATION FOR THE REIMBURSEMENT OF FUNDS FOR WHICH THE SCHOOL DISTRICT IS ENTITLED ARE FILED, AND THAT SYSTEMS ARE IN PLACE TO ENSURE THAT SUCH FILINGS ARE DONE AS NECESSARY WITHIN THE TIME LIMITS PRESCRIBED BY LAW;

(E) SUBPOENA ANY AND ALL DOCUMENTS HE OR SHE DEEMS NECESSARY TO ENSURE THAT THE PUBLIC HAS BEEN PROVIDED WITH ACCURATE AND COMPLETE INFORMATION REGARDING THE SCHOOL DISTRICT'S CURRENT FINANCIAL SITUATION AND THE SCHOOL DISTRICT'S CURRENT AND PAST BUDGETARY PRACTICES; AND

(F) HIRE PROFESSIONAL AND SUPPORT PERSONNEL NECESSARY TO FULFILL THE REQUIREMENTS OF THIS SECTION INCLUDING, BUT NOT LIMITED TO, ATTORNEYS, AUDITORS AND SUPPORT STAFF.

4. (A) THE SIG SHALL PREPARE A REPORT PROVIDING A DETAILED ANALYSIS OF THE ISSUES REVIEWED FOR EACH SCHOOL DISTRICT. SUCH REPORT SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, A STATEMENT BY THE SIG SUMMARIZING HIS OR HER FINDINGS, AND EXPLICITLY STATING ANY FINDINGS RELATING TO THE FINANCIAL AND BUDGETARY PRACTICES OF THE SCHOOL DISTRICT THAT HE OR SHE BELIEVES VIOLATED, OR COULD POTENTIALLY VIOLATE, EXISTING STATE LAW, RULES OR REGULATIONS OR MAY BE OF CONCERN IN THAT NEGLIGENCE OR INCOMPETENCE MAY RESULT IN FINANCIAL OR BUDGETARY PRACTICES THAT VIOLATE STATE LAW, RULES AND REGULATIONS, OR ARE INCONSISTENT WITH ESTABLISHED STANDARDS, AND MAKING RECOMMENDATIONS TO RECTIFY SUCH VIOLATIONS OR POTENTIAL VIOLATIONS; AND

(B) THE REPORT REQUIRED BY PARAGRAPH (A) OF THIS SUBDIVISION SHALL BE DELIVERED TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE AND THE MINORITY LEADER OF THE ASSEMBLY AND THE STATE EDUCATION DEPARTMENT. SUCH REPORT SHALL BECOME A MATTER OF PUBLIC RECORD AND SHALL BE AVAILABLE TO THE PUBLIC UPON REQUEST FOR A MINIMUM OF THREE YEARS. WITHIN THREE MONTHS AFTER SUCH SIG REPORT IS MADE PUBLIC, A PUBLIC FORUM SHALL BE MADE AVAILABLE FOR PUBLIC COMMENT, SUGGESTIONS AND QUESTIONS. THE FINAL

REPORT SHALL BE POSTED ON THE SCHOOL DISTRICT'S WEB SITE FOR AT LEAST THREE YEARS.

5. IF, AT ANY TIME DURING OR AFTER THE REVIEW, THE SIG BELIEVES THAT ANY FRAUD, ABUSE OR VIOLATION OF STATE LAW HAS OCCURRED HE OR SHE SHALL IMMEDIATELY REPORT SUCH FINDINGS TO THE GOVERNOR AND THE COMMISSIONER OF EDUCATION AND PROVIDE THE APPROPRIATE LAW ENFORCEMENT AGENCY WITH PROPER JURISDICTION WITH ANY AND ALL DOCUMENTATION SUPPORTING HIS OR HER CONCLUSIONS RELATING TO SUCH VIOLATIONS.

6. (A) SCHOOL DISTRICT REVIEWS SHALL BE CONDUCTED PURSUANT TO A SCHEDULE ESTABLISHED BY THE SIG. THE SPECIFIC SCHOOL DISTRICTS CHOSEN SHALL REMAIN CONFIDENTIAL WITHIN THE OFFICE OF THE STATE COMPTROLLER. THE PRESIDENT OF THE SCHOOL BOARD AND THE SUPERINTENDENT SHALL BE NOTIFIED AT LEAST TEN WORKING DAYS PRIOR TO COMMENCEMENT OF SUCH REVIEW AND UPON SUCH NOTICE, PREPARE ALL DOCUMENTS NECESSARY FOR TIMELY COMPLETION OF SUCH REVIEW.

(B) THE SIG MAY CONDUCT FOLLOW-UP REVIEWS OF A SCHOOL DISTRICT AT ANY TIME TO DETERMINE WHETHER RECOMMENDED CHANGES HAVE BEEN IMPLEMENTED.

7. NOTHING IN THIS SECTION SHALL BE CONSTRUED OR INTERPRETED TO ABROGATE OR LIMIT ANY EXISTING POWERS, DUTIES OR AUTHORITY OF THE STATE COMPTROLLER.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that effective immediately, any rule or regulation necessary for the timely implementation of this act shall be promulgated on or before such effective date.