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

8370

2011-2012 Regular Sessions

I N A S S E M B L Y

June 15, 2011

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

AN ACT to amend the education law, in relation to providing for charter school facilities aid

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

Section 1. The education law is amended by adding a new section 2858 to read as follows:

S 2858. CHARTER SCHOOLS FACILITIES AID. 1. CHARTER SCHOOLS SHALL BE ELIGIBLE TO RECEIVE AN APPORTIONMENT PURSUANT TO THIS SECTION FOR CURRENT YEAR APPROVED EXPENDITURES FOR DEBT SERVICE RELATING TO THE CONSTRUCTION, ACQUISITION, RECONSTRUCTION, REHABILITATION OR IMPROVEMENT OF ANY CHARTER SCHOOL BUILDING USED FOR INSTRUCTION; FOR APPROVED EXPENDITURES FOR CAPITAL OUTLAYS FOR SUCH PURPOSES, WHICH SHALL BE AIDABLE AS DEBT SERVICE THROUGH AN ASSUMED AMORTIZATION TO THE SAME EXTENT AND UNDER THE SAME CONDITIONS AS SCHOOL DISTRICT CAPITAL OUTLAYS PURSUANT TO SUBDIVISION SIX OF SECTION THIRTY-SIX HUNDRED TWO OF THIS CHAPTER; FOR ANNUAL PAYMENTS TO THE DORMITORY AUTHORITY PURSUANT TO ANY LEASE, SUBLEASE OR OTHER AGREEMENT RELATING TO THE FINANCING OR REFINANCING OF AN ELIGIBLE CHARTER SCHOOL CONSTRUCTION PROJECT UNDER THE PROVISIONS OF SECTION SIXTEEN HUNDRED EIGHTY OF THE PUBLIC AUTHORITIES LAW, AND FOR CURRENT YEAR APPROVED EXPENDITURES FOR LEASE, LEASE-PURCHASE OR OTHER ANNUAL PAYMENTS TO A SCHOOL DISTRICT OR PERSON, PARTNERSHIP OR CORPORATION FOR A CHARTER SCHOOL BUILDING USED FOR INSTRUCTION. APPROVED EXPENDITURES FOR THE LEASE OR OTHER ANNUAL PAYMENTS SHALL NOT INCLUDE THE COSTS OF HEAT, ELECTRICITY, WATER OR OTHER UTILITIES OR THE COSTS OF OPERATION OR MAINTENANCE OF THE LEASED FACILITY. AN APPORTIONMENT SHALL BE AVAILABLE PURSUANT TO THIS SUBDIVISION FOR CONSTRUCTION, RECONSTRUCTION, REHABILITATION OR IMPROVEMENT IN A BUILDING, OR PORTION THEREOF, BEING LEASED BY A CHARTER SCHOOL ONLY IF THE LEASE IS FOR A TERM OF AT LEAST TEN YEARS SUBSEQUENT TO THE DATE OF THE GENERAL

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

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CONSTRUCTION CONTRACT FOR SUCH CONSTRUCTION, RECONSTRUCTION, REHABILITATION OR IMPROVEMENT.

2. THE APPORTIONMENT PURSUANT TO THIS SECTION SHALL BE COMPUTED IN ACCORDANCE WITH SUBDIVISION SIX OF SECTION THIRTY-SIX HUNDRED TWO OF THIS CHAPTER, AS MODIFIED BY THIS SECTION, AND ALL THE REQUIREMENTS OF SUCH SUBDIVISION SIX SHALL APPLY, EXCEPT THAT A FIVE-YEAR CAPITAL FACILITIES PLAN SHALL NOT BE REQUIRED AS A CONDITION OF AID. IN COMPUTING SUCH APPORTIONMENT, THE AID RATIO FOR THE CHARTER SCHOOL SHALL BE DEEMED TO BE THE AID RATIO OF THE DISTRICT IN WHICH THE CHARTER SCHOOL IS LOCATED, AND THE ASSUMED INTEREST RATE FOR BONDS OR NOTES ISSUED BY THE CHARTER SCHOOL SHALL BE THE INTEREST RATE COMPUTED PURSUANT TO CLAUSE (B) OF SUBPARAGRAPH FIVE OF PARAGRAPH E OF SUBDIVISION SIX OF SECTION THIRTY-SIX HUNDRED TWO OF THIS CHAPTER.

3. THE COMMISSIONER SHALL BE AUTHORIZED TO PAY UP TO SEVENTY PERCENT OF THE SUM APPROPRIATED FOR PURPOSES OF THIS SECTION PRIOR TO APRIL FIRST OF THE SCHOOL YEAR FOR WHICH SUCH MONIES ARE AVAILABLE, WITH THE REMAINDER PAYABLE ON OR AFTER SUCH DATE.

4. WHERE AN APPORTIONMENT IS PAID TO A CHARTER SCHOOL PURSUANT TO THIS SECTION BASED ON AN ASSUMED AMORTIZATION, AND THE CHARTER SCHOOL'S CHARTER IS REVOKED OR IS NOT RENEWED OR THE CHARTER SCHOOL OTHERWISE CLOSES PRIOR TO THE END OF THE PERIOD OF ASSUMED AMORTIZATION, THE STATE SHALL HAVE A LIEN ON THE CHARTER SCHOOL BUILDING IN THE FULL AMOUNT OF THE AID PAID PURSUANT TO THIS SECTION AND ANY TRANSFER OF SUCH BUILDING TO A SCHOOL DISTRICT OR ANOTHER CHARTER SCHOOL UPON DISSOLUTION OF THE CHARTER SCHOOL SHALL BE SUBJECT TO THE STATE'S LIEN. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, UPON REQUEST BY THE ATTORNEY GENERAL, THE COURT IN A PROCEEDING PURSUANT TO SECTION TWO HUNDRED TWENTY OF THIS CHAPTER SHALL BE AUTHORIZED TO DIRECT THE SALE OF SUCH SCHOOL BUILDING IN ORDER TO PAY OFF THE LIEN OF THE STATE.

5. ANY CAPITAL IMPROVEMENTS MADE IN A CHARTER SCHOOL FINANCED WITH CHARTER SCHOOL FACILITIES AID, STIMULUS FUNDS OR ANY OTHER SOURCE OF STATE FUNDING SHALL BE DEEMED TO BE A PUBLIC WORKS PROJECT FOR THE PURPOSES OF ARTICLE EIGHT OF THE LABOR LAW, AND ALL THE PROVISIONS OF ARTICLE EIGHT OF THE LABOR LAW SHALL BE APPLICABLE TO THE CONSTRUCTION WORK INVOLVED IN THE CONSTRUCTION OF SUCH CAPITAL IMPROVEMENTS, AND ANY CONTRACT ENTERED INTO BY THE CHARTER SCHOOL FOR SUCH CAPITAL IMPROVEMENTS SHALL CONTAIN A CLAUSE TO THAT EFFECT, AND IF NO SUCH CLAUSE IS CONTAINED IN SUCH CONTRACT, THE COURTS, IN ANY ACTION TO ENFORCE THE PROVISIONS OF ARTICLE EIGHT OF THE LABOR LAW WITH REFERENCE TO SUCH CONTRACT, SHALL DEEM SUCH CLAUSE TO BE INCORPORATED IN SUCH CONTRACT.

S 2. This act shall take effect immediately.