

163--A

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. SQUADRON, AVELLA, DILAN, PERKINS -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions -- recommitted to the Committee on Corporations, Authorities and Commissions in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public authorities law, in relation to authorizing the New York city school construction authority to obtain certain demographic data and utilize such data in connection with the authority's five-year educational facilities capital plan; and to amend the education law, in relation to requiring consideration of student demographic data in connection with approval of five-year educational facilities capital plans and to require the publication of findings and commentary on such plan

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

1 Section 1. Subdivision 13 of section 1728 of the public authorities
2 law, as added by chapter 738 of the laws of 1988, is amended and four
3 new subdivisions 13-a, 13-b, 13-c and 13-d are added to read as follows:
4 13. To enter into agreements with the city's department of city plan-
5 ning to render any services the authority may request, including but not
6 limited to professional and technical assistance by planning experts,
7 engineers, architects and any other staff as may be necessary, and the
8 use of the premises, personnel, equipment, ACCESS TO RELEVANT DATA and
9 personal property of the department of city planning[. The authority
10 shall provide for reimbursement to the department of city planning from
11 the authority for any expenses incurred by the department of city plan-
12 ning in carrying out the terms of any such agreements];

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

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1 13-A. TO ENTER INTO AGREEMENTS WITH THE CITY'S DEPARTMENT OF HEALTH
2 AND MENTAL HYGIENE TO RENDER ANY SERVICES THE AUTHORITY MAY REQUEST,
3 INCLUDING BUT NOT LIMITED TO ACCESS TO BIRTH RATE DATA;

4 13-B. TO ENTER INTO AGREEMENTS WITH THE CITY'S DEPARTMENT OF BUILDINGS
5 TO RENDER ANY SERVICES THE AUTHORITY MAY REQUEST, INCLUDING BUT NOT
6 LIMITED TO ACCESS TO BUILDING PERMIT AND CONSTRUCTION DATA, INCLUDING
7 THE NUMBER AND SIZE OF UNITS WITHIN BUILDINGS;

8 13-C. TO ENTER INTO AGREEMENTS WITH THE CITY'S DEPARTMENT OF HOUSING
9 PRESERVATION AND DEVELOPMENT TO RENDER ANY SERVICES THE AUTHORITY MAY
10 REQUEST, INCLUDING BUT NOT LIMITED TO ACCESS TO BUILDING PERMIT AND
11 CONSTRUCTION DATA, INCLUDING THE NUMBER AND SIZE OF UNITS WITHIN BUILD-
12 INGS;

13 13-D. TO COORDINATE WITH THE OFFICE OF CITY PLANNING, THE DEPARTMENT
14 OF BUILDINGS, THE DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT AND
15 THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE TO CREATE UNIFORM, CITYWIDE
16 POPULATION PROJECTIONS BASED ON DATA PRODUCED BY THE OFFICE OF CITY
17 PLANNING, THE DEPARTMENT OF BUILDINGS, THE DEPARTMENT OF HOUSING PRESER-
18 VATION AND DEVELOPMENT AND THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE.
19 SUCH PROJECTIONS SHALL BE USED IN THE CREATION AND IMPLEMENTATION OF THE
20 AUTHORITY'S FIVE-YEAR EDUCATIONAL FACILITIES CAPITAL PLAN;

21 S 2. Section 1731 of the public authorities law, as added by chapter
22 738 of the laws of 1988, is amended to read as follows:

23 S 1731. Community participation. 1. Prior to the commencing of new
24 construction or building additions of an educational facility, or the
25 acquisition of real property or any interest therein for such purpose,
26 the authority shall file a copy of the site plan of such facility in its
27 offices and shall provide a copy thereof to the city board, the city
28 planning commission and the community school [board] DISTRICT EDUCATION
29 COUNCIL and THE community board of the district in which the facility
30 will be located. SUCH PLAN SHALL INCLUDE DATA ON PROJECTED STUDENT
31 POPULATION FOR THE COMMUNITY BOARD OR BOARDS AFFECTED, THE SOURCE OF
32 THAT DATA AND THE RATIONALE FOR THE PROPOSED CONSTRUCTION OR ADDITION.
33 Upon request, any other person shall be furnished with such plan or a
34 summary thereof. The authority shall publish in a newspaper of general
35 circulation in the city a notice of the filing of such plan and the
36 availability of the plan and a summary thereof. Such plan shall include,
37 in the case of any project for which the acquisition of real property or
38 interest therein is proposed, the recommended site, any alternate sites
39 considered, and any rationale as to why the alternate sites were not
40 selected.

41 2. Within thirty days after publication of the notice required under
42 subdivision one of this section, a public hearing with sufficient public
43 notice shall be held by each affected community [school] board on any or
44 all aspects of the site plan and by each affected community board on
45 aspects of the site plan which relate to the general public use of the
46 educational facility and to its impact on the surrounding community,
47 INCLUDING BUT NOT LIMITED TO THE RESPONSIVENESS OF THE SITE PLAN TO
48 PROJECTED CHANGES IN POPULATION IN THE AFFECTED COMMUNITY BOARD OR
49 BOARDS. The affected board may request the attendance of represen-
50 tatives of the authority or the city board at a hearing and the authori-
51 ty or the city board shall comply with such requests. If the proposed
52 project affects two or more school districts or community boards, then a
53 hearing may be held jointly by the affected community school [boards]
54 DISTRICT EDUCATION COUNCIL and/or the affected community boards. Any
55 affected community school [board] DISTRICT EDUCATION COUNCIL, together

with any affected community board, may at their mutual discretion, elect to conduct a hearing jointly.

3. Within forty-five days after publication of such notice, each affected community school [board] DISTRICT EDUCATION COUNCIL or community board shall prepare and submit to the authority, written comments on the site plan. Any other organization or person shall also have the opportunity to present written comments on the plan during this period. Each comment received by the authority on such plan at any time prior to action being taken by the authority on the plan shall be considered by the authority in connection with such action.

4. After due consideration of such comments, if any, the authority may affirm, modify or withdraw the plan. UPON FINAL DETERMINATION BY THE AUTHORITY REGARDING THE PLAN, THE AUTHORITY SHALL MAKE PUBLIC, PURSUANT TO SUBDIVISION THREE OF THIS SECTION, ITS ASSESSMENT OF SUBMITTED COMMENTS. SUCH ASSESSMENT SHALL INCLUDE:

A. A SUMMARY AND AN ANALYSIS OF THE ISSUES RAISED AND SIGNIFICANT ALTERNATIVES SUGGESTED IF ANY;

B. A STATEMENT OF THE REASONS WHY ANY SIGNIFICANT ALTERNATIVES WERE OR WERE NOT INCORPORATED INTO THE FINAL PLAN; AND

C. A DESCRIPTION OF ANY CHANGES MADE TO THE PROPOSED PLAN AS A RESULT OF PUBLIC COMMENTS RECEIVED.

5. Nothing herein shall preclude the authority from holding hearings on the site plan, provided, however, that any such hearings on the site plan shall be conducted within the period specified in subdivision three of this section.

S 3. Subparagraph 1 of paragraph (c) and paragraph (e) of subdivision 3 of section 2590-b of the education law, as amended by chapter 345 of the laws of 2009, are amended to read as follows:

(1) each community district shall: (i) be a suitable size for efficient policy-making and economic management; (ii) contain a reasonable number of pupils; (iii) be compact and contiguous, contained within county lines, and to the maximum extent possible, keep intact communities and neighborhoods; [and] (iv) bear a rational relationship to geographic areas for which the city of New York plans and provides services; AND (V) BE CREATED CONSIDERING DATA PROVIDED BY THE OFFICE OF CITY PLANNING, THE DEPARTMENT OF BUILDINGS, THE DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT AND THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE TO ENSURE A COMPREHENSIVE CITYWIDE PLAN FOR GROWTH;

(e) The city board of education shall hold public hearings in each borough on the recommendations submitted by the study group and may adopt, revise or reject in whole or in part such recommendations, or, may request the study group to submit adjusted recommendations. THE CITY BOARD OF EDUCATION SHALL MAKE PUBLIC, ITS ASSESSMENT OF SUBMITTED COMMENTS. SUCH ASSESSMENT SHALL INCLUDE:

(I) A SUMMARY AND AN ANALYSIS OF THE ISSUES RAISED AND SIGNIFICANT ALTERNATIVES SUGGESTED IF ANY;

(II) A STATEMENT OF THE REASONS WHY ANY SIGNIFICANT ALTERNATIVES WERE OR WERE NOT INCORPORATED INTO THE FINAL PLAN; AND

(III) A DESCRIPTION OF ANY CHANGES MADE TO THE PROPOSED PLAN AS A RESULT OF PUBLIC COMMENTS RECEIVED.

The final recommendations shall be adopted by the city board of education no later than February first, nineteen hundred ninety-five to take effect July first, nineteen hundred ninety-six, provided that such revised boundaries adopted by the city board pursuant to this chapter shall be used for purposes of community school board elections to be held on the first Tuesday in May, nineteen hundred ninety-six.

1 S 4. Subdivision 11 of section 2590-e of the education law, as added
2 by chapter 123 of the laws of 2003, is amended to read as follows:

3 11. Approve zoning lines, as submitted by the superintendent, consist-
4 ent with the regulations of the chancellor, applicable to schools under
5 the jurisdiction of the community district. SUCH APPROVAL SHALL BE
6 BASED IN PART ON THE APPROPRIATENESS OF THE PROPOSED ZONING LINES, AND
7 BASED IN PART ON DATA PROVIDED BY THE OFFICE OF CITY PLANNING, THE
8 DEPARTMENT OF BUILDINGS, THE DEPARTMENT OF HOUSING PRESERVATION AND
9 DEVELOPMENT AND THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE INCLUDING
10 BIRTH RATE DATA.

11 S 5. Subdivision 1 of section 2590-p of the education law, as added by
12 chapter 738 of the laws of 1988, is amended to read as follows:

13 1. In accordance with subdivision three of this section, the chancel-
14 lor shall prepare proposed five-year educational facilities capital
15 plans. Each such plan shall describe each program element proposed in
16 the plan, and shall set forth an estimate of the cost of each program
17 element, an estimate of the capital funding required each year and the
18 expected sources of such funding. The plan shall also set forth an esti-
19 mate of the cost of each project identified in the plan, shall assign
20 priorities to the projects included therein and shall state the year in
21 which each such project's design and construction is proposed to be
22 initiated and estimated to be completed. IN PREPARING THE PLAN AND EACH
23 PROJECT CONTAINED THEREIN, THE CHANCELLOR SHALL CONSIDER THE EFFECT OF
24 DATA PROVIDED BY THE OFFICE OF CITY PLANNING, THE DEPARTMENT OF BUILD-
25 INGS, THE DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT AND THE
26 DEPARTMENT OF HEALTH AND MENTAL HYGIENE, INCLUDING BIRTH RATE DATA.

27 S 6. Paragraph b of subdivision 3 of section 2590-p of the education
28 law, as amended by chapter 345 of the laws of 2009, is amended to read
29 as follows:

30 b. Commencing on November first, nineteen hundred ninety-three, and
31 every five years thereafter, the chancellor shall submit a proposed
32 five-year educational facilities capital plan to take effect on the
33 succeeding July first to each community district education council,
34 which shall conduct a public hearing and shall prepare and submit recom-
35 mendations to the chancellor on or before January first of the ensuing
36 year with respect to matters in the plan that involve that school
37 district. The chancellor shall consider the recommendations received
38 from the community district education councils, and, on or before Febru-
39 ary first of such year, shall submit a final proposed five-year educa-
40 tional facilities capital plan to the city board for its approval pursu-
41 ant to paragraph (d) of subdivision one of section twenty-five hundred
42 ninety-g of this article. UPON CONSIDERATION OF THE RECOMMENDATIONS OF
43 THE COMMUNITY SCHOOL DISTRICT EDUCATION COUNCILS, THE BOARD SHALL MAKE
44 PUBLIC, PURSUANT TO THIS PARAGRAPH, ITS ASSESSMENT OF SUBMITTED RECOM-
45 MENDATIONS. SUCH ASSESSMENT SHALL INCLUDE:

46 (I) A SUMMARY AND AN ANALYSIS OF THE ISSUES RAISED AND SIGNIFICANT
47 ALTERNATIVES SUGGESTED IF ANY;

48 (II) A STATEMENT OF THE REASONS WHY ANY SIGNIFICANT ALTERNATIVES WERE
49 OR WERE NOT INCORPORATED INTO THE FINAL PLAN; AND

50 (III) A DESCRIPTION OF ANY CHANGES MADE TO THE PROPOSED PLAN AS A
51 RESULT OF THE RECOMMENDATIONS RECEIVED.

52 S 7. Paragraph b of subdivision 3 of section 2590-p of the education
53 law, as added by chapter 738 of the laws of 1988, is amended to read as
54 follows:

55 b. Commencing on November first, nineteen hundred ninety-three, and
56 every five years thereafter, the chancellor shall submit a proposed

1 five-year educational facilities capital plan to take effect on the
2 succeeding July first to each community school [board] DISTRICT EDUCA-
3 TION COUNCIL, which shall conduct a public hearing and shall prepare and
4 submit recommendations to the chancellor on or before January first of
5 the ensuing year with respect to matters in the plan that involve that
6 school district. The chancellor shall consider the recommendations
7 received from the community school [boards] DISTRICT EDUCATION COUNCIL,
8 and, on or before February first of such year, shall submit a final
9 proposed five-year educational facilities capital plan to the city board
10 for its approval. On or before March first of such year, the city board
11 shall approve the five-year educational facilities capital plan submit-
12 ted by the chancellor or such plan as is determined by the city board.
13 UPON CONSIDERATION OF THE RECOMMENDATIONS OF THE COMMUNITY SCHOOL
14 DISTRICT EDUCATION COUNCILS, THE BOARD SHALL MAKE PUBLIC, PURSUANT TO
15 THIS PARAGRAPH, ITS ASSESSMENT OF SUBMITTED RECOMMENDATIONS. SUCH
16 ASSESSMENT SHALL INCLUDE:

17 (I) A SUMMARY AND AN ANALYSIS OF THE ISSUES RAISED AND SIGNIFICANT
18 ALTERNATIVES SUGGESTED IF ANY;

19 (II) A STATEMENT OF THE REASONS WHY ANY SIGNIFICANT ALTERNATIVES WERE
20 OR WERE NOT INCORPORATED INTO THE FINAL PLAN; AND

21 (III) A DESCRIPTION OF ANY CHANGES MADE TO THE PROPOSED PLAN AS A
22 RESULT OF THE RECOMMENDATIONS RECEIVED.

23 S 8. Paragraph a of subdivision 6 of section 2590-p of the education
24 law, as added by chapter 738 of the laws of 1988, is amended to read as
25 follows:

26 a. For each project included in an approved five-year educational
27 facilities capital plan, the chancellor shall develop a detailed scope
28 of the project, which shall include the following: (i) the purposes and
29 public to be served, (ii) the programs to be conducted in the facility,
30 (iii) the gross amounts of space and bulk for any building or structure,
31 (iv) identification of the intent to use architectural, engineering or
32 other consultant services and estimated fees for such consultant
33 services, (v) the schedule of design and construction, (vi) the total
34 estimated project costs, including costs for site acquisition, prepara-
35 tion and tenant relocation, design, construction and equipment, (vii)
36 maximum estimated expenditures for the project for each fiscal year
37 until its completion, (viii) costs associated with maintenance and oper-
38 ation of the physical plant [and], (ix) THE EFFECT OF DATA PROVIDED BY
39 THE OFFICE OF CITY PLANNING, THE DEPARTMENT OF BUILDINGS, THE DEPARTMENT
40 OF HOUSING PRESERVATION AND DEVELOPMENT AND THE DEPARTMENT OF HEALTH AND
41 MENTAL HYGIENE, INCLUDING BIRTH RATE DATA FOR EACH PROJECT INCLUDED IN
42 THE PLAN, AND (X) such other information as the chancellor shall speci-
43 fy. In the event, a project consists of a program element without iden-
44 tification of the particular education facility at which such project is
45 to be performed, the detailed scope of the project shall specify the
46 nature of the work to be performed, applicable price and quality stand-
47 ards, a list of the schools eligible for such work, annual performance
48 targets and the total estimated costs of such project during each fiscal
49 year until its completion.

50 S 9. This act shall take effect immediately; provided:

51 a. the amendments to subdivision 3 of section 2590-b of the education
52 law made by section three of this act shall not affect the expiration of
53 such section and shall expire and be deemed repealed therewith;

54 b. the amendments to subdivision 11 of section 2590-e of the education
55 law made by section four of this act shall not affect the repeal of such
56 subdivision and shall expire and be deemed repealed therewith; and

1 c. the amendments to paragraph b of subdivision 3 of section 2590-p of
2 the education law made by section six of this act shall be subject to
3 the expiration and reversion of such paragraph pursuant to section 34 of
4 chapter 91 of the laws of 2002, as amended, when upon such date the
5 provisions of section seven of this act shall take effect.