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

7859

I N S E N A T E

June 16, 2014

Introduced by Sen. ROBACH -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend chapter 416 of the laws of 2007 establishing the city of Rochester and the board of education of the city school district of the city of Rochester school facilities modernization program act; and to amend the education law, in relation to construction projects of the Rochester joint schools construction board

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

Section 1. Subdivisions (e), (g), (i) and (j) of section 2 of chapter 416 of the laws of 2007 establishing the city of Rochester and the board of education of the city school district of the city of Rochester school facilities modernization program act, are amended and five new subdivisions (k), (l), (m), (n) and (o) are added to read as follows:

(e) "[RSC board] RJSCB" shall mean the joint schools construction board of the city and the city school district, acting as agent for the city, the city school district, or both, created by section three of this act.

(g) "Project" shall mean work at an existing school building site that involves the design, reconstruction, or rehabilitation of an existing school building for its continued use as a school of the city school district, which may include an addition to existing school buildings for such continued use and which also may include (1) the construction or reconstruction of athletic fields, playgrounds, and other recreational facilities for such existing school buildings[,]; and/or (2) the acquisition and installation of all equipment necessary and attendant to and for the use of such existing school building, INCLUDING BUT NOT LIMITED TO ITEMS LOCATED AT SITES NOT WITHIN A PROJECT THAT WILL ALLOW THE RJSCB TO CONDUCT DISTRICT-WIDE TECHNOLOGY IMPROVEMENTS TO BENEFIT EXISTING SCHOOL BUILDINGS; AND/OR (3) THE ACQUISITION OF ADDITIONAL REAL PROPERTY BY THE CITY TO FACILITATE THE PROJECT.

(i) "Program manager" shall mean an independent program management firm hired by the [RSC board] RJSCB to assist it in: (i) developing and implementing procedures for the projects undertaken and contracted for

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

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by the [RSC board] RJSCB; (ii) reviewing plans and specifications for projects; (iii) developing and implementing policies and procedures to utilize employment resources to provide sufficient skilled employees for such projects including developing and implementing training programs, if required; [and] (iv) managing such projects; AND (V) PROVIDING SUCH PLANNING, DESIGN, FINANCING, AND OTHER SERVICES AS MAY BE APPROPRIATE TO IMPLEMENT ONE OR MORE CONSTRUCTION OR RECONSTRUCTION PROJECTS PURSUANT TO THIS ACT.

(j) "Independent compliance officer" shall mean [a person] AN INDEPENDENT FIRM HIRED BY THE RJSCB with an in-depth knowledge base and breadth of experience conducting minority and women-owned business enterprise (MWBE) and disadvantaged business enterprise (DBE) utilization compliance monitoring for public contracts within New York state including school districts AND AUDITING CONTRACTORS AND SUBCONTRACTORS IN CONSTRUCTION AND RECONSTRUCTION PROJECTS LIKE THOSE TO BE UNDERTAKEN AND CONTRACTED FOR BY THE RJSCB PURSUANT TO THIS ACT.

(K) "PROFESSIONAL SERVICES" SHALL MEAN ACCOUNTING, LEGAL, PROGRAM MANAGEMENT, AND OTHER SUCH SERVICES PROVIDED BY A FORMALLY CERTIFIED MEMBER OF SUCH PROFESSIONAL ORGANIZATION.

(L) "MAYOR" SHALL MEAN THE MAYOR OF THE CITY OF ROCHESTER.

(M) "SUPERINTENDENT" SHALL MEAN THE SUPERINTENDENT OF THE ROCHESTER CITY SCHOOL DISTRICT.

(N) "ROCHESTER CITY SCHOOL DISTRICT BOARD" SHALL MEAN THE ELECTED BOARD OF THE ROCHESTER CITY SCHOOL DISTRICT.

(O) "ROCHESTER CITY COUNCIL" SHALL MEAN THE ELECTED COUNCIL FOR THE CITY OF ROCHESTER.

S 2. Subdivisions (a) and (b) of section 3 of chapter 416 of the laws of 2007 establishing the city of Rochester and the board of education of the city school district of the city of Rochester school facilities modernization program act, are amended to read as follows:

(a) For the benefit of the city of Rochester and the inhabitants thereof, a board to be known as the Rochester joint schools construction board, and sometimes referred to as the [RSC board] RJSCB, is hereby established for the accomplishment of any of the purposes specified in this act. It shall have the powers and duties now or hereafter conferred by subdivision (c) of this section. The board, its members, officers and employees and its operations and activities shall in all respects be governed by the provisions of this act.

(b) Such board shall be composed of seven voting members: three of whom shall be appointed by the mayor of the city; three of whom shall be appointed by the superintendent of the board of education of the city school district; AND one of whom shall be independent from both the city school district and the city but who shall have been agreed upon by the mayor and the superintendent[; and one non-voting member who shall be the independent compliance officer, or the representative of the independent compliance officer]. One of the voting members shall be chosen, by such voting members, to serve as chair of the board. Members of the board shall not receive a salary or other compensation for such board duties, but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of his or her board duties. Members of the board shall not be disqualified from holding public office or employment, nor shall they forfeit any office or employment by reason of their appointment, notwithstanding the provisions of any general, special, or local law, ordinance or city charter to the contrary. THE BOARD WILL BE RECONSTITUTED ON THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF 2014 THAT AMENDED THIS SUBDIVISION AND THE TERM OF EACH PRIOR

BOARD MEMBER SHALL AUTOMATICALLY EXPIRE ON SUCH DATE. TWO OF THE MAYOR'S AND TWO OF THE SUPERINTENDENT'S APPOINTMENTS WILL BE THREE YEAR APPOINTMENTS AND ONE OF THE MAYOR'S AND ONE OF THE SUPERINTENDENT'S APPOINTMENTS WILL BE TWO YEAR APPOINTMENTS. THE JOINT APPOINTMENT WILL BE A THREE YEAR APPOINTMENT.

S 3. Subdivision (c) of section 3 of chapter 416 of the laws of 2007 establishing the city of Rochester and the board of education of the city school district of the city of Rochester school facilities modernization program act, is amended by adding a new paragraph 6 to read as follows:

6. TO ENGAGE AN EXECUTIVE DIRECTOR OR APPOINT AN ADVISORY STAFF CONSISTING OF CITY AND CITY SCHOOL DISTRICT EMPLOYEES TO PROVIDE OVERSIGHT OF THE PROGRAM MANAGER.

S 4. Sections 4, 5, 6, 7, 8, 9, 10, 11 and 13 of chapter 416 of the laws of 2007 establishing the city of Rochester and the board of education of the city school district of the city of Rochester school facilities modernization program act, section 5 as amended by chapter 66 of the laws of 2012, are amended to read as follows:

S 4. Project authorization. No more than: (A) 13 projects, up to a total cost of three hundred twenty-five million dollars IN PHASE ONE, AND (B) 26 PROJECTS, UP TO A TOTAL COST OF FOUR HUNDRED THIRTY-FIVE MILLION DOLLARS IN PHASE TWO, shall be authorized and undertaken pursuant to this act, unless otherwise authorized by law.

S 5. Comprehensive school facilities modernization plan. [Before formal selection of the projects occurs, the RSC board shall develop] THE SUPERINTENDENT SHALL SUBMIT TO THE RJSCB A COMPREHENSIVE DRAFT PLAN RECOMMENDING AND OUTLINING THE PROJECTS FOR PHASE TWO IT PROPOSES TO BE UNDERTAKEN PURSUANT TO THIS ACT. THE RJSCB SHALL CONSIDER THE PLAN IN DEVELOPING a comprehensive school facilities modernization plan recommending and outlining the projects it proposes to be potentially undertaken pursuant to this act. Such plan shall include: (a) an estimate of total costs to be financed, proposed financing plan, proposed method of financing, terms and conditions of the financing, estimated financing costs, and, if city general obligation bonds or notes are not proposed as the method of financing, a comparison of financing costs between such bonds or notes and the proposed method of financing. Payment of debt service on bonds, notes or other obligations issued to secure financing of not more than $325,000,000 IN PHASE ONE AND $435,000,000 IN PHASE TWO for projects undertaken pursuant to this act shall not be considered when determining the "city amount" required pursuant to subparagraph (ii) of paragraph a of subdivision 5-b of section 2576 of the education law; provided, however, that this provision shall not otherwise affect the determination of said "city amount" with respect to funding unrelated to projects undertaken pursuant to this act. The plan should also address what specific options would be used to ensure that sufficient resources exist to cover the local share of any such project cost on an annual basis; (b) information concerning the potential persons to be involved in the financing and such person's role and responsibilities; (c) estimates on the design, reconstruction and rehabilitation costs by project, any administrative costs for potential projects, and an outline of the timeframe expected for completion of each potential project; (d) a detailed description of the request for proposals process and an outline of the criteria to be used for selection of the program manager, the independent compliance officer and all contractors; PROVIDED THAT THE RJSCB MAY EXTEND THE CONTRACTS OF THE PROVIDERS OF PROFESSIONAL SERVICES FOR PHASE ONE UPON THE ADOPTION OF FINDINGS THAT DOING SO WOULD

BE IN THE PUBLIC INTEREST; THE CONTRACTS OF THE PROGRAM MANAGER AND THE INDEPENDENT COMPLIANCE OFFICER FOR PHASE TWO WILL BE REBID, AND PROVIDED FURTHER THAT THE PROGRAM MANAGER AND THE INDEPENDENT COMPLIANCE OFFICER AND ANY NEW OR DIFFERENT PROVIDERS OF PROFESSIONAL SERVICES SHALL BE ENGAGED IN COMPLIANCE WITH THE PROVISIONS OF SECTION EIGHT OF THIS ACT; (e) any proposed amendments to the city school district's five-year capital facilities plan submitted in accordance with subdivision 6 of section 3602 of the education law and the regulations of the commissioner; and (f) a preliminary diversity plan to develop diversity goals, including appropriate community input and public discussion, and develop strategies that would create and coordinate any efforts to ensure a more diverse workforce for the projects. The preliminary diversity plan should address accountability for attainment of the diversity goals, what forms of monitoring would be used, and how such information would be publicly communicated.

Prior to the development of the comprehensive school facilities modernization plan, the [RSC board] RJSCB AND DISTRICT shall hold as many public hearings as may be necessary to ensure sufficient public input and allow for significant public discussion on school building needs in such city, with at least one hearing to be held in each neighborhood potentially impacted by a proposed project.

All projects proposed in the comprehensive school facilities modernization plan shall be included by the city school district as a special section of the district's five-year capital facilities plan that is required pursuant to subdivision 6 of section 3602 of the education law and the regulations of the commissioner.

The [RSC board] RJSCB shall submit the components of such comprehensive plan outlined in subdivision (a) of this section to the comptroller, along with any other information requested by the comptroller, for his or her review and approval.

S 6. Project selection. Notwithstanding any general, special or local law to the contrary and upon approval by the comptroller pursuant to section five of this act, the [RSC board] RJSCB may select projects to be undertaken pursuant to this act, as provided for in such approved comprehensive plan. After the [RSC board] RJSCB has selected a new project and plans and specifications for such project have been prepared and approved by the [RSC board] RJSCB, which are consistent with the approved comprehensive plan, the [RSC board] RJSCB shall deliver such plans and specifications to the SUPERINTENDENT OF THE CITY SCHOOL DISTRICT AND THE MAYOR OF THE CITY OF ROCHESTER FOR REVIEW TO ENSURE THAT SUFFICIENT RESOURCES EXIST TO PAY THE LOCAL SHARE OF ANY SUCH PROJECT COST ON AN ANNUAL BASIS AND THAT THE PLANS MEET PROGRAM NEEDS, AND UPON THE APPROVAL OF THE SUPERINTENDENT, TO THE commissioner for his or her approval. After approval by the SUPERINTENDENT AND commissioner, the plans and specifications shall be returned to the [RSC board] RJSCB. All such specifications shall detail the number of students the completed project is intended to serve, the site description, the types of subjects to be taught, the types of activities for school, recreational, social, safety, or other purposes intended to be incorporated in the school building or on its site and such other information as the [RSC board] RJSCB and the commissioner shall deem necessary or advisable. THE DISTRICT PROGRAM MANAGER SHALL ESTABLISH REASONABLE GUIDELINES OR LIMITS ON INCIDENTAL COSTS TO ASSURE THAT TO THE GREATEST EXTENT POSSIBLE SUCH COSTS FOR EACH PROJECT DO NOT EXCEED THE STATE'S MAXIMUM INCIDENTAL COST ALLOWANCE, IN ORDER TO MAXIMIZE EFFICIENT USE OF STATE BUILDING AID.

NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE RJSCB SHALL SUBMIT ESTIMATED PROJECT COSTS FOR THE PROJECTS AUTHORIZED PURSUANT TO SUBDIVISION (B) OF SECTION FOUR OF THIS ACT AFTER THE COMPLETION OF SCHEMATIC PLANS AND SPECIFICATIONS FOR REVIEW BY THE COMMISSIONER. IF THE TOTAL PROJECT COSTS ASSOCIATED WITH SUCH PROJECTS EXCEED THE SUM OF THE ESTIMATED INDIVIDUAL APPROVED COST ALLOWANCE OF EACH BUILDING PROJECT BY MORE THAN THE LESSER OF 43 MILLION DOLLARS OR TEN PERCENT OF THE APPROVED COSTS, AND THE CITY SCHOOL DISTRICT HAS NOT OTHERWISE DEMONSTRATED TO THE SATISFACTION OF THE EDUCATION DEPARTMENT THE AVAILABILITY OF ADDITIONAL LOCAL SHARES FOR SUCH EXCESS COSTS, THEN THE RJSCB SHALL NOT PROCEED WITH THE PREPARATION OF FINAL PLANS AND SPECIFICATIONS FOR SUCH PROJECTS UNTIL THE PROJECTS HAVE BEEN REDESIGNED OR VALUE-ENGINEERED TO REDUCE ESTIMATED PROJECT COSTS SO AS NOT TO EXCEED THE ABOVE COST LIMITS.

NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE RJSCB SHALL SUBMIT ESTIMATED PROJECT COSTS FOR THE PROJECTS AUTHORIZED PURSUANT TO SUBDIVISION (B) OF SECTION FOUR OF THIS ACT AFTER THE COMPLETION OF FIFTY PERCENT OF THE FINAL PLANS AND SPECIFICATIONS FOR REVIEW BY THE COMMISSIONER. IF THE TOTAL PROJECT COSTS ASSOCIATED WITH SUCH PROJECTS EXCEED THE SUM OF THE ESTIMATED INDIVIDUAL APPROVED COST ALLOWANCE OF EACH BUILDING PROJECT BY MORE THAN THE LESSER OF 43 MILLION DOLLARS OR TEN PERCENT OF THE APPROVED COSTS, AND THE CITY SCHOOL DISTRICT HAS NOT OTHERWISE DEMONSTRATED TO THE SATISFACTION OF THE EDUCATION DEPARTMENT THE AVAILABILITY OF ADDITIONAL LOCAL SHARE FOR SUCH EXCESS COSTS, THEN THE RJSCB SHALL NOT PROCEED WITH THE COMPLETION OF THE REMAINING FIFTY PERCENT OF THE PLANS AND SPECIFICATIONS FOR SUCH PROJECTS UNTIL THE PROJECTS HAVE BEEN REDESIGNED OR VALUE-ENGINEERED TO REDUCE ESTIMATED PROJECT COSTS SO AS NOT TO EXCEED THE ABOVE COST LIMITS.

S 7. Contract authorization. (a) The [RSC board] RJSCB, upon receipt of such approved plans and specifications for a project contained within the comprehensive school facilities modernization plan, may enter into contracts on behalf of the city or the city school district, or both, for such project.

(b) Notwithstanding the provisions of any other general, special, or local law to the contrary, relating to the length, duration, and terms of contracts that the city or the city school district may enter into, the [RSC board] RJSCB, on behalf of the city and the city school district, is hereby authorized and empowered to enter into contracts relating to projects undertaken pursuant to this act with any person, upon such terms and conditions and for such consideration and for such terms and duration, not to exceed thirty years, as may be agreed upon by the [RSC board] RJSCB and such person, whereby such person is granted the right to design, reconstruct, rehabilitate, equip, finance or manage one or more projects in accordance with the design, plans and specifications for such projects approved by the [RSC board] RJSCB and the commissioner, as set forth in section six of this act. All such contracts shall comply with the provisions of section nine of this act.

(c) In the event the [RSC board] RJSCB shall cease to exist for any reason whatsoever during the life of such contracts as it has entered into pursuant to this act, such contract shall remain in full force and effect and the city school district and the city shall stand in the place and stead of the [RSC board] RJSCB with respect to all rights and obligations under such contracts and with respect to all powers granted to the [RSC board] RJSCB by this act; provided, however, that such powers are exercised by the city and the city school district jointly

and pursuant to their respective jurisdictions and the general laws applicable thereto, except as modified by this act.

S 8. Public bidding. Any contract entered into between the [RSC board] RJSCB and any person pursuant to this act shall be awarded pursuant to public bidding in compliance with section 103 of the general municipal law.

S 9. Contracts generally. Notwithstanding the provisions of any general, special, or local law or judicial decision to the contrary:

(a) The [RSC board] RJSCB may require a contractor, as a condition to being awarded a contract, subcontract, lease, grant, bond, covenant or other agreement for a project to enter into a project labor agreement for the work involved with such project when such requirement is made part of the bid specifications for the project and when the [RSC board] RJSCB determines that the record supporting the decision to enter into such an agreement establishes that it is justified by the interests underlying the competitive bidding laws. IN ADDITION, THE RJSCB MAY REVISE AND EXTEND THE REQUIREMENTS OF THE PROJECT LABOR AGREEMENT ENTERED INTO FOR PHASE ONE PROJECTS TO THE PROJECTS AUTHORIZED IN PHASE TWO, CONTINGENT UPON THE COMPLETION OF A SUPPLEMENTAL PROJECT LABOR AGREEMENT BENEFIT ANALYSIS.

(b) Any contract, subcontract, lease, grant, bond, covenant or other agreement for projects undertaken pursuant to this act shall not be subject to section 101 of the general municipal law when the [RSC board] RJSCB has chosen to require a project labor agreement, pursuant to subdivision (a) of this section. This exemption shall only apply to the projects undertaken pursuant to this act and shall not apply to projects undertaken by any other school district or municipality unless otherwise specifically authorized.

(c) Whenever the [RSC board] RJSCB enters in a contract, subcontract, lease, grant, bond, covenant or other agreement for the construction, reconstruction, demolition, excavation, rehabilitation, repair, renovation, alteration, or improvement for a project undertaken pursuant to this act, it shall be deemed to be a public works project for the purposes of article 8 of the labor law, and all the provisions of article 8 of the labor law shall be applicable to all the work involved with such project including the enforcement of prevailing wage requirements by the state department of labor.

(d) Every contract entered into by RESOLUTION OF the [RSC board for a project] RJSCB FOR CONSTRUCTION OR RECONSTRUCTION OF A PROJECT PURSUANT TO THIS ACT shall contain a provision that the design of such project shall be subject to the review and approval of the city school district and that the design and construction standards of such project shall be subject to the review and approval of the commissioner. In addition, every such contract FOR CONSTRUCTION OR RECONSTRUCTION shall contain a provision that the contractor shall furnish a labor and material bond guaranteeing prompt payment of moneys that are due to all persons furnishing labor and materials pursuant to the requirements of any contracts for a project undertaken pursuant to this section and a performance bond for the faithful performance of the project, which shall conform to the provisions of section 103-f of the general municipal law, and that a copy of such performance and payment bonds shall be kept by the [RSC board] RJSCB and shall be open to public inspection.

(e) For the purposes of article 15-A of the executive law, any person entering into a contract for a project authorized pursuant to this act shall be deemed a state agency as that term is defined in such article

and such contracts shall be deemed state contracts within the meaning of that term as set forth in such article.

(f) Notwithstanding the provisions of this act or of any general or special law to the contrary, for any contract, subcontract, lease, grant, bond, covenant or other agreement for construction, reconstruction, demolition, excavation, rehabilitation, repair, renovation, alteration, or improvement with respect to each project undertaken pursuant to this act, the [RSC board] RJSCB shall consider the financial and organizational capacity of contractors and subcontractors in relation to the magnitude of work they may perform, the record of performance of contractors and subcontractors on previous work, the record of contractors and subcontractors in complying with existing labor standards and maintaining harmonious labor relations, and the commitment of contractors to work with minority and women-owned business enterprises pursuant to article 15-A of the executive law through joint ventures or subcontractor relationships. The [RSC board] RJSCB shall further require, on any contract in excess of one million dollars for construction, reconstruction, demolition, excavation, rehabilitation, repair, renovation, alteration, or improvement that each contractor and subcontractor shall participate in apprentice training programs in the trades of work it employs that: have been approved for not less than three years by the state department of labor; have graduated at least one apprentice in the last 3 years; have at least one apprentice currently enrolled in such apprentice training program; and have demonstrated that the program has made significant efforts to attract and retain minority apprentices.

S 10. Program managers. (a) All contracts entered into by RESOLUTION OF the [RSC board] RJSCB for projects FOR PHASE TWO undertaken pursuant to this act shall be managed by an independent program manager. The selection of the program manager shall be pursuant to the competitive process established in section eight of this act. PRIOR TO ISSUANCE OF THE CONTRACT, THE PROGRAM MANAGER SELECTED SHALL BE APPROVED BY THE CITY COUNCIL AND THE ROCHESTER CITY SCHOOL DISTRICT. The program manager shall have experience in planning, designing, and constructing new and/or reconstructing existing school buildings, public facilities, commercial facilities, and/or infrastructure facilities, and in the negotiation and management of labor contracts and agreements, training programs, educational programs, and physical technological requirements for educational programs. The program manager shall manage all projects undertaken pursuant to this act, review project schedules, review payment schedules, prepare cost estimates and assess the safety programs of contractors and all training programs, if required. The program manager shall implement procedures for verification by it that all work for which payment has been requested has been satisfactorily completed.

(b) The program manager, and its affiliates or subsidiaries, if any, shall be prohibited from awarding contracts or being awarded contracts for, or performing any work on, projects undertaken pursuant to this act. CONTRACTS AWARDED BY RJSCB FOR CONSTRUCTION WORK REQUIRED FOR THE RECONSTRUCTION, REHABILITATION OR RENOVATION OF A PROJECT PURSUANT TO THIS ACT SHALL BE AWARDED PURSUANT TO PUBLIC BIDDING IN COMPLIANCE WITH SECTION 103 OF THE GENERAL MUNICIPAL LAW.

S 11. Independent compliance officers. [(a)] All contracts entered into by RESOLUTION OF the [RSC board] RJSCB for projects FOR PHASE TWO undertaken by this act shall be monitored by an independent compliance officer. The compliance officer shall: develop, implement, advertise, promote and monitor policies and procedures to utilize and provide

sufficient MWBE, DBE and skilled minority employment resources participation opportunities to be followed by prime contractors and subcontractors for such projects; review, modify if necessary, and approve the preliminary diversity plan established pursuant to section five of this act; provide technical assistance to potential MWBE and DBE contractors and subcontractors interested in bidding on any such projects; obtain and maintain records and documentation to confirm compliance with any requirements contained in the approved diversity plan, for any such project; identify contractors in non-compliance with any such requirements contained in the approved diversity plan or in violation of any federal, state and local laws, rules or regulations; monitor and report the upward/downward price adjustment and payment amounts to MWBEs and DBEs listed on contractors utilization plan for any such project; develop and work with the [RSC board] RJSCB to enforce agreed financial or monetary sanctions for any contractor's non-compliance with the MWBE/DBE utilization master plan. IN ADDITION, THE INDEPENDENT COMPLIANCE OFFICER SHALL: DEVELOP, IMPLEMENT, ADVERTISE, PROMOTE AND MONITOR MWBE/DBE POLICIES AND PROCEDURES FOR EACH PROJECT TO BE FOLLOWED BY PRIME CONTRACTORS AND SUBCONTRACTORS FOR SUCH PROJECTS; OBTAIN AND MAINTAIN RECORDS AND DOCUMENTATION TO CONFIRM COMPLIANCE WITH ANY APPLICABLE REQUIREMENTS FOR EACH PROJECT; IDENTIFY CONTRACTORS IN NON-COMPLIANCE WITH ANY SUCH REQUIREMENTS PURSUANT TO THIS SECTION OR IN VIOLATION OF ANY FEDERAL, STATE AND LOCAL LAWS, RULES OR REGULATIONS. THE INDEPENDENT COMPLIANCE OFFICER SHALL REPORT TO THE RJCSB ON A MONTHLY BASIS.

[(b) The independent compliance officer along with the program manager selected to manage any such project shall work jointly to ensure that any requirements contained in the approved diversity plan associated with any project undertaken pursuant to this act are met.]

S 13. Contracts. Notwithstanding any general, special, or local law or ordinance to the contrary, contracts entered into by the [RSC board] RJSCB for projects undertaken pursuant to this act: (a) may be funded by the issuance of certificates of participation issued by the city pursuant to this act; (b) may be installment purchased contracts; and (c) shall be subject to the provisions of section 109-b of the general municipal law, except for paragraph (a) of subdivision 3 of such section, subdivision 5 of such section, and paragraph (c) of subdivision 6 of such section, and except to the extent such section is inconsistent with the provisions of this act. All provisions with reference to installment purchase contracts or certificates of participation contained in section 109-b of the general municipal law, except any prohibition against using such installment purchase contracts or certificates of participation for the purposes set forth in this act, shall apply to installment purchase contracts or certificates of participation entered into or issued pursuant to the authority of this section.

S 5. Section 16 of chapter 416 of the laws of 2007 establishing the city of Rochester and the board of education of the city school district of the city of Rochester school facilities modernization program act, is amended to read as follows:

S 16. County of Monroe industrial development agency. (a) Notwithstanding any limitations contained in article 18-A of the general municipal law, including subdivisions 4[,] AND 12 [and 13] of section 854 and section 926 of the general municipal law, a project undertaken pursuant to this act shall be a "project" within the definition and for the purposes of subdivision 4 of section 854 of the general municipal law, which may be financed by the county of Monroe industrial development agency, the dormitory authority of the state of New York, or any succes-

sor entity thereto. Provided, however, that if a project is financed through the county of Monroe industrial development agency, the agency shall utilize a competitive process for selection of the financial agency that will issue the bonds OR BOND ANTICIPATION NOTES. In connection with the county of Monroe industrial development agency or the dormitory authority of the state of New York financing the costs of any project undertaken pursuant to this act, the city and the city school district may grant a leasehold or license interest in the project and school building site constituting such project to the county of Monroe industrial development agency or the dormitory authority of the state of New York. All contracts FOR CONSTRUCTION OR RECONSTRUCTION involving any such projects shall be awarded by the [RSC board] RJSCB pursuant to [the competitive process outlined in section eight of this act] PUBLIC BIDDING IN COMPLIANCE WITH SECTION 103 OF THE GENERAL MUNICIPAL LAW and shall comply with the provisions of section nine of this act.

(b) In the event that the city or the city school district shall fail to make a payment in such amount and by such date as is provided to be made by such city or city school district under agreements entered into with the county of Monroe industrial development agency, the dormitory authority of the state of New York, or any successor entity thereto pursuant to [paragraph] SUBDIVISION (a) of this section, such entity shall certify to the comptroller. Such certificate shall be in such form as the entity deems desirable, but shall specify the amount by which such payment shall have been deficient. The comptroller, upon receipt of such certificate from the entity, shall withhold such amount from such city or city school district any state and/or school aid payable to such city or city school district to the extent of the amount so stated in such certificate as not having been made, and shall immediately pay over to the entity the amount so withheld. Any amount so paid to the entity from such state and/or school aid shall not obligate the state to make, nor entitle the city or the city school district to receive, any additional amounts of state and/or school aid. Nothing contained herein shall be deemed to prevent the state from modifying, reducing or eliminating any program or programs of state and/or school aid; nor shall the state be obligated by the terms hereof to maintain state and/or school aid at any particular level or amount.

S 6. Item (iv) of clause (a) of subparagraph 5 of paragraph e of subdivision 6 of section 3602 of the education law, as added by chapter 416 of the laws of 2007, is amended to read as follows:

(iv) Notwithstanding the provisions of item (i) of this clause, where such city or city school district has entered into an agreement with the county of Monroe industrial development agency or the dormitory authority of the state of New York, for projects authorized pursuant to the city of Rochester and the board of education of the city school district of the city of Rochester school facilities modernization program act, to finance debt related to school rehabilitation or reconstruction that is subject to subparagraph three of this paragraph, the lesser of: (A) the net interest cost, as defined by the commissioner, that would have been applicable to bonds OR BOND ANTICIPATION NOTES issued by the county of Monroe industrial development agency if the project had been authorized to be financed and had been financed through such entity, as certified to the commissioner by the executive director of the county of Monroe industrial development agency; or (B) such net interest cost, as defined by the commissioner, that would have been applicable to bonds OR BOND ANTICIPATION NOTES issued by the state of New York dormitory authority if the project had been authorized to be financed and had been financed

through such entity, as certified to the commissioner by the executive director of the state of New York dormitory authority shall be the interest rate established for such city applicable to such debt.

S 7. Section 21 of chapter 416 of the laws of 2007 establishing the city of Rochester and the board of education of the city school district of the city of Rochester school facilities modernization program act, is amended to read as follows:

S 21. Reporting requirements. On June 30, 2008 and annually thereafter, until completion of the [13] 39 projects authorized pursuant to this act, the [RSC board] RJSCB shall issue a report to the governor, the comptroller, the commissioner, the temporary president of the senate, the speaker of the assembly, the city, the city council and the city school district on the progress and status of the projects undertaken by the [RSC board] RJSCB. Provided further, that if any such entities request information on the progress and status of the projects prior to such report, it shall be provided to such entities by the [RSC board] RJSCB.

In addition, on or before June 30, [2016] 2021, or upon completion of the [13] 26 projects authorized IN PHASE TWO pursuant to this act, whichever shall first occur, the [RSC board] RJSCB shall issue a report to the city, the city school district, the governor, the commissioner, the comptroller, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate, the minority leader of the assembly, the state board of regents, and the chairs and ranking minority members of the New York state senate and assembly committees on education, the finance committee of the New York state senate, and the ways and means committee of the New York state assembly. Such report shall identify the fiscal and pedagogical results of the projects undertaken pursuant to this act, along with recommendations for its continuance, amendments, or discontinuance.

S 8. This act shall take effect immediately.