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

1355

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. CLARK, AUBRY, ORTIZ -- Multi-Sponsored by -- M. of A. BRENNAN, COOK, WRIGHT -- read once and referred to the Committee on Education

AN ACT to amend the education law and the state finance law, in relation to establishing a temporary emergency educational fund to provide assistance to underfunded school districts; and providing for the repeal of such provisions upon the expiration thereof

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

Section 1. Legislative intent. The legislature hereby finds that decades of experience have shown that the state's current school funding system has consistently underfunded hundreds of public schools across the state. Currently the state is involved in a school finance lawsuit (CAMPAIGN FOR FISCAL EQUITY, ET AL. V. THE STATE OF NEW YORK, ET AL.) in which the constitutionality, sufficiency and social impact of the state's school funding system are at issue. Unfortunately, it could take years before the case is ultimately resolved. Meanwhile, time marches on and millions of schoolchildren continue to attend public schools which lack the resources needed to prepare them for productive citizenship in the twenty-first century. These children, caught between legal and political crossfire, are being denied the monetary, educational, psychological and social resources they desperately need, and as a result are being irreparably harmed.

The legislature declares that this act addresses the need to protect students from the potentially irreparable harm they are exposed to due to a severe lack of educational resources in public schools. Accordingly, this act seeks to provide emergency funding for critical educational resources to benefit the millions of children who cannot wait until protracted legal disputes are resolved before receiving the tools they need in order to meet resource-driven academic standards.

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

LBD03901-01-3

S 2. The education law is amended by adding a new article 73-A to read as follows:

ARTICLE 73-A
TEMPORARY EMERGENCY EDUCATIONAL
ASSISTANCE

SECTION 3650-F. DEFINITIONS.
3650-G. TEMPORARY EMERGENCY EDUCATIONAL ASSISTANCE.

S 3650-F. DEFINITIONS. FOR THE PURPOSE OF THIS ARTICLE, THE FOLLOWING TERMS SHALL MEAN:

1. "FUND" SHALL MEAN THE TEMPORARY EMERGENCY EDUCATIONAL FUND ESTABLISHED PURSUANT TO SECTION NINETY-ONE-H OF THE STATE FINANCE LAW.

2. "SOUND BASIC EDUCATION" SHALL MEAN THOSE FOUNDATIONAL SKILLS THAT PUBLIC SCHOOL STUDENTS NEED TO BECOME PRODUCTIVE CITIZENS CAPABLE OF CIVIC ENGAGEMENT AND SUSTAINING COMPETITIVE EMPLOYMENT, AS DETERMINED PURSUANT TO THE RULES AND REGULATIONS OF THE COMMISSIONER.

S 3650-G. TEMPORARY EMERGENCY EDUCATIONAL ASSISTANCE. 1. IN ADDITION TO ANY MONEYS A SCHOOL DISTRICT SHALL RECEIVE PURSUANT TO ARTICLE SEVENTY-THREE OF THIS TITLE, THE COMMISSIONER SHALL APPORTION SUCH ADDITIONAL FUNDING TO SCHOOL DISTRICTS AS SHALL BE NECESSARY TO ENABLE ANY SUCH DISTRICT TO PROVIDE A SOUND BASIC EDUCATION TO STUDENTS.

IN ALLOCATING FUNDS PURSUANT TO THIS SECTION, A SCHOOL DISTRICT SHALL GIVE PRIORITY IN THE FOLLOWING ORDER: (I) FIRST, TO A SCHOOL UNDER REGISTRATION REVIEW; (II) SECOND, TO ANY SCHOOL PERFORMING SIGNIFICANTLY BELOW STATE STANDARDS AS DEFINED BY THE COMMISSIONER; AND (III) THIRD, TO ANY SCHOOL THAT IS DETERMINED BY THE COMMISSIONER TO NEED EMERGENCY FUNDING TO ADDRESS A SEVERE LACK OF EDUCATIONAL RESOURCES.

2. MONEYS IN THE FUND SHALL BE APPORTIONED TO SCHOOL DISTRICTS WHICH MEET THE CRITERIA SET FORTH IN SUBDIVISION ONE OF THIS SECTION TO BE USED BY SUCH DISTRICTS FOR THE FOLLOWING PURPOSES:

(A) THE EMPLOYMENT OF A SUFFICIENT NUMBER OF QUALIFIED TEACHERS, PRINCIPALS AND OTHER EDUCATIONAL PERSONNEL;

(B) THE REDUCTION OF CLASS SIZES;

(C) THE CONSTRUCTION, RENOVATION, REPAIR AND MAINTENANCE OF ADEQUATE AND ACCESSIBLE SCHOOL BUILDINGS WITH SUFFICIENT SPACE TO ENSURE APPROPRIATE CLASS SIZES AND IMPLEMENTATION OF A SOUND CURRICULUM;

(D) THE ACQUISITION OF EDUCATIONAL RESOURCES, INCLUDING BUT NOT LIMITED TO, TEXTBOOKS, SCHOOL LIBRARY BOOKS, CLASSROOM SUPPLIES AND EQUIPMENT, LABORATORY EQUIPMENT, REMEDIAL PROGRAMS, AND EDUCATIONAL TECHNOLOGY SUCH AS COMPUTERS, THE RELATED HARDWARE AND APPROPRIATE SOFTWARE;

(E) THE PROVISION OF SUITABLE CURRICULA; AND

(F) THE PROVISION OF RESOURCES FOR STUDENTS WITH EXTRAORDINARY NEEDS.

3. (A) MONEYS FROM THE FUND SHALL BE APPORTIONED THROUGH A COMPETITIVE PROCESS THAT TAKES INTO CONSIDERATION THE SEVERITY OF SHORTAGE OF EDUCATIONAL RESOURCES NECESSARY TO PROVIDE A SOUND BASIC EDUCATION. MONEYS APPORTIONED PURSUANT TO THIS SECTION SHALL BE USED ONLY FOR THE PURPOSES ENUMERATED IN THIS SECTION.

(B) NOT MORE THAN SIXTY PERCENT OF THE FUNDS ALLOCATED PURSUANT TO THIS SECTION SHALL BE MADE AVAILABLE TO ANY ONE SCHOOL DISTRICT.

(C) ANY SCHOOL DISTRICT RECEIVING FUNDS UNDER THIS SECTION SHALL MAINTAIN ANY LOCAL EFFORT IN THE CURRENT YEAR EQUIVALENT TO SUCH EFFORT IN THE BASE YEAR FOR ANY LOCAL PROGRAM THAT HAS PURPOSES THAT ARE SIMILAR TO ANY PURPOSE OF THIS SECTION OR THE DISTRICT SHALL PROVIDE A LOCAL MATCH TO STATE FUNDS RECEIVED PURSUANT TO THIS SECTION. STATE FUNDS PROVIDED PURSUANT TO THIS SECTION SHALL NOT SUPPLANT LOCAL FUNDS FOR ANY PURPOSE SIMILAR TO THE PURPOSES OF THIS SECTION.

4. APPLICATIONS BY A SCHOOL DISTRICT FOR FUNDING PURSUANT TO THIS SECTION SHALL BE FILED WITH THE COMMISSIONER, IN A FORM DETERMINED BY THE COMMISSIONER, BY JUNE FIRST OF THE BASE YEAR AND SCHOOL DISTRICTS SHALL BE NOTIFIED OF THEIR AWARD OF TEMPORARY EMERGENCY ASSISTANCE BY JUNE THIRTIETH OF THE BASE YEAR, PROVIDED THAT IN ANY YEAR SUCH APPLICATION AND AWARD DATES MAY BE MODIFIED BY THE COMMISSIONER FOR THE REASONABLE ADMINISTRATION OF THE PROGRAM. SUCH APPLICATION SHALL INCLUDE A PLAN BY THE SCHOOL DISTRICT FOR THE EXPENDITURE OF THE FUNDS IN EACH CATEGORY OF ALLOWABLE EXPENSES AUTHORIZED BY THIS SECTION, AND SUCH EXPENDITURES SHALL BE CONSISTENT WITH SUCH PLAN AND THE PROVISIONS OF THIS SECTION. SUCH APPLICATION SHALL ALSO INCLUDE A METHODOLOGY BY WHICH THE SCHOOL DISTRICT WILL MONITOR THE EXPENDITURE OF ANY SUCH FUNDING AND ENSURE THAT SUCH FUNDING WILL IMPROVE THE EDUCATION PROVIDED BY THE SCHOOL DISTRICT.

5. THE COMMISSIONER IS AUTHORIZED TO PROMULGATE ANY RULES AND REGULATIONS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

S 3. The state finance law is amended by adding a new section 91-h to read as follows:

S 91-H. TEMPORARY EMERGENCY EDUCATIONAL FUND. 1. THERE IS HEREBY ESTABLISHED IN THE CUSTODY OF THE STATE COMPTROLLER A SPECIAL FUND TO BE KNOWN AS THE "TEMPORARY EMERGENCY EDUCATIONAL FUND".

2. SUCH FUND SHALL CONSIST OF ALL MONEYS APPROPRIATED THERETO, AND ALL OTHER MONEYS CREDITED OR TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW, AND ALL MONEYS RECEIVED FROM CONTRIBUTIONS, DONATIONS, GRANTS OR PAYMENTS FROM ANY SOURCE.

3. MONEYS IN THE TEMPORARY EMERGENCY EDUCATIONAL FUND SHALL BE KEPT SEPARATELY FROM AND SHALL NOT BE COMMINGLED WITH ANY OTHER MONEYS IN THE JOINT OR SOLE CUSTODY OF THE STATE COMPTROLLER.

4. THE MONEYS OF THE TEMPORARY EMERGENCY EDUCATIONAL FUND, AFTER APPROPRIATION BY THE LEGISLATURE AND APPORTIONMENT BY THE COMMISSIONER, SHALL BE PAID OUT BY THE STATE COMPTROLLER PURSUANT TO ARTICLE SEVENTY-THREE-A OF THE EDUCATION LAW.

S 4. This act shall take effect immediately and shall expire and be deemed repealed upon the final disposition of the cause of action entitled "CAMPAIGN FOR FISCAL EQUITY, ET AL. V. THE STATE OF NEW YORK, ET AL." and the establishment and full implementation of a school funding system that funds every public school district in the state at a level that enables such district to provide a sound basic education; provided that the attorney general shall notify the legislative bill drafting commission upon the occurrence of the final disposition of such cause of action in order that such commission may maintain an accurate and timely data base of the official text of the laws of the state of New York in furtherance of effecting the provisions of section 44 of the legislative law and section 70-b of the public officers law.