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

163--B

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. SQUADRON, AVELLA, DILAN, HOYLMAN, 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 -- 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 population 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 population 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:

Section 1. Subdivision 13 of section 1728 of the public authorities law, as added by chapter 738 of the laws of 1988, is amended and four new subdivisions 13-a, 13-b, 13-c and 13-d are added to read as follows:

13. To enter into agreements with the city's department of city planning to render any services the authority may request, including but not limited to professional and technical assistance by planning experts, engineers, architects and any other staff as may be necessary, and the use of the premises, personnel, equipment, ACCESS TO RELEVANT DATA and personal property of the department of city planning[. The authority shall provide for reimbursement to the department of city planning from the authority for any expenses incurred by the department of city planning 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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13-A. TO ENTER INTO AGREEMENTS WITH THE CITY'S DEPARTMENT OF HEALTH AND MENTAL HYGIENE TO RENDER ANY SERVICES THE AUTHORITY MAY REQUEST, INCLUDING BUT NOT LIMITED TO ACCESS TO DATA NECESSARY TO DEVELOP REASONABLE STUDENT POPULATION PROJECTIONS CITYWIDE AND FOR EACH COMMUNITY SCHOOL DISTRICT;

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

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

13-D. TO COORDINATE WITH 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 CREATE UNIFORM, CITYWIDE STUDENT POPULATION PROJECTIONS AND COMMUNITY SCHOOL DISTRICT STUDENT POPULATION PROJECTIONS, FOR A MINIMUM OF FIVE YEARS, BASED ON DATA PRODUCED 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. SUCH PROJECTIONS SHALL BE USED IN THE CREATION AND IMPLEMENTATION OF THE AUTHORITY'S FIVE-YEAR EDUCATIONAL FACILITIES CAPITAL PLAN;

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

S 1731. Community participation. 1. Prior to the commencing of new construction or building additions of an educational facility, or the acquisition of real property or any interest therein for such purpose, the authority shall file a copy of the site plan of such facility in its offices and shall provide a copy thereof to the city board, the city planning commission and the community school [board] DISTRICT EDUCATION COUNCIL and THE community board of the district in which the facility will be located. SUCH PLAN SHALL INCLUDE DATA ON PROJECTED STUDENT POPULATION FOR THE COMMUNITY SCHOOL DISTRICT OR DISTRICTS AND THE COMMUNITY BOARD OR BOARDS AFFECTED, THE SOURCE OF THAT DATA AND THE REASON THE PROPOSED ACTION IS NECESSARY AND HOW SUCH PLAN FACTORS AND ACCOUNTS FOR STUDENT POPULATION PROJECTIONS. Upon request, any other person shall be furnished with such plan or a summary thereof. The authority shall publish in a newspaper of general circulation in the city a notice of the filing of such plan and the availability of the plan and a summary thereof. Such plan shall include, in the case of any project for which the acquisition of real property or interest therein is proposed, the recommended site, any alternate sites considered, and any rationale as to why the alternate sites were not selected.

2. Within thirty days after publication of the notice required under subdivision one of this section, a public hearing with sufficient public notice shall be held by each affected community school [board] DISTRICT EDUCATION COUNCIL on any or all aspects of the site plan and by each affected community board on aspects of the site plan which relate to the general public use of the educational facility and to its impact on the surrounding community, INCLUDING BUT NOT LIMITED TO THE RESPONSIVENESS OF THE SITE PLAN TO PROJECTED CHANGES IN STUDENT POPULATION IN THE AFFECTED COMMUNITY BOARD OR BOARDS AND HOW SUCH PLAN FACTORS AND ACCOUNTS FOR STUDENT POPULATION PROJECTIONS. The affected board may request the attendance of representatives of the authority or the city

board at a hearing and the authority or the city board shall comply with such requests. If the proposed project affects two or more school districts or community boards, then a hearing may be held jointly by the affected community school [boards] DISTRICT EDUCATION COUNCIL and/or the affected community boards. Any 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.

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

1. In accordance with subdivision three of this section, the chancellor shall prepare proposed five-year educational facilities capital plans. Each such plan shall describe each program element proposed in the plan, and shall set forth an estimate of the cost of each program element, an estimate of the capital funding required each year and the expected sources of such funding. The plan shall also set forth an estimate of the cost of each project identified in the plan, shall assign priorities to the projects included therein and shall state the year in which each such project's design and construction is proposed to be initiated and estimated to be completed. IN PREPARING THE PLAN AND EACH PROJECT CONTAINED THEREIN, THE CHANCELLOR SHALL FACTOR AND ACCOUNT FOR THE EFFECT OF 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 PURSUANT TO SUBDIVISIONS THIRTEEN-A, THIRTEEN-B, THIRTEEN-C, AND THIRTEEN-D OF SECTION SEVENTEEN HUNDRED TWENTY-EIGHT OF THE PUBLIC AUTHORITIES LAW.

S 4. Paragraph a of subdivision 6 of section 2590-p of the education law, as added by chapter 738 of the laws of 1988, is amended to read as follows:

a. For each project included in an approved five-year educational facilities capital plan, the chancellor shall develop a detailed scope of the project, which shall include the following: (i) the purposes and public to be served, (ii) the programs to be conducted in the facility, (iii) the gross amounts of space and bulk for any building or structure, (iv) identification of the intent to use architectural, engineering or other consultant services and estimated fees for such consultant services, (v) the schedule of design and construction, (vi) the total estimated project costs, including costs for site acquisition, preparation and tenant relocation, design, construction and equipment, (vii) maximum estimated expenditures for the project for each fiscal year until its completion, (viii) costs associated with maintenance and operation of the physical plant [and], (ix) HOW THE 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 PURSUANT TO SUBDIVISIONS THIRTEEN-A, THIRTEEN-B, THIRTEEN-C, AND THIRTEEN-D OF SECTION SEVENTEEN HUNDRED TWENTY-EIGHT OF THE PUBLIC AUTHORITIES LAW IS FACTORED AND ACCOUNTED FOR, AND (X) such other information as the chancellor shall specify. In the event, a project consists of a program element without identification of the particular education facility at which such project is to be performed, the detailed scope of the project shall specify the nature of the work to be performed, applicable price and quality standards, a list of the schools eligible for such work, annual performance targets and the total estimated costs of such project during each fiscal year until its completion.

S 5. Paragraph b of subdivision 3 of section 2590-p of the education law, as amended by chapter 345 of the laws of 2009, is amended to read as follows:

b. Commencing on November first, nineteen hundred ninety-three, and every five years thereafter, the chancellor shall submit a proposed five-year educational facilities capital plan to take effect on the succeeding July first to each community SCHOOL district education council, which shall conduct a public hearing and shall prepare and submit recommendations to the chancellor on or before January first of the ensuing year with respect to matters in the plan that involve that school district. UPON SUBMISSION OF SUCH RECOMMENDATIONS TO THE CHANCELLOR, THE BOARD SHALL MAKE PUBLIC, PURSUANT TO THIS PARAGRAPH:

(I) A SUMMARY OF THE ISSUES RAISED AT SUCH HEARING;

(II) A STATEMENT OF THE REASONS WHY ANY SIGNIFICANT ALTERNATIVE RECOMMENDATIONS AT SUCH HEARING 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 THE ISSUES RAISED AT SUCH HEARING.

The chancellor shall consider the recommendations received from the community district education councils, and, on or before February first of such year, shall submit a final proposed five-year educational facilities capital plan to the city board for its approval pursuant to paragraph (d) of subdivision one of section twenty-five hundred ninety-g of this article.

S 6. Paragraph b of subdivision 3 of section 2590-p of the education law, as added by chapter 738 of the laws of 1988, is amended to read as follows:

b. Commencing on November first, nineteen hundred ninety-three, and every five years thereafter, the chancellor shall submit a proposed five-year educational facilities capital plan to take effect on the succeeding July first to each community school [board] DISTRICT EDUCATION COUNCIL, which shall conduct a public hearing and shall prepare and submit recommendations to the chancellor on or before January first of the ensuing year with respect to matters in the plan that involve that school district. The chancellor shall consider the recommendations received from the community [school boards] SCHOOL DISTRICT EDUCATION COUNCIL, and, on or before February first of such year, shall submit a final proposed five-year educational facilities capital plan to the city board for its approval. On or before March first of such year, the city board shall approve the five-year educational facilities capital plan submitted by the chancellor or such plan as is determined by the city board. UPON SUBMISSION OF SUCH RECOMMENDATIONS TO THE CHANCELLOR, THE BOARD SHALL MAKE PUBLIC, PURSUANT TO THIS PARAGRAPH:

(I) A SUMMARY OF THE ISSUES RAISED AT SUCH HEARING;

(II) A STATEMENT OF THE REASONS WHY ANY SIGNIFICANT ALTERNATIVE RECOMMENDATIONS AT SUCH HEARING 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 THE ISSUES RAISED AT SUCH HEARING.

S 7. This act shall take effect immediately; provided that the amendments to paragraph b of subdivision 3 of section 2590-p of the education law made by section five of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 34 of chapter 91 of the laws of 2002, as amended, when upon such date the provisions of section six of this act shall take effect.