

7859--A

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

1 Section 1. Subdivisions (e), (g), (i) and (j) of section 2 of chapter
2 416 of the laws of 2007 establishing the city of Rochester and the board
3 of education of the city school district of the city of Rochester school
4 facilities modernization program act, are amended and five new subdivi-
5 sions (k), (l), (m), (n) and (o) are added to read as follows:
6 (e) "[RSC board] RJSCB" shall mean the joint schools construction
7 board of the city and the city school district, acting as agent for the
8 city, the city school district, or both, created by section three of
9 this act.
10 (g) "Project" shall mean work at an existing school building site that
11 involves the design, reconstruction, or rehabilitation of an existing
12 school building for its continued use as a school of the city school
13 district, which may include an addition to existing school buildings for
14 such continued use and which also may include (1) the construction or
15 reconstruction of athletic fields, playgrounds, and other recreational
16 facilities for such existing school buildings[,]; and/or (2) the acqui-
17 sition and installation of all equipment necessary and attendant to and
18 for the use of such existing school building, INCLUDING BUT NOT LIMITED
19 TO ITEMS LOCATED AT SITES NOT WITHIN A PROJECT THAT WILL ALLOW THE RJSCB
20 TO CONDUCT DISTRICT-WIDE TECHNOLOGY IMPROVEMENTS TO BENEFIT EXISTING
21 SCHOOL BUILDINGS; AND/OR (3) THE ACQUISITION OF ADDITIONAL REAL PROPERTY
22 BY THE CITY TO FACILITATE THE PROJECT.

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

LBD15564-12-4

1 (i) "Program manager" shall mean an independent program management
2 firm hired by the [RSC board] RJSCB to assist it in: (i) developing and
3 implementing procedures for the projects undertaken and contracted for
4 by the [RSC board] RJSCB; (ii) reviewing plans and specifications for
5 projects; (iii) developing and implementing policies and procedures to
6 utilize employment resources to provide sufficient skilled employees for
7 such projects including developing and implementing training programs,
8 if required; [and] (iv) managing such projects; AND (V) PROVIDING SUCH
9 PLANNING, DESIGN, FINANCING, AND OTHER SERVICES AS MAY BE APPROPRIATE TO
10 IMPLEMENT ONE OR MORE CONSTRUCTION OR RECONSTRUCTION PROJECTS PURSUANT
11 TO THIS ACT.

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

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

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

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

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

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

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

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

42 (b) Such board shall be composed of seven voting members: three of
43 whom shall be appointed by the mayor of the city; three of whom shall be
44 appointed by the superintendent of the board of education of the city
45 school district; AND one of whom shall be independent from both the city
46 school district and the city but who shall have been agreed upon by the
47 mayor and the superintendent; and one non-voting member who shall be the
48 independent compliance officer, or the representative of the independent
49 compliance officer. One of the voting members shall be chosen, by such
50 voting members, to serve as chair of the board. Members of the board
51 shall not receive a salary or other compensation for such board duties,
52 but shall be entitled to reimbursement for actual and necessary expenses
53 incurred in the performance of his or her board duties. Members of the
54 board shall not be disqualified from holding public office or employ-
55 ment, nor shall they forfeit any office or employment by reason of their
56 appointment, notwithstanding the provisions of any general, special, or

1 local law, ordinance or city charter to the contrary. THE BOARD WILL BE
2 RECONSTITUTED ON THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF 2014
3 THAT AMENDED THIS SUBDIVISION AND THE TERM OF EACH PRIOR BOARD MEMBER
4 SHALL AUTOMATICALLY EXPIRE ON SUCH DATE PROVIDED HOWEVER THAT NOTHING
5 SHALL PRECLUDE THE REAPPOINTMENT OF AN EXISTING BOARD MEMBER.

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

11 6. TO ENGAGE AN EXECUTIVE DIRECTOR OR APPOINT AN ADVISORY STAFF
12 CONSISTING OF CITY AND CITY SCHOOL DISTRICT EMPLOYEES TO PROVIDE OVER-
13 SIGHT OF THE PROGRAM MANAGER PROVIDED THAT THE EXECUTIVE DIRECTOR SHALL
14 NOT HAVE BEEN OR BE A MEMBER OF THE RJSCB WITHIN THE TWENTY-FOUR MONTH
15 PERIOD PRECEDING OR SUBSEQUENT TO SERVING AS THE EXECUTIVE DIRECTOR.

16 S 4. Sections 4, 5, 6, 7, 8, 9, 10, 11 and 13 of chapter 416 of the
17 laws of 2007 establishing the city of Rochester and the board of educa-
18 tion of the city school district of the city of Rochester school facili-
19 ties modernization program act, section 5 as amended by chapter 66 of
20 the laws of 2012, are amended to read as follows:

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

26 S 5. Comprehensive school facilities modernization plan. [Before
27 formal selection of the projects occurs, the RSC board shall develop]
28 THE SUPERINTENDENT SHALL SUBMIT TO THE RJSCB A COMPREHENSIVE DRAFT PLAN
29 RECOMMENDING AND OUTLINING THE PROJECTS FOR PHASE TWO IT PROPOSES TO BE
30 UNDERTAKEN PURSUANT TO THIS ACT. THE RJSCB SHALL CONSIDER THE PLAN IN
31 DEVELOPING a comprehensive school facilities modernization plan recom-
32 mending and outlining the projects it proposes to be potentially under-
33 taken pursuant to this act. Such plan shall include: (a) an estimate of
34 total costs to be financed, proposed financing plan, proposed method of
35 financing, terms and conditions of the financing, estimated financing
36 costs, and, if city general obligation bonds or notes are not proposed
37 as the method of financing, a comparison of financing costs between such
38 bonds or notes and the proposed method of financing. Payment of debt
39 service on bonds, notes or other obligations issued to secure financing
40 of not more than \$325,000,000 IN PHASE ONE AND \$435,000,000 IN PHASE TWO
41 for projects undertaken pursuant to this act shall not be considered
42 when determining the "city amount" required pursuant to subparagraph
43 (ii) of paragraph a of subdivision 5-b of section 2576 of the education
44 law; provided, however, that this provision shall not otherwise affect
45 the determination of said "city amount" with respect to funding unre-
46 lated to projects undertaken pursuant to this act. The plan should also
47 address what specific options would be used to ensure that sufficient
48 resources exist to cover the local share of any such project cost on an
49 annual basis; (b) information concerning the potential persons to be
50 involved in the financing and such person's role and responsibilities;
51 (c) estimates on the design, reconstruction and rehabilitation costs by
52 project, any administrative costs for potential projects, and an outline
53 of the timeframe expected for completion of each potential project; (d)
54 a detailed description of the request for proposals process and an
55 outline of the criteria to be used for selection of the program manager,
56 the independent compliance officer and all contractors; PROVIDED THAT

1 THE RJSCB MAY EXTEND THE CONTRACTS OF THE PROVIDERS OF PROFESSIONAL
2 SERVICES FOR PHASE ONE UPON THE ADOPTION OF FINDINGS THAT DOING SO WOULD
3 BE IN THE PUBLIC INTEREST; THE CONTRACTS OF THE PROGRAM MANAGER AND THE
4 INDEPENDENT COMPLIANCE OFFICER FOR PHASE TWO WILL BE REBID, AND PROVIDED
5 FURTHER THAT THE PROGRAM MANAGER AND THE INDEPENDENT COMPLIANCE OFFICER
6 AND ANY NEW OR DIFFERENT PROVIDERS OF PROFESSIONAL SERVICES SHALL BE
7 ENGAGED IN COMPLIANCE WITH THE PROVISIONS OF SECTION EIGHT OF THIS ACT;
8 (e) any proposed amendments to the city school district's five-year
9 capital facilities plan submitted in accordance with subdivision 6 of
10 section 3602 of the education law and the regulations of the commission-
11 er; and (f) a preliminary diversity plan to develop diversity goals,
12 including appropriate community input and public discussion, and develop
13 strategies that would create and coordinate any efforts to ensure a more
14 diverse workforce for the projects. The preliminary diversity plan
15 should address accountability for attainment of the diversity goals,
16 what forms of monitoring would be used, and how such information would
17 be publicly communicated.

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

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

29 The [RSC board] RJSCB shall submit the components of such comprehen-
30 sive plan outlined in subdivision (a) of this section to the comp-
31 troller, along with any other information requested by the comptroller,
32 for his or her review and approval.

33 S 6. Project selection. Notwithstanding any general, special or
34 local law to the contrary and upon approval by the comptroller pursuant
35 to section five of this act, the [RSC board] RJSCB may select projects
36 to be undertaken pursuant to this act, as provided for in such approved
37 comprehensive plan. After the [RSC board] RJSCB has selected a new
38 project and plans and specifications for such project have been prepared
39 and approved by the [RSC board] RJSCB, which are consistent with the
40 approved comprehensive plan, the [RSC board] RJSCB shall deliver such
41 plans and specifications to the SUPERINTENDENT OF THE CITY SCHOOL
42 DISTRICT AND THE MAYOR OF THE CITY OF ROCHESTER FOR REVIEW TO ENSURE
43 THAT SUFFICIENT RESOURCES EXIST TO PAY THE LOCAL SHARE OF ANY SUCH
44 PROJECT COST ON AN ANNUAL BASIS AND THAT THE PLANS MEET PROGRAM NEEDS,
45 AND UPON THE APPROVAL OF THE SUPERINTENDENT, TO THE commissioner for his
46 or her approval. After approval by the SUPERINTENDENT AND commissioner,
47 the plans and specifications shall be returned to the [RSC board] RJSCB.
48 All such specifications shall detail the number of students the
49 completed project is intended to serve, the site description, the types
50 of subjects to be taught, the types of activities for school, recre-
51 ational, social, safety, or other purposes intended to be incorporated
52 in the school building or on its site and such other information as the
53 [RSC board] RJSCB and the commissioner shall deem necessary or advis-
54 able. THE DISTRICT PROGRAM MANAGER SHALL ESTABLISH REASONABLE GUIDE-
55 LINES OR LIMITS ON INCIDENTAL COSTS TO ASSURE THAT TO THE GREATEST
56 EXTENT POSSIBLE SUCH COSTS FOR EACH PROJECT DO NOT EXCEED THE STATE'S

1 MAXIMUM INCIDENTAL COST ALLOWANCE, IN ORDER TO MAXIMIZE EFFICIENT USE OF
2 STATE BUILDING AID.

3 NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE RJSCB
4 SHALL SUBMIT ESTIMATED PROJECT COSTS FOR THE PROJECTS AUTHORIZED PURSU-
5 ANT TO SUBDIVISION (B) OF SECTION FOUR OF THIS ACT AFTER THE COMPLETION
6 OF SCHEMATIC PLANS AND SPECIFICATIONS FOR REVIEW BY THE COMMISSIONER. IF
7 THE TOTAL PROJECT COSTS ASSOCIATED WITH SUCH PROJECTS EXCEED THE SUM OF
8 THE ESTIMATED INDIVIDUAL APPROVED COST ALLOWANCE OF EACH BUILDING
9 PROJECT BY MORE THAN THE LESSER OF 43 MILLION DOLLARS OR TEN PERCENT OF
10 THE APPROVED COSTS, AND THE CITY SCHOOL DISTRICT HAS NOT OTHERWISE
11 DEMONSTRATED TO THE SATISFACTION OF THE EDUCATION DEPARTMENT THE AVAIL-
12 ABILITY OF ADDITIONAL LOCAL SHARES FOR SUCH EXCESS COSTS, THEN THE RJSCB
13 SHALL NOT PROCEED WITH THE PREPARATION OF FINAL PLANS AND SPECIFICATIONS
14 FOR SUCH PROJECTS UNTIL THE PROJECTS HAVE BEEN REDESIGNED OR VALUE-ENGI-
15 NEERED TO REDUCE ESTIMATED PROJECT COSTS SO AS NOT TO EXCEED THE ABOVE
16 COST LIMITS.

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

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

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

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

1 powers are exercised by the city and the city school district jointly
2 and pursuant to their respective jurisdictions and the general laws
3 applicable thereto, except as modified by this act.

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

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

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

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

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

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

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

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

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

27 S 10. Program managers. (a) All contracts entered into by RESOLUTION
28 OF the [RSC board] RJSCB for projects FOR PHASE TWO undertaken pursuant
29 to this act shall be managed by an independent program manager. The
30 selection of the program manager shall be pursuant to the competitive
31 process established in section eight of this act. PRIOR TO ISSUANCE OF
32 THE CONTRACT, THE PROGRAM MANAGER SELECTED SHALL BE APPROVED BY THE
33 SUPERINTENDENT, MAYOR, CITY COUNCIL AND THE ROCHESTER CITY SCHOOL
34 DISTRICT. The program manager shall have experience in planning, design-
35 ing, and constructing new and/or reconstructing existing school build-
36 ings, public facilities, commercial facilities, and/or infrastructure
37 facilities, and in the negotiation and management of labor contracts and
38 agreements, training programs, educational programs, and physical tech-
39 nological requirements for educational programs. The program manager
40 shall manage all projects undertaken pursuant to this act, review
41 project schedules, review payment schedules, prepare cost estimates and
42 assess the safety programs of contractors and all training programs, if
43 required. The program manager shall implement procedures for verifica-
44 tion by it that all work for which payment has been requested has been
45 satisfactorily completed.

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

53 S 11. Independent compliance officers. [(a)] All contracts entered
54 into by RESOLUTION OF the [RSC board] RJSCB for projects FOR PHASE TWO
55 undertaken by this act shall be monitored by an independent compliance
56 officer. The compliance officer shall: develop, implement, advertise,

1 promote and monitor policies and procedures to utilize and provide
2 sufficient MWBE, DBE and skilled minority employment resources partic-
3 ipation opportunities to be followed by prime contractors and subcon-
4 tractors for such projects; review, modify if necessary, and approve the
5 preliminary diversity plan established pursuant to section five of this
6 act; provide technical assistance to potential MWBE and DBE contractors
7 and subcontractors interested in bidding on any such projects; obtain
8 and maintain records and documentation to confirm compliance with any
9 requirements contained in the approved diversity plan, for any such
10 project; identify contractors in non-compliance with any such require-
11 ments contained in the approved diversity plan or in violation of any
12 federal, state and local laws, rules or regulations; monitor and report
13 the upward/downward price adjustment and payment amounts to MWBEs and
14 DBEs listed on contractors utilization plan for any such project; devel-
15 op and work with the [RSC board] RJSCB to enforce agreed financial or
16 monetary sanctions for any contractor's non-compliance with the MWBE/DBE
17 utilization master plan. IN ADDITION, THE INDEPENDENT COMPLIANCE OFFI-
18 CER SHALL: DEVELOP, IMPLEMENT, ADVERTISE, PROMOTE AND MONITOR MWBE/DBE
19 POLICIES AND PROCEDURES FOR EACH PROJECT TO BE FOLLOWED BY PRIME
20 CONTRACTORS AND SUBCONTRACTORS FOR SUCH PROJECTS; OBTAIN AND MAINTAIN
21 RECORDS AND DOCUMENTATION TO CONFIRM COMPLIANCE WITH ANY APPLICABLE
22 REQUIREMENTS FOR EACH PROJECT; IDENTIFY CONTRACTORS IN NON-COMPLIANCE
23 WITH ANY SUCH REQUIREMENTS PURSUANT TO THIS SECTION OR IN VIOLATION OF
24 ANY FEDERAL, STATE AND LOCAL LAWS, RULES OR REGULATIONS. THE INDEPENDENT
25 COMPLIANCE OFFICER SHALL REPORT TO THE RJCSB ON A MONTHLY BASIS.

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

30 S 13. Contracts. Notwithstanding any general, special, or local law
31 or ordinance to the contrary, contracts entered into by the [RSC board]
32 RJSCB for projects undertaken pursuant to this act: (a) may be funded by
33 the issuance of certificates of participation issued by the city pursu-
34 ant to this act; (b) may be installment purchased contracts; and (c)
35 shall be subject to the provisions of section 109-b of the general
36 municipal law, except for paragraph (a) of subdivision 3 of such
37 section, subdivision 5 of such section, and paragraph (c) of subdivision
38 6 of such section, and except to the extent such section is inconsistent
39 with the provisions of this act. All provisions with reference to
40 installment purchase contracts or certificates of participation
41 contained in section 109-b of the general municipal law, except any
42 prohibition against using such installment purchase contracts or certif-
43 icates of participation for the purposes set forth in this act, shall
44 apply to installment purchase contracts or certificates of participation
45 entered into or issued pursuant to the authority of this section.

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

50 S 16. County of Monroe industrial development agency. (a) Notwith-
51 standing any limitations contained in article 18-A of the general munic-
52 ipal law, including subdivisions 4[,] AND 12 [and 13] of section 854 and
53 section 926 of the general municipal law, a project undertaken pursuant
54 to this act shall be a "project" within the definition and for the
55 purposes of subdivision 4 of section 854 of the general municipal law,
56 which may be financed by the county of Monroe industrial development

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

17 (b) In the event that the city or the city school district shall fail
18 to make a payment in such amount and by such date as is provided to be
19 made by such city or city school district under agreements entered into
20 with the county of Monroe industrial development agency, the dormitory
21 authority of the state of New York, or any successor entity thereto
22 pursuant to [paragraph] SUBDIVISION (a) of this section, such entity
23 shall certify to the comptroller. Such certificate shall be in such form
24 as the entity deems desirable, but shall specify the amount by which
25 such payment shall have been deficient. The comptroller, upon receipt of
26 such certificate from the entity, shall withhold such amount from such
27 city or city school district any state and/or school aid payable to such
28 city or city school district to the extent of the amount so stated in
29 such certificate as not having been made, and shall immediately pay over
30 to the entity the amount so withheld. Any amount so paid to the entity
31 from such state and/or school aid shall not obligate the state to make,
32 nor entitle the city or the city school district to receive, any addi-
33 tional amounts of state and/or school aid. Nothing contained herein
34 shall be deemed to prevent the state from modifying, reducing or elimi-
35 nating any program or programs of state and/or school aid; nor shall the
36 state be obligated by the terms hereof to maintain state and/or school
37 aid at any particular level or amount.

38 S 6. Item (iv) of clause (a) of subparagraph 5 of paragraph e of
39 subdivision 6 of section 3602 of the education law, as added by chapter
40 416 of the laws of 2007, is amended to read as follows:

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

1 if the project had been authorized to be financed and had been financed
2 through such entity, as certified to the commissioner by the executive
3 director of the state of New York dormitory authority shall be the
4 interest rate established for such city applicable to such debt.

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

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

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

32 S 8. Any person who knowingly files a false written report or other
33 false written instrument with the RJSCB, the independent compliance
34 officer or program manager may be subject to criminal penalties pursuant
35 to the applicable provisions of the penal law in addition to any other
36 penalties authorized by law.

37 S 9. This act shall take effect immediately.