

4366--A

2015-2016 Regular Sessions

I N A S S E M B L Y

January 30, 2015

Introduced by M. of A. GALEF, PAULIN, SKARTADOS, JAFFEE, GUNTHER, CAHILL, SALADINO, BARCLAY, BRINDISI, RAIA, ABINANTI, STECK, GOODELL, DiPIETRO, STIRPE, SKOUFIS, SANTABARBARA, KATZ, BRONSON, FAHY, BARRETT, HAWLEY -- Multi-Sponsored by -- M. of A. BUCHWALD, COLTON, CROUCH, LUPINACCI, MONTESANO -- read once and referred to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to exempting BOCES capital expenditures from limitations upon local school district tax levies

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

1 Section 1. Paragraph c of subdivision 2 of section 2023-a of the
2 education law, as added by section 2 of part A of chapter 97 of the laws
3 of 2011, is amended to read as follows:
4 c. "Capital [local] expenditures" means the taxes associated with
5 budgeted expenditures resulting from the financing, refinancing, acqui-
6 sition, design, construction, reconstruction, rehabilitation, improve-
7 ment, furnishing and equipping of, or otherwise providing for school
8 district capital facilities or school district capital equipment,
9 including debt service and lease expenditures, and transportation capi-
10 tal debt service, subject to the approval of the qualified voters where
11 required by law AND THE SCHOOL DISTRICT'S SHARE OF CAPITAL EXPENDITURES
12 FOR BOARDS OF COOPERATIVE EDUCATIONAL SERVICES AS AUTHORIZED PURSUANT TO
13 SUBPARAGRAPH ONE OF PARAGRAPH B OF SUBDIVISION FOUR, PARAGRAPHS P, T AND
14 U OF SUBDIVISION FOUR, PARAGRAPHS A AND B OF SUBDIVISION THIRTEEN, AND
15 PARAGRAPH A OF SUBDIVISION FOURTEEN OF SECTION NINETEEN HUNDRED FIFTY OF
16 THIS TITLE.
17 S 2. Paragraph b of subdivision 4 of section 2023 of the education
18 law, as amended by section 3 of part A of chapter 97 of the laws of
19 2011, is amended to read as follows:

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

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1 b. The resolution of the trustee, board of trustees, or board of
2 education adopting a contingency budget shall incorporate by reference a
3 statement specifying the projected percentage increase or decrease in
4 total spending for the school year, and explaining the reasons for
5 disregarding any portion of an increase in spending in formulating the
6 contingency budget; PROVIDED, HOWEVER, THE SCHOOL DISTRICT'S SHARE OF
7 CAPITAL EXPENDITURES FOR BOARDS OF COOPERATIVE EDUCATIONAL SERVICES AS
8 AUTHORIZED PURSUANT TO SUBPARAGRAPH ONE OF PARAGRAPH B OF SUBDIVISION
9 FOUR, PARAGRAPHS P, T AND U OF SUBDIVISION FOUR, PARAGRAPHS A AND B OF
10 SUBDIVISION THIRTEEN AND PARAGRAPH A OF SUBDIVISION FOURTEEN OF SECTION
11 NINETEEN HUNDRED FIFTY OF THIS TITLE SHALL NOT BE INCLUDED IN TOTAL
12 SPENDING.

13 S 3. Subparagraph 1 of paragraph b of subdivision 4 of section 1950 of
14 the education law, as amended by chapter 474 of the laws of 1996, is
15 amended to read as follows:

16 (1) Prepare, prior to the annual meeting of members of the boards of
17 education and school trustees, held as provided in paragraph o of this
18 subdivision, a tentative budget of expenditures for the program costs, a
19 tentative budget for capital costs, and a tentative budget for the
20 administration costs of the board of cooperative educational services.
21 Such budgets shall include the proposed budget for the upcoming school
22 year, the previous school year's actual costs and the current school
23 year's projected costs for each object of expenditure. Such program,
24 capital and administrative budgets shall be separately delineated in
25 accordance with the definition of program, capital and administrative
26 costs which shall be promulgated by the commissioner after consultation
27 with school district officials and the director of the budget. Personal
28 service costs for each budget shall include the number of full-time
29 equivalent positions funded and total salary and, except as noted here-
30 in, fringe benefit costs for such positions by program. Each program
31 budget shall also include the local and statewide unit costs of such
32 programs and services proposed for the upcoming school year, such actual
33 unit costs for the previous school year, and the current school year's
34 projected unit costs, all established in accordance with paragraph d of
35 this subdivision. The capital budget shall include facility construction
36 and lease expenditures authorized pursuant to paragraphs p, t and u of
37 this subdivision, payments for the repayment of indebtedness related to
38 capital projects, payments for the acquisition or construction of facil-
39 ities, sites or additions, provided that such budget shall contain a
40 rental, operations and maintenance section that will include base rent
41 costs, total rent costs, operations and maintenance charges, cost per
42 square foot for each facility rented or leased by such board of cooper-
43 ative educational services, and any and all expenditures associated with
44 custodial salaries and benefits, service contracts, supplies, utilities,
45 maintenance and repairs for such facilities, and that such budget shall
46 include the annual debt service and total debt for all facilities
47 financed by bonds or notes of the component districts, annual rental and
48 lease payments and total rental and lease costs for all facilities rent-
49 ed by such board; such capital budget shall also include expenditures
50 resulting from court judgments and orders from administrative bodies or
51 officers, and, to the extent a board's administrative budget has been
52 adopted, one-time costs incurred in the first year in which an employee
53 retires. The administrative budget shall include, but need not be limit-
54 ed to, office and central administrative expenses, traveling expenses
55 and salaries and benefits of supervisors and administrative personnel
56 necessary to carry out the central administrative duties of the supervi-

1 sory district, any and all expenditures associated with the board, the
2 office of district superintendent, general administration, central
3 support services, planning, and all other administrative activities.
4 Such administrative budget shall also specify the amount of supplementa-
5 ry salary and benefits, if any, which the board determines should be
6 paid to the district superintendent of schools and the board shall
7 append to such budget a detailed statement of the total compensation to
8 be paid the district superintendent of schools by the board, including a
9 delineation of the salary, annualized cost of benefits and any in-kind
10 or other form of remuneration to be paid, plus, commencing with the
11 presentation of the budget for the nineteen hundred ninety-seven--nine-
12 ty-eight school year, a list of items of expense eligible for reimburse-
13 ment on expense accounts in the ensuing school year and a statement of
14 the amount of expenses paid to the district superintendent of schools in
15 the prior year for purposes of carrying out his or her official duties;
16 PROVIDED, HOWEVER, SUCH CAPITAL COSTS SHALL NOT BE INCLUDED IN A SCHOOL
17 DISTRICT'S TAX LEVY PURSUANT TO SECTION TWO THOUSAND TWENTY-THREE-A OF
18 THIS TITLE.

19 S 4. Subparagraph (a) of paragraph p of subdivision 4 of section 1950
20 of the education law, as amended by chapter 374 of the laws of 2014, is
21 amended to read as follows:

22 (a) To rent suitable land, classrooms, offices or buildings upon or in
23 which to maintain and conduct such cooperative educational services and
24 administrative offices for a period not to exceed ten years for leases
25 entered into with public entities and twenty years for leases entered
26 into with non-public entities and to improve, alter, equip and furnish
27 such land, classrooms, offices or buildings in a suitable manner for
28 such purposes, provided that: (1) before executing any lease, the board
29 shall adopt a resolution determining that such agreement is in the best
30 financial interests of the supervisory district and stating the basis of
31 that determination; (2) the rental payment shall not be more than the
32 fair market value as determined by the board and provided to the commis-
33 sioner; (3) The board discloses any conflict of interest pursuant to
34 subparagraph (c) of this paragraph, or any other potential or perceived
35 conflict of interest, to the commissioner, and in the event of a
36 conflict of interest or a potential or perceived conflict of interest,
37 provides detailed documentation to the commissioner demonstrating that
38 the cost of the lease is not more than fair market value; and (4) upon
39 the consent of the commissioner, renewal of such lease may be made for a
40 period of up to ten years. Nothing contained herein shall prevent the
41 board from entering into a lease agreement which provides for the
42 cancellation of the same by such board upon: (i) a substantial increase
43 or decrease in pupil enrollment; or (ii) a substantial change in the
44 needs and requirements of a board of cooperative educational services
45 with respect to facilities; or (iii) any other change which substantial-
46 ly affects the needs or requirements of a board of cooperative educa-
47 tional services or the community in which it is located. No lease or
48 other contract for the occupancy of such land, classrooms, offices or
49 buildings shall be enforceable against the board of cooperative educa-
50 tional services unless and until the same shall have been approved in
51 writing by the commissioner. In the case of a lease longer than ten
52 years, the commissioner's written approval must include a finding that
53 the proposed lease complies with all requirements of this paragraph and
54 would be more cost-effective than a lease of ten years or fewer;
55 PROVIDED, HOWEVER, SUCH CAPITAL COSTS SHALL NOT BE INCLUDED IN A SCHOOL

1 DISTRICT'S TAX LEVY PURSUANT TO SECTION TWO THOUSAND TWENTY-THREE-A OF
2 THIS TITLE.

3 S 5. Paragraph t of subdivision 4 of section 1950 of the education
4 law, as added by chapter 795 of the laws of 1967, is amended to read as
5 follows:

6 t. When authorized by the qualified voters of the board, to purchase
7 or otherwise acquire buildings, sites or additions thereto, to purchase
8 or otherwise acquire real property for any lawful purpose and to
9 construct buildings thereon; PROVIDED, HOWEVER, SUCH CAPITAL COSTS SHALL
10 NOT BE INCLUDED IN A SCHOOL DISTRICT'S TAX LEVY PURSUANT TO SECTION TWO
11 THOUSAND TWENTY-THREE-A OF THIS TITLE.

12 S 6. Paragraph u of subdivision 4 of section 1950 of the education
13 law, as added by chapter 795 of the laws of 1967, is amended to read as
14 follows:

15 u. To purchase necessary furniture, equipment, implements, apparatus
16 and supplies; PROVIDED, HOWEVER, SUCH CAPITAL COSTS SHALL NOT BE
17 INCLUDED IN A SCHOOL DISTRICT'S TAX LEVY PURSUANT TO SECTION TWO THOU-
18 SAND TWENTY-THREE-A OF THIS TITLE.

19 S 7. Paragraph g of subdivision 5 of section 1950 of the education
20 law, as amended by section 5 of part C of chapter 57 of the laws of
21 2004, is amended to read as follows:

22 g. Any payment required by a board of cooperative educational services
23 to the dormitory authority or any payment required by a board of cooper-
24 ative educational services to acquire or construct a school facility of
25 the board of cooperative educational services, and any payments for
26 rental of facilities by a board of cooperative educational services
27 shall, for the purposes of apportionment of public moneys to the board
28 of cooperative educational services by the state of New York, be deemed
29 to be an administrative or capital expense, as designated by the commis-
30 sioner, but the entire amount of such payment shall be utilized in
31 making such apportionment and the limitation of ten percent of the total
32 expenses contained in this subdivision shall not be applicable. Any
33 expense designated by the commissioner as a capital expense shall be
34 included in the capital budget of the board of cooperative educational
35 services and, except as otherwise provided in this paragraph, shall be
36 aided in the same manner as an administrative expense. Any such payment
37 shall not be considered part of the total expenses of the board for
38 purposes of determining the administrative and clerical expenses not to
39 exceed ten percent otherwise eligible for aid under this subdivision,
40 and such payments shall be considered for the purpose of apportionment
41 during the current school year such payment is made. The apportionment
42 for such payments shall be determined by multiplying the amount of such
43 payment allocated to each component school district in the board of
44 cooperative educational services by the aid ratio, and shall be not more
45 than ninety percent converted to decimals, of each such component
46 computed pursuant to subdivision three of section thirty-six hundred two
47 OF THIS CHAPTER and used to apportion aid to that district in that
48 current school year; provided, however, the apportionment for the
49 construction, acquisition, reconstruction, rehabilitation, or improve-
50 ment of board of cooperative educational services facilities, including
51 payments to the dormitory authority and payments under any lease agree-
52 ment, shall be based upon the cost of the board of cooperative educa-
53 tional services school facilities but not to exceed the cost allowance
54 set forth in subdivision six of section thirty-six hundred two of [the
55 education law] THIS CHAPTER and payments for rental facilities shall be
56 subject to the approval of the commissioner; PROVIDED, HOWEVER, SUCH

CAPITAL COSTS SHALL NOT BE INCLUDED IN A SCHOOL DISTRICT'S TAX LEVY PURSUANT TO SECTION TWO THOUSAND TWENTY-THREE-A OF THIS TITLE.

S 8. Paragraphs a and b of subdivision 13 of section 1950 of the education law, as added by chapter 33 of the laws of 1976, are amended to read as follows:

a. A board of cooperative educational services and the component school districts of such board of cooperative educational services may enter into an agreement providing for the acquisition from the dormitory authority of facilities designed to house services to be provided by such board of cooperative educational services and for the sharing of the cost of such acquisition. Such agreement in addition to providing for all other matters deemed necessary and proper shall (i) set forth the cost of such acquisition which shall be the amount certified by the dormitory authority as sufficient to pay the principal of, the redemption premium, if any, and interest to the earliest of either the maturity date or the next redemption date on all obligations of the dormitory authority issued in relation to providing such facilities, including all incidental expenses in relation thereto, and (ii) provide for an allocation and apportionment of the cost of such acquisition among the component school districts on such equitable basis as the parties thereto shall determine and agree, and the proportion of the total cost to be provided by each such district in accordance with such allocation and apportionment. In those cases where construction of such facilities shall not have been completed, the amount so certified by the dormitory authority shall include the amount estimated to be necessary by the dormitory authority to complete such construction by it acting for and on behalf of such board of cooperative educational services; provided, however, that such agreement shall provide that such board shall pay to the dormitory authority any additional amounts thereafter determined and certified by the dormitory authority to be necessary in order to complete the construction of such facilities. Existing contracts awarded by the dormitory authority for the construction of such facilities shall not be modified, nor shall any work not covered thereby be authorized, without the prior consent of an officer of such board authorized to so act by a resolution of such board. Such agreement shall be executed by all the component school districts of such board of cooperative educational services whose allocation of administrative expenses would include a portion of the amounts required to be paid the dormitory authority for the rental of such facilities; PROVIDED, HOWEVER, SUCH CAPITAL COSTS SHALL NOT BE INCLUDED IN A SCHOOL DISTRICT'S TAX LEVY PURSUANT TO SECTION TWO THOUSAND TWENTY-THREE-A OF THIS TITLE.

b. The acquisition of such facilities is hereby declared and determined to be a school district purpose and an object or purpose for which each such component school district is hereby authorized to expend money and contract indebtedness. The period of probable usefulness of such object or purpose is hereby determined to be thirty years. Each such component school district is hereby authorized to finance its share of the cost of the acquisition of such facilities together with costs incidental to such financing, including, but not limited to legal fees, printing, engraving and publication of notices, either from any current funds legally available therefor, or by the issuance of obligations pursuant to the local finance law; provided, however, that (i) no approval of the voters of such component school district shall be required, (ii) the voting of a special tax or a tax to be collected in installments shall not be a condition precedent to the adoption of a bond resolution for such object or purpose, (iii) a majority vote of the

1 entire voting strength of the board of education shall be sufficient for
2 adoption of such a bond resolution, which bond resolution may be adopted
3 at a regular meeting, or a special meeting of the board of education
4 called on not less than twelve hours oral or written notice, which may
5 be held either within or outside of such district, (iv) any such bond
6 resolution shall take effect immediately and shall not be subject either
7 to a mandatory or permissive referendum, and (v) no such bond resolution
8 shall be adopted prior to the execution by the board of cooperative
9 educational services and the component school districts of such board of
10 cooperative educational services of the agreement required by paragraph
11 a of this subdivision; PROVIDED, HOWEVER, SUCH CAPITAL COSTS SHALL NOT
12 BE INCLUDED IN A SCHOOL DISTRICT'S TAX LEVY PURSUANT TO SECTION TWO
13 THOUSAND TWENTY-THREE-A OF THIS TITLE.

14 S 9. Paragraphs a and b of subdivision 14 of section 1950 of the
15 education law, as added by chapter 728 of the laws of 1976, are amended
16 to read as follows:

17 a. All provisions of this subdivision shall be applicable only if any
18 agreement or agreements referred to herein shall be entered into by a
19 board of cooperative educational services and all of the component
20 school districts of the board of cooperative educational services. A
21 board of cooperative educational services and the component school
22 districts of such board of cooperative educational services may enter
23 into an agreement providing for the acquisition or construction, includ-
24 ing new construction, additions or reconstruction of facilities designed
25 to house services to be provided by such board of cooperative educa-
26 tional services and for the sharing of the cost of such acquisition or
27 construction. Such agreement in addition to providing for all other
28 matters deemed necessary and proper shall (i) set forth the cost of such
29 acquisition or construction and costs incidental thereto and (ii)
30 provide for an allocation and apportionment of the costs of such acqui-
31 sition or construction among the component school districts on such
32 equitable basis as the parties thereto shall determine and agree, and
33 the proportion of the total cost to be provided by each such district in
34 accordance with such allocation and apportionment. Such agreement shall
35 be executed by all the component school districts of such board of coop-
36 erative educational services and such board of cooperative educational
37 services. Such agreement may provide that each component school district
38 of such a board of cooperative educational services shall issue an
39 agreed upon amount of its obligations in a total amount sufficient to
40 acquire or construct such facilities, or that all component districts of
41 such board shall together issue joint obligations pledging the full
42 faith and credit for all component districts jointly and that each such
43 district shall pay a specified share of annual debt service on such
44 joint obligations in accordance with the provisions of article [five-g]
45 FIVE-G of the general municipal law and applicable provisions of the
46 local finance law; PROVIDED, HOWEVER, SUCH CAPITAL COSTS SHALL NOT BE
47 INCLUDED IN A SCHOOL DISTRICT'S TAX LEVY PURSUANT TO SECTION TWO THOU-
48 SAND TWENTY-THREE-A OF THIS TITLE.

49 b. The acquisition or construction of such facilities is hereby
50 declared and determined to be a public purpose and a school district
51 purpose and a specific object or purpose for which each such component
52 school district is hereby authorized to expend money and contract
53 indebtedness. The period of probable usefulness of such specific object
54 or purpose is hereby determined to be thirty years. Each such component
55 school district is hereby authorized to finance its share of the cost of
56 the acquisition or construction of such facilities, together with costs

1 incidental thereto, either from any current funds legally available
2 therefor or by the issuance of obligations pursuant to the local finance
3 law; provided, however, that (i) no approval of the voters of such
4 component school district shall be required, (ii) the voting of a
5 special tax or a tax to be collected in installments shall not be a
6 condition precedent to the adoption of a bond resolution for such
7 specific object or purpose, (iii) a majority vote of the entire voting
8 strength of the board of education shall be sufficient for adoption of
9 such a bond resolution, which bond resolution may be adopted at a regu-
10 lar meeting, or a special meeting of the board of education called on
11 not less than twenty-four hours oral or written notice to the members of
12 such board as provided in section sixteen hundred six of [the education
13 law] THIS TITLE, which meeting may be held either within or outside of
14 such district, (iv) any such bond resolution shall take effect imme-
15 diately and shall not be subject to either a mandatory or permissive
16 referendum, and (v) no such bond resolution shall be adopted prior to
17 the execution by the board of cooperative educational services and all
18 of the component school districts of such board of cooperative educa-
19 tional services of the agreement required by paragraph a of this subdivi-
20 sion; PROVIDED, HOWEVER, SUCH CAPITAL COSTS SHALL NOT BE INCLUDED IN A
21 SCHOOL DISTRICT'S TAX LEVY PURSUANT TO SECTION TWO THOUSAND
22 TWENTY-THREE-A OF THIS TITLE.

23 S 10. This act shall take effect immediately; provided that the amend-
24 ments to paragraph c of subdivision 2 of section 2023-a of the education
25 law made by section one of this act shall be subject to the repeal of
26 such section and shall be deemed repealed therewith; provided further,
27 that the amendments to paragraph b of subdivision 4 of section 2023-a of
28 the education law made by section two of this act shall be subject to
29 the expiration of such section and shall be deemed to expire therewith;
30 and provided further, that the amendments to subparagraph (a) of para-
31 graph p of subdivision 4 of section 1950 of the education law made by
32 section four of this act shall be subject to the expiration of such
33 subparagraph and shall be deemed to expire therewith.