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

5059--A

2015-2016 Regular Sessions

I N A S S E M B L Y

February 11, 2015

Introduced by M. of A. NOLAN -- (at request of the State Education Department) -- read once and referred to the Committee on Education -- recommitted to the Committee on Education in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to intervention in school districts with chronic fiscal mismanagement and/or in chronic fiscal distress

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

Section 1. The education law is amended by adding a new section 211-g to read as follows:

S 211-G. INTERVENTION IN SCHOOL DISTRICTS WITH CHRONIC FISCAL MISMANAGEMENT AND/OR IN CHRONIC FISCAL DISTRESS. 1. STAGE ONE FISCAL AT-RISK STATUS. A. THE COMMISSIONER SHALL IDENTIFY AS BEING IN STAGE ONE FISCAL AT-RISK STATUS A SCHOOL DISTRICT IN WHICH THE BOARD OF EDUCATION HAS FAILED TO EXERCISE APPROPRIATE FISCAL MANAGEMENT OF THE SCHOOL DISTRICT BY FAILING TO TAKE ACTIONS NECESSARY TO KEEP THE SCHOOL DISTRICT BUDGET IN BALANCE AND/OR MAINTAIN AN APPROPRIATE FUND BALANCE FOR A PERIOD OF AT LEAST TWO SCHOOL YEARS WHILE MAINTAINING APPROPRIATE EDUCATIONAL PROGRAMMING; PROVIDED THAT, IN THE CASE OF A SCHOOL DISTRICT THAT MEETS THE CRITERIA FOR STAGE ONE FISCAL AT-RISK STATUS AND HAS BEEN DESIGNATED AS A DISTRICT REQUIRING ACADEMIC PROGRESS AND/OR A FOCUS DISTRICT FOR EIGHT OR MORE YEARS AND HAS NINE OR MORE SCHOOLS IDENTIFIED AS PERSISTENTLY LOWEST-ACHIEVING SCHOOLS, SCHOOLS UNDER REGISTRATION REVIEW OR FOCUS OR PRIORITY SCHOOLS OR SCHOOLS FOR COMPREHENSIVE SUPPORT AND IMPROVEMENT OR SCHOOLS REQUIRED TO IMPLEMENT A TARGETED SUPPORT AND IMPROVEMENT PLAN, THE COMMISSIONER MAY IMMEDIATELY IDENTIFY SUCH DISTRICT AS BEING IN STAGE TWO FISCAL INTERVENTION STATUS PURSUANT TO SUBDIVISION TWO OF THIS SECTION.

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

LBD08743-06-6

B. WITHIN NINETY DAYS OF IDENTIFICATION AS BEING IN STAGE ONE FISCAL AT-RISK STATUS, A SCHOOL DISTRICT SHALL DEVELOP A PLAN OR INCLUDE IN ANY EXISTING STATE APPROVED PLAN SPECIFIC, MEASURABLE GOALS DESIGNED TO REMOVE THE DISTRICT FROM STAGE ONE FISCAL AT-RISK STATUS. FOR DISTRICTS IDENTIFIED AS BEING IN STAGE ONE FISCAL AT-RISK STATUS, SUCH GOALS MUST INCLUDE, WHERE APPLICABLE, BUT NEED NOT BE LIMITED TO: (I) A PLAN TO MAINTAIN BALANCED REVENUES AND EXPENDITURES AND AN APPROPRIATE FUND BALANCE WHILE MAINTAINING APPROPRIATE EDUCATIONAL PROGRAMMING; (II) A DESCRIPTION OF THE TECHNICAL ASSISTANCE AND SPECIFIC STAFF DEVELOPMENT TO BE PROVIDED AND SUSTAINED IN SUPPORT OF THE PLAN; AND (III) SUCH OTHER GOALS AS MAY BE PRESCRIBED BY THE COMMISSIONER. THE DISTRICT SHALL SUBMIT SUCH PLAN TO THE COMMISSIONER FOR APPROVAL. THE DISTRICT'S PLAN SHALL BE DEVELOPED WITH THE ASSISTANCE OF A FISCAL TEAM APPOINTED BY THE COMMISSIONER AND ITS IMPLEMENTATION MUST BE SUPPORTED BY TARGETED TECHNICAL ASSISTANCE AND PROFESSIONAL DEVELOPMENT, CONSISTENT WITH ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW, FROM AN EXTERNAL PROVIDER APPROVED BY THE COMMISSIONER AT AN EXPENSE TO BE BORNE BY THE DISTRICT. THE REASONABLE AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THE FISCAL TEAM'S DUTIES SHALL BE A CHARGE UPON THE SCHOOL DISTRICT. IF THE COMMISSIONER DETERMINES THAT THE DISTRICT'S PROPOSED PLAN IS NOT APPROVABLE, HE OR SHE SHALL RETURN THE PLAN TO THE BOARD OF EDUCATION OR TRUSTEES WITH AN EXPLANATION OF THE REASONS FOR REJECTION OF THE PLAN. THE BOARD OF EDUCATION MAY RESUBMIT THE PLAN FOR APPROVAL WITH MODIFICATIONS TO ADDRESS THE ISSUES RAISED BY THE COMMISSIONER WITHIN A TIME PERIOD PRESCRIBED IN THE REGULATIONS OF THE COMMISSIONER.

C. THE COMMISSIONER SHALL REMOVE A DISTRICT FROM STAGE ONE FISCAL AT-RISK STATUS, AND PLACE THE DISTRICT IN STAGE TWO FISCAL INTERVENTION STATUS, IF THE DISTRICT'S PLAN IS NOT APPROVED UPON RESUBMISSION PURSUANT TO PARAGRAPH B OF THIS SUBDIVISION. IF THE DISTRICT MEETS AND MAINTAINS ITS PLAN GOALS FOR THREE CONSECUTIVE SCHOOL YEARS IT SHALL BE REMOVED FROM STAGE ONE FISCAL AT-RISK STATUS. IF THE DISTRICT FAILS TO MEET AND MAINTAIN ITS PLAN GOALS FOR THREE CONSECUTIVE SCHOOL YEARS, THE COMMISSIONER SHALL IDENTIFY SUCH DISTRICT AS BEING IN STAGE TWO FISCAL INTERVENTION STATUS, PROVIDED THAT THE COMMISSIONER MAY, AT ANY TIME DURING STAGE ONE FISCAL AT-RISK STATUS, IDENTIFY A DISTRICT AS BEING IN STAGE TWO FISCAL INTERVENTION STATUS WHERE SUCH DISTRICT IS FOUND TO BE IN NONCOMPLIANCE WITH ITS PLAN OR IS UNWILLING OR UNABLE TO MAKE SUBSTANTIAL PROGRESS TOWARDS ACCOMPLISHING ITS PLAN GOALS.

2. STAGE TWO FISCAL INTERVENTION STATUS. A. UPON IDENTIFICATION OF A SCHOOL DISTRICT AS BEING IN STAGE TWO FISCAL INTERVENTION STATUS, THE COMMISSIONER MAY APPOINT A FISCAL ADMINISTRATOR TO MONITOR AND ASSIST THE DISTRICT IN MEETING ITS PLAN GOALS. THE REASONABLE AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THE DUTIES OF THE FISCAL ADMINISTRATOR SHALL BE A CHARGE UPON THE SCHOOL DISTRICT.

B. UPON APPOINTMENT, THE FISCAL ADMINISTRATOR SHALL HAVE THE POWER AND DUTY TO: (I) REVIEW AND MONITOR THE DISTRICT'S IMPLEMENTATION OF AND COMPLIANCE WITH ITS PLAN; (II) CONDUCT AN INTENSIVE REVIEW OF DISTRICT AND SCHOOL SYSTEMS, STRUCTURES, OPERATIONS AND FACILITIES; (III) RECOMMEND ADMINISTRATIVE AND OPERATIONAL IMPROVEMENTS TO STRENGTHEN THE FISCAL EFFICIENCY OF SYSTEMS; (IV) WORK WITH DISTRICT STAFF, ADMINISTRATION AND THE BOARD OF EDUCATION TO REVIEW FISCAL DATA, INCLUDING REVENUES AND EXPENDITURES AND OVERALL BUDGET; (V) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, APPROVE ANY PROPOSED CONTRACT OR OTHER OBLIGATION HAVING A PROJECTED COST OF FIFTY THOUSAND DOLLARS OR MORE; (VI) RECOMMEND TO THE BOARD OF EDUCATION SUCH MEASURES AS HE OR SHE DEEMS APPROPRIATE TO ASSIST THE DISTRICT'S

PROGRESS TOWARD MEETING ITS PLAN GOALS, INCLUDING MAKING RECOMMENDATIONS CONCERNING STRATEGIES TO ACHIEVE COST REDUCTION AND OTHER FISCAL EFFICIENCIES AND ALL ESTIMATES OF DISTRICT REVENUES TO ENSURE THE ACCURACY OF SUCH REVENUE ESTIMATES, AND MAKING FINDINGS REGARDING WHETHER THE AUTHORIZATION BY THE BOARD OF EDUCATION OF ITEMS OF EXPENDITURE, CONTINUATION OF BUDGET APPROPRIATIONS BY THE BOARD OF EDUCATION AND/OR BUDGETING OF FUTURE APPROPRIATIONS BY THE BOARD OF EDUCATION ARE CONSISTENT WITH THE REQUIREMENTS OF A BALANCED BUDGET, AN APPROPRIATE UNRESERVED FUND BALANCE IN ACCORDANCE WITH SECTION THIRTEEN HUNDRED EIGHTEEN OF THE REAL PROPERTY TAX LAW AND THE DISTRICT'S PLAN GOAL; AND (VII) RECOMMEND MODIFICATIONS TO THE DISTRICT'S PLAN WHICH MAY INCLUDE SUCH OTHER MEASURES AS HE OR SHE DEEMS APPROPRIATE TO ASSIST THE DISTRICT'S PROGRESS TOWARD MEETING ITS PLAN GOALS.

C. THE FISCAL ADMINISTRATOR SHALL SUBMIT PERIODIC REPORTS AS MAY BE REQUIRED BY THE COMMISSIONER ON THE DISTRICT'S PROGRESS TOWARD MEETING ITS PLAN GOALS AND MAY MAKE RECOMMENDATIONS TO THE COMMISSIONER THAT THE COMMISSIONER ORDER THE IMPLEMENTATION OF OTHER MEASURES AS APPROPRIATE TO ASSIST THE DISTRICT IN IMPLEMENTING ITS PLAN AND MEETING ITS PLAN GOALS; AND/OR THAT THE COMMISSIONER IDENTIFY THE DISTRICT AS POTENTIALLY BEING IN STAGE THREE FISCAL RESTRUCTURING STATUS.

D. THE COMMISSIONER SHALL REMOVE A DISTRICT FROM STAGE TWO FISCAL INTERVENTION STATUS IF IT MEETS AND MAINTAINS ITS PLAN GOALS FOR THREE CONSECUTIVE SCHOOL YEARS. IF THE DISTRICT FAILS TO MEET AND MAINTAIN ITS PLAN GOALS FOR THREE CONSECUTIVE SCHOOL YEARS, THE COMMISSIONER SHALL IDENTIFY SUCH DISTRICT AS POTENTIALLY BEING IN STAGE THREE FISCAL RESTRUCTURING STATUS, PROVIDED THAT THE COMMISSIONER MAY AT ANY TIME DURING STAGE TWO FISCAL INTERVENTION STATUS IDENTIFY A DISTRICT AS POTENTIALLY BEING IN STAGE THREE FISCAL RESTRUCTURING STATUS WHERE SUCH DISTRICT IS FOUND TO BE IN NONCOMPLIANCE WITH ITS PLAN OR IS UNWILLING OR UNABLE TO MAKE SUBSTANTIAL PROGRESS TOWARDS ACCOMPLISHING ITS PLAN GOALS.

3. STAGE THREE FISCAL RESTRUCTURING STATUS: APPOINTMENT OF AN EDUCATION OVERSIGHT BOARD. A. UPON IDENTIFICATION OF A SCHOOL DISTRICT AS POTENTIALLY BEING IN STAGE THREE FISCAL RESTRUCTURING STATUS, THE COMMISSIONER SHALL APPOINT AN INDEPENDENT REVIEW TEAM TO ASSESS THE REASONS FOR THE DISTRICT'S POTENTIAL FISCAL RESTRUCTURING STATUS AND THE PROSPECTS FOR IMPROVEMENT AND REPORT TO THE BOARD OF REGENTS.

B. IN THE EVENT THAT THE INDEPENDENT REVIEW TEAM CONCLUDES THAT THE BOARD OF EDUCATION'S ACTIONS AND/OR OMISSIONS HAVE INTERFERED WITH IMPLEMENTATION OF THE DISTRICT'S PLAN, THE BOARD OF REGENTS MAY DECLARE THAT PROBLEMS IN GOVERNANCE ARE A SUBSTANTIAL FACTOR IN THE DISTRICT'S CHRONIC FISCAL MISMANAGEMENT AND THAT THE DISTRICT IS IN STAGE THREE FISCAL RESTRUCTURING STATUS. UPON ISSUANCE OF SUCH DECLARATION, THE BOARD OF REGENTS SHALL APPOINT A THREE MEMBER TEAM TO SERVE ON AN EDUCATION OVERSIGHT BOARD FOR THE SCHOOL DISTRICT, WHICH SHALL HAVE ALL THE POWERS AND DUTIES OF THE BOARD OF EDUCATION. UPON APPOINTMENT OF AN EDUCATION OVERSIGHT BOARD, ALL MEMBERS OF THE BOARD OF EDUCATION SHALL BE REMOVED FROM OFFICE AND NO NEW BOARD MEMBERS MAY BE ELECTED OR APPOINTED WHILE THE EDUCATION OVERSIGHT BOARD IS IN PLACE. WHERE THE INDEPENDENT REVIEW TEAM SO RECOMMENDS AND THE BOARD OF REGENTS ACCEPTS SUCH RECOMMENDATION, THE SUPERINTENDENT OF SCHOOLS SHALL VACATE HIS OR HER OFFICE AND BE DEEMED REMOVED FOR CAUSE AND THE EDUCATION OVERSIGHT BOARD SHALL APPOINT A NEW SUPERINTENDENT OF SCHOOLS.

C. IN THE EVENT THAT THE INDEPENDENT REVIEW TEAM DOES NOT CONCLUDE THAT THE BOARD OF EDUCATION'S ACTIONS AND/OR OMISSIONS HAVE INTERFERED WITH IMPLEMENTATION OF THE DISTRICT'S PLAN OR THE BOARD OF REGENTS DOES

NOT DECLARE THAT PROBLEMS IN GOVERNANCE ARE A SUBSTANTIAL FACTOR IN THE DISTRICT'S CHRONIC FISCAL MISMANAGEMENT, THE DISTRICT SHALL RETURN TO STAGE TWO FISCAL INTERVENTION STATUS UNTIL IT MEETS AND MAINTAINS ITS PLAN GOALS FOR THREE CONSECUTIVE SCHOOL YEARS. WHEN THE DISTRICT RETURNS TO STAGE TWO FISCAL INTERVENTION STATUS, THE FISCAL ADMINISTRATOR MAY MAKE RECOMMENDATIONS FOR ADDITIONAL MEASURES THE DISTRICT MUST IMPLEMENT TO ASSIST ITS PROGRESS TOWARD MEETING AND MAINTAINING ITS PLAN GOALS.

D. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, WHERE THE COMMISSIONER REMOVES AT LEAST A MAJORITY OF THE MEMBERS OF A BOARD OF EDUCATION PURSUANT TO SECTION THREE HUNDRED SIX OF THIS TITLE, THE BOARD OF REGENTS MAY DECLARE THAT THE DISTRICT IS IN STAGE THREE FISCAL RESTRUCTURING STATUS AND APPOINT A THREE MEMBER TEAM TO SERVE ON AN EDUCATION OVERSIGHT BOARD FOR THE SCHOOL DISTRICT PURSUANT TO THIS SUBDIVISION.

E. AT LEAST ONCE EVERY FOUR YEARS, THE COMMISSIONER SHALL APPOINT AN INDEPENDENT REVIEW TEAM TO EVALUATE AND MAKE RECOMMENDATIONS TO THE BOARD OF REGENTS ON THE EFFECTIVENESS OF THE EDUCATION OVERSIGHT BOARD AND THE NEED, IF ANY, TO CONTINUE TO HAVE AN EDUCATION OVERSIGHT BOARD IN PLACE. IF THE BOARD OF REGENTS DETERMINES THAT CONTINUATION OF AN EDUCATION OVERSIGHT BOARD IS NECESSARY, THEY MAY REAPPOINT MEMBERS OF THE OVERSIGHT BOARD OR APPOINT A NEW OVERSIGHT BOARD PURSUANT TO THIS SUBDIVISION. IF THE BOARD OF REGENTS DETERMINES THAT CONTINUATION OF AN EDUCATION OVERSIGHT BOARD IS NOT NECESSARY AND THAT THE EDUCATION OVERSIGHT BOARD SHOULD BE ELIMINATED, THE COMMISSIONER SHALL ORDER THAT A SPECIAL ELECTION BE HELD AND WHEN ALL SUCH NEWLY ELECTED BOARD MEMBERS TAKE OFFICE, THE EDUCATION OVERSIGHT BOARD SHALL BE TERMINATED.

F. AT ANY TIME AFTER THE APPOINTMENT OF AN EDUCATION OVERSIGHT BOARD, TWENTY-FIVE QUALIFIED VOTERS, OR FIVE PERCENT OF THE NUMBER OF VOTERS WHO VOTED AT THE LAST ELECTION OF MEMBERS OF THE BOARD OF EDUCATION, WHICHEVER IS GREATER, MAY PETITION THE COMMISSIONER FOR A DETERMINATION WHETHER THE APPOINTED EDUCATION OVERSIGHT BOARD SHOULD BE MODIFIED OR ELIMINATED AND WHETHER THE SCHOOL DISTRICT IS NO LONGER IN FISCAL AT-RISK STATUS. THE DETERMINATION OF THE COMMISSIONER SHALL BE SUBJECT TO REVIEW BY THE BOARD OF REGENTS. IF THE BOARD OF REGENTS DETERMINES THAT THE EDUCATION OVERSIGHT BOARD SHOULD BE ELIMINATED, THE COMMISSIONER SHALL ORDER THAT A SPECIAL ELECTION BE HELD AND WHEN ALL SUCH NEWLY ELECTED BOARD MEMBERS TAKE OFFICE, THE EDUCATION OVERSIGHT BOARD SHALL BE TERMINATED.

G. FOR PURPOSES OF THIS SECTION, "SCHOOL DISTRICT" SHALL MEAN A COMMON, UNION FREE, CENTRAL, CENTRAL HIGH SCHOOL OR CITY SCHOOL DISTRICT, OTHER THAN A CITY SCHOOL DISTRICT IN A CITY HAVING A POPULATION OF ONE MILLION OR MORE.

H. THE COMMISSIONER IS AUTHORIZED TO PROMULGATE ANY REGULATIONS AND TO TAKE ANY OTHER MEASURES NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

S 2. This act shall take effect immediately.