

4309--A

2015-2016 Regular Sessions

I N S E N A T E

March 12, 2015

Introduced by Sen. MARTINS -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- recommitted to the Committee on Education in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to Nassau county educational construction projects; and providing for the repeal of such provisions upon expiration thereof

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

1 Section 1. Subdivision 4 of section 1950 of the education law is
2 amended by adding a new paragraph oo to read as follows:
3 OO. (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE NASSAU COUNTY
4 BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL ESTABLISH AN OFFICE FOR
5 REVIEW AND APPROVAL OF ALL SCHOOL MAINTENANCE AND CONSTRUCTION PROJECTS
6 WITHIN THE COUNTY OF NASSAU. SUCH OFFICE SHALL BE ACCOUNTABLE FOR ADMIN-
7 ISTRATION AND ENFORCEMENT OF THE UNIFORM CODE WITH RESPECT TO BUILDINGS,
8 PREMISES AND EQUIPMENT IN THE CUSTODY OF, OR ACTIVITIES RELATED THERETO
9 UNDERTAKEN BY, SCHOOL DISTRICTS WITHIN THE COUNTY OF NASSAU. NOTHING IN
10 THIS SECTION SHALL PREVENT THE NASSAU COUNTY BOARD OF COOPERATIVE EDUCA-
11 TIONAL SERVICES FROM CHARGING A FEE FOR SERVICES PROVIDED BY SUCH
12 OFFICE.
13 (2) ON OR BEFORE JANUARY FIRST, TWO THOUSAND TWENTY-ONE THE DISTRICT
14 SUPERINTENDENT SHALL PREPARE A REPORT TO BE SUBMITTED TO THE TEMPORARY
15 PRESIDENT OF THE SENATE, THE MINORITY LEADER OF THE SENATE, THE SPEAKER
16 OF THE ASSEMBLY, AND THE MINORITY LEADER OF THE ASSEMBLY INDICATING:
17 (I) THE AMOUNT OF PROJECTS REVIEWED BY SUCH OFFICE, (II) THE AVERAGE
18 LENGTH OF TIME THAT APPROVAL OR DISAPPROVAL WAS GRANTED WITHIN, (III)
19 THE COST OF ESTABLISHING AND OPERATING SUCH OFFICE, (IV) THE ESTIMATED
20 COST SAVINGS OF HAVING CONSTRUCTION AND MAINTENANCE PROJECTS APPROVED BY

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

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1 SUCH OFFICE, AND (V) A RECOMMENDATION OF WHETHER SUCH OFFICE SHOULD
2 CONTINUE TO EXIST.

3 S 2. Paragraph (d) of subdivision 2 of section 409-d of the education
4 law, as added by section 1 of part B of chapter 56 of the laws of 1998,
5 is amended to read as follows:

6 (d) require each school district to develop a five year capital facil-
7 ities plan TO BE SUBMITTED TO THE DEPARTMENT, EXCEPT THAT SCHOOL
8 DISTRICTS IN THE COUNTY OF NASSAU SHALL ALSO PROVIDE A FIVE YEAR CAPITAL
9 PLAN TO THE NASSAU COUNTY BOARD OF COOPERATIVE EDUCATIONAL SERVICES;

10 S 3. The third undesignated paragraph of subdivision 1 and subdivision
11 5 of section 408 of the education law, the third undesignated paragraph
12 of subdivision 1 as amended by chapter 414 of the laws of 1972, are
13 amended to read as follows:

14 In the case of a school district in a city having a million inhabit-
15 ants or more OR SCHOOL DISTRICTS IN THE COUNTY OF NASSAU, all of the
16 provisions previously set forth in this subdivision shall apply, except
17 that such school district shall only be required to submit an outline of
18 the plans and specifications to the commissioner of education for his
19 information where a schoolhouse is to be erected in conjunction with the
20 development of a project to be developed under the provisions of article
21 two or five of the private housing finance law and where both the school
22 and the project are to have rights or interests in the same land,
23 regardless of the similarity or equality thereof, including fee inter-
24 ests, easements, space rights or other rights or interests.

25 5. A. In a city having a population of one million or more, all
26 designing, draughting and inspecting necessary in connection with the
27 construction, additions to, alterations and maintenance of schoolhouses
28 shall be performed by a bureau established and maintained for this
29 purpose under the board of education. The work of this bureau shall be
30 performed by civil service employees in the classified civil service
31 under the direction of the superintendent of school buildings, design
32 and construction, except that repairs, betterment and maintenance of
33 heating and ventilating plants and equipment, elevators and mechanical
34 equipment shall remain under the direction of the superintendent of
35 plant operation and maintenance. In a special case upon approval of the
36 board of estimate, such designing, draughting or inspecting may be
37 otherwise performed.

38 B. FOR SCHOOL DISTRICTS IN THE COUNTY OF NASSAU, ALL DESIGNING,
39 DRAUGHTING AND INSPECTING NECESSARY IN CONNECTION WITH THE CONSTRUCTION,
40 ADDITIONS TO, ALTERATIONS AND MAINTENANCE OF SCHOOLHOUSES SHALL BE
41 PERFORMED BY AN OFFICE ESTABLISHED AND MAINTAINED FOR THIS PURPOSE UNDER
42 THE NASSAU COUNTY BOARD OF COOPERATIVE EDUCATION SERVICES. THE WORK OF
43 THIS BUREAU SHALL BE PERFORMED BY CIVIL SERVICE EMPLOYEES IN THE CLASSI-
44 FIED CIVIL SERVICE UNDER THE DIRECTION OF THE SUPERINTENDENT OF SCHOOL
45 BUILDINGS, DESIGN AND CONSTRUCTION, EXCEPT THAT REPAIRS, BETTERMENT AND
46 MAINTENANCE OF HEATING AND VENTILATING PLANTS AND EQUIPMENT, ELEVATORS
47 AND MECHANICAL EQUIPMENT SHALL REMAIN UNDER THE DIRECTION OF THE
48 DISTRICT SUPERINTENDENT. IN A SPECIAL CASE UPON APPROVAL OF THE BOARD
49 OF ESTIMATE, SUCH DESIGNING, DRAUGHTING OR INSPECTING MAY BE OTHERWISE
50 PERFORMED.

51 S 4. The education law is amended by adding a new article 10-E to read
52 as follows:

53 ARTICLE 10-E

54 NASSAU COUNTY EDUCATIONAL CONSTRUCTION

55 SECTION 500-A. CAPITAL CONSTRUCTION PROJECTS.

1 S 500-A. CAPITAL CONSTRUCTION PROJECTS. NOTWITHSTANDING THE PROVISIONS
2 OF ANY GENERAL, SPECIAL, OR LOCAL LAW TO THE CONTRARY, A CAPITAL
3 CONSTRUCTION CONTRACT ENTERED INTO BETWEEN A COMPONENT SCHOOL DISTRICT
4 OF THE NASSAU COUNTY BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND ANY
5 PERSON PURSUANT TO THIS ARTICLE MAY BE AWARDED EITHER PURSUANT TO PUBLIC
6 BIDDING IN COMPLIANCE WITH SECTION ONE HUNDRED THREE OF THE GENERAL
7 MUNICIPAL LAW OR, IN ORDER TO FOSTER MAJOR INVESTMENT IN EXISTING SCHOOL
8 BUILDINGS AND TO DELIVER QUALITY PRODUCTS AND SERVICES THAT ARE BENEFI-
9 CIAL TO THE SCHOOL DISTRICT AND THE PUBLIC THEY SERVE, PURSUANT TO THE
10 FOLLOWING PROVISIONS OF THIS ARTICLE FOR THE AWARD OF A CONTRACT BASED
11 ON EVALUATION OF PROPOSALS SUBMITTED IN RESPONSE TO A REQUEST FOR
12 PROPOSALS PREPARED BY OR FOR A COMPONENT SCHOOL DISTRICT OF THE NASSAU
13 COUNTY BOARD OF COOPERATIVE EDUCATIONAL SERVICES. PROVIDED, HOWEVER,
14 THAT THE COMPONENT SCHOOL DISTRICT OF SUCH BOARD SHALL HAVE THE OPTION
15 OF OBTAINING PROFESSIONAL SERVICES INCLUDING BUT NOT LIMITED TO AN INDE-
16 PENDENT PROGRAM MANAGER, CONSTRUCTION MANAGERS, ARCHITECTS, ENGINEERS,
17 FINANCIAL EXPERTS, AND DELIVERY COMPLIANCE SERVICES THROUGH SUCH BOARD'S
18 STANDARD REQUEST FOR PROPOSALS PROCESS USING THE BOARD AS THE APPROVING
19 GOVERNING BODY INSTEAD OF THE COMPONENT SCHOOL DISTRICT BOARD OF EDUCA-
20 TION FOR SUCH CONTRACT AWARDS.

21 1. PRIOR TO THE ISSUANCE OF A REQUEST FOR PROPOSALS PURSUANT TO THIS
22 ARTICLE, THE NASSAU COUNTY BOARD OF COOPERATIVE EDUCATIONAL SERVICES
23 SHALL PUBLISH NOTICE OF SUCH ISSUANCE IN THE OFFICIAL NEWSPAPER OF THE
24 COUNTY OR REGION, IF ANY, AND IN AT LEAST ONE NEWSPAPER OF GENERAL
25 CIRCULATION. CONCURRENT WITH THE PUBLICATION OF SUCH NOTICE, A DRAFT
26 REQUEST FOR PROPOSALS SHALL BE FILED WITH THE BOARD. AFTER ALLOWING A
27 THIRTY DAY COMMENT PERIOD AND AN ADDITIONAL TEN DAYS TO REVIEW SUCH
28 COMMENTS, THE BOARD MAY PUBLISH THE FINAL REQUEST FOR PROPOSALS AND
29 CONCURRENT WITH SUCH PUBLICATION SHALL PUBLISH NOTICE OF SUCH ISSUANCE
30 IN THE MANNER SPECIFIED IN THIS SUBDIVISION. CONCURRENT WITH THE PUBLI-
31 CATION OF THE FINAL REQUEST FOR PROPOSALS, A SET OF COMMENTS FILED IN
32 RELATION TO THE DRAFT REQUEST FOR PROPOSALS AND FINDINGS RELATED TO THE
33 SUBSTANTIVE ELEMENTS OF SUCH COMMENTS SHALL BE FILED ALONG WITH THE
34 REQUEST FOR PROPOSALS WITH THE BOARD AND IN THE PUBLIC LIBRARY OR
35 LIBRARIES IN PROXIMITY TO THE PROPOSED PROJECT.

36 2. THE BOARD MAY REQUIRE A CONTRACTOR AWARDED A PUBLIC CONTRACT,
37 SUBCONTRACT OR OTHER AGREEMENT FOR A PROJECT TO ENTER INTO A PROJECT
38 LABOR AGREEMENT DURING AND FOR THE WORK INVOLVED WITH SUCH PROJECT WHEN
39 SUCH REQUIREMENT IS PART OF THE BOARD'S SPECIFICATIONS FOR THE PROJECT
40 AND WHEN THE BOARD DETERMINES THAT THE RECORD SUPPORTING THE DECISION TO
41 ENTER INTO SUCH AN AGREEMENT ESTABLISHES THAT IT IS JUSTIFIED BY THE
42 INTERESTS UNDERLYING THE COMPETITIVE BIDDING LAWS.

43 3. EVERY CONTRACT ENTERED INTO BY THE BOARD FOR A PROJECT SHALL
44 CONTAIN A PROVISION THAT THE DESIGN OF SUCH PROJECT SHALL BE SUBJECT TO
45 THE REVIEW AND APPROVAL OF THE SCHOOL DISTRICT AND THE NASSAU COUNTY
46 BOARD OF COOPERATIVE EDUCATIONAL SERVICES ENGINEER AND THAT THE DESIGN
47 AND CONSTRUCTION STANDARDS OF SUCH PROJECT SHALL BE FILED WITH THE
48 COMMISSIONER. IN ADDITION, EVERY SUCH CONTRACT SHALL CONTAIN A PROVISION
49 THAT THE CONTRACTOR SHALL FURNISH A LABOR AND MATERIAL BOND GUARANTEEING
50 PROMPT PAYMENT OF MONEYS THAT ARE DUE TO ALL PERSONS FURNISHING LABOR
51 AND MATERIALS PURSUANT TO THE REQUIREMENTS OF ANY CONTRACTS FOR A
52 PROJECT UNDERTAKEN PURSUANT TO THIS ARTICLE AND A PERFORMANCE BOND FOR
53 THE FAITHFUL PERFORMANCE OF THE PROJECT, WHICH SHALL CONFORM TO THE
54 PROVISIONS OF SECTION ONE HUNDRED THREE-F OF THE GENERAL MUNICIPAL LAW,
55 AND THAT A COPY OF SUCH PERFORMANCE AND PAYMENT BONDS SHALL BE KEPT BY

1 NASSAU COUNTY BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND SHALL BE
2 OPEN TO PUBLIC INSPECTION.
3 S 5. This act shall take effect immediately and shall expire July 1,
4 2021 when upon such date the provisions of this act shall be deemed
5 repealed.