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I N S E N A T E

May 3, 2016

Introduced by Sens. STEWART-COUSINS, LATIMER -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT establishing the Yonkers city school district joint schools construction and modernization act; and to amend the education law and the public authorities law, in relation to implementing such joint schools construction and modernization act

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

1 Section 1. Short title. This act shall be known and may be cited as
2 "the Yonkers city school district joint schools construction and modern-
3 ization act".
4 S 2. Legislative findings and declaration of need. The legislature
5 finds that Yonkers schools have a growing population yet the average age
6 of the school buildings in Yonkers is seventy-five years with the oldest
7 building at one hundred nineteen years old; nine are over ninety-seven
8 years old and most are past their useful life and in need of extensive
9 refurbishment. The age of buildings in Yonkers is significantly over
10 the sixty-five years average age of schools in New York State. Even by
11 maximizing the debt borrowing under existing constitutional and statuto-
12 ry limits Yonkers city is unable to finance modernization of its facili-
13 ties at a reasonable rate as needs are far greater than the availability
14 of capital. The city school district's facilities are landlocked in
15 highly dense urban neighborhoods lacking proper school bus loops,
16 athletic facilities and other essential school amenities required for
17 the safe and proper administration of an educational institution, and
18 while Yonkers city has invested significant capital, deterioration of
19 building stock outpaces the district's ability to repair it.
20 The legislature further finds that such deterioration of the schools
21 and inability to expand school sites to provide even a modicum of
22 customary facilities and amenities to students is a serious impediment
23 to learning and teaching. If the quality of education in the city is to
24 be improved, existing schools must be rehabilitated and reconstructed

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

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1 and new city schools must be built. This will include the retirement of
2 old facilities which will be replaced by more efficiently operating
3 buildings with better use of space. Renovations shall result in facili-
4 ties more conducive to current education requirements and shall be
5 equipped to operate at lower maintenance costs with improved energy
6 efficiency.

7 The city of Yonkers' student population has been rising, especially
8 with students with special needs and students with English as a second
9 language. Yonkers' increased enrollment has required overuse of avail-
10 able classroom space for regular instruction and resulted in a shortage
11 of libraries, art rooms, music rooms, computer rooms and other common
12 school facility elements. Construction of new facilities will allow for
13 reallocation of classroom space to essential specialized uses. However
14 the city's fiscal limitations magnify the inability to maintain existing
15 aging facilities or provide new facilities to accommodate the increasing
16 student populations. Yonkers is unable to pursue a modernization
17 program without special legislation as was provided to the Buffalo,
18 Rochester and Syracuse city school districts. As a result the city of
19 Yonkers has an immediate need for special legislation providing for new
20 school buildings and a joint schools construction and modernization
21 program patterned after the mechanism for funding received by or related
22 to the Buffalo, Rochester and Syracuse school districts.

23 The legislature further finds that as a result of the foregoing,
24 legislation granting certain new or additional authority to the city and
25 the city school district of the city of Yonkers as set forth in such
26 legislation is necessary, which authority should enable both parties to
27 better, more economically and more innovatively manage the acquisition,
28 design, construction, financing, operation, and maintenance of new
29 educational facilities.

30 S 3. Definitions. As used or referred to in this act:

31 (a) "Capital improvement plan" shall mean the city school district's
32 ongoing, annually updated five-year capital financing plan for the
33 construction and reconstruction of facilities, the acquisition and
34 replacement of equipment and the completion of other long-term capital
35 projects undertaken and financed by the issuance of general obligation
36 bonds by the city on behalf of the city school district pursuant to
37 existing state law applicable to all school districts.

38 (b) "City" shall mean the city of Yonkers.

39 (c) "City school district" shall mean the city school district of the
40 city of Yonkers acting by and through the board of education of the city
41 school district of the city of Yonkers.

42 (d) "City council" shall mean the city council of the city of Yonkers.

43 (e) "Commissioner" shall mean the commissioner of education of the
44 state of New York.

45 (f) "Compliance officer" shall mean an independent compliance firm
46 with an in-depth knowledge base and breadth of experience conducting
47 minority and women-owned business enterprise (MWBE) and disadvantaged
48 business enterprise (DBE) utilization compliance monitoring for public
49 contracts within New York state including school districts and auditing
50 contractors and subcontractors in construction and reconstruction
51 projects like those to be undertaken and contracted for by the YJSC
52 board pursuant to this act. Such firm shall support the facilities
53 modernization program by developing and implementing an MWBE/DBE Utili-
54 zation Master Plan for the governance of all project contracts to ensure
55 compliance with all federal, State, and local laws, rules, and regu-
56 lations as applicable.

1 (g) "Comptroller" shall mean the comptroller of the state of New York.

2 (h) "Joint schools construction and modernization plan" or "joint
3 schools construction and modernization program" shall mean the compre-
4 hensive, strategic plan developed by the city school district as
5 described in section five of this act.

6 (i) "MWBE/DBE utilization master plan" shall be a plan prepared by the
7 compliance officer to the satisfaction of the YJSC board to meet dispar-
8 ity as established by existing state studies.

9 (j) "Person" shall mean a municipality or other governmental body, a
10 public corporation or an authority, a private corporation, a limited
11 liability company or partnership, or an individual.

12 (k) "Program manager" shall mean an independent program management
13 firm that has been selected by the city and the city school district
14 through the request for proposal process to oversee the implementation
15 of the joint schools construction and modernization plan to assist it
16 in: (1) developing and implementing procedures for the projects under-
17 taken and contracted for by the city school district or the YJSC board;
18 (2) reviewing plans and specifications for projects; (3) developing and
19 implementing policies and procedures to utilize employment resources to
20 provide sufficient skilled employees for such projects, including devel-
21 oping and implementing training programs, if required; and (4) managing
22 such projects.

23 (l) "Project" shall mean (1) work at an existing school building site
24 that involves the design, reconstruction, or rehabilitation of all or a
25 portion of an existing school building for its continued use as a school
26 of the city school district, which may include an addition to existing
27 school buildings for such continued use and which also may include (i)
28 the construction or reconstruction of athletic fields, playgrounds, and
29 other recreational facilities for such existing school buildings, and/or
30 (ii) the acquisition and installation of all equipment necessary and
31 attendant to and for the use of such existing school buildings and/or
32 (2) the acquisition of land for new school buildings and athletic
33 fields, playgrounds and other recreations facilities; and/or (3)
34 construction of up to three new school buildings and land acquisition
35 from the city or private parties which also may include (i) the
36 construction or reconstruction of athletic fields, playgrounds, and
37 other recreational facilities for such new school buildings and (ii) the
38 acquisition and installation of all equipment necessary and attendant to
39 and for the use of such new school buildings; and/or (iii) the acqui-
40 sition of additional real property by the city to facilitate the project.
41 For purposes of this act, the term "construction" shall include all work
42 related to construction, demolition, reconstruction, excavation, reha-
43 bilitation, repairs, renovations, alterations, or improvements.

44 (m) "Project labor agreement" shall mean a pre-hire collective
45 bargaining agreement between a contractor and a bona fide building and
46 construction trades labor organization establishing the signatory unions
47 as the collective bargaining representatives for all persons who will
48 perform work on the project, and which provides that only contractors
49 and subcontractors who sign a pre-negotiated agreement with the labor
50 organization can perform project work.

51 (n) "YJSC board" or "board" shall mean the Yonkers joint schools
52 construction board, a joint instrumentality of the city and the city
53 school district, acting for and on behalf of the city and the city
54 school district.

55 (o) "SED" shall mean the state education department.

(p) "Related party" means: (1) any member, officer or employee of the board, or any other person who exercises the powers of members, officers or employees over the affairs of the board; (2) any relative of any individual described in paragraph one of this subdivision; or (3) any entity in which any individual described in paragraphs one and two of this subdivision has a thirty-five percent or greater ownership or beneficial interest or, in the case of a partnership or professional corporation, a direct or indirect ownership interest in excess of five percent.

(q) "Related party transaction" means any transaction, agreement or any other arrangement in which a related party has a financial interest and in which the board is a participant.

S 4. Yonkers joint schools construction board. (a) For the benefit of the city of Yonkers and the inhabitants thereof, a board to be known as the Yonkers joint schools construction board, and sometimes referred to as the YJSC board, is hereby established for the accomplishment of the purposes specified in this act. The YJSC board shall conduct meetings as often as deemed necessary to accomplish its purposes, but not less than quarterly.

(b) (1) The board shall be composed of nine voting members: one of whom, sitting ex officio, shall be the mayor of Yonkers; one of whom shall be the president of the Yonkers board of education; one of whom shall be the superintendent of the Yonkers city school district; one of whom shall be the designee of the Yonkers council of Parent Teach Associations; two of whom shall be Yonkers city council designees of whom one shall be from the majority and one from the minority; and three of whom shall be jointly designated by the mayor and the superintendent of the city school district, but shall be not employed by the city or the school district. In selecting designees to serve on the board, preference shall be granted to those with expertise or experience in school construction, school financing, and education policy. The members of the board shall serve without salary, but each member shall be reimbursed for actual and necessary expenses incurred in the performance of such member's official duties as a member of the board. To ensure flexibility and continuity, the mayor and/or the superintendent may from time to time designate and authorize their chief of staff, chief financial officer, or other designee to attend and vote in their stead.

(2) Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, board of trustees, member or employee of the state, any city, county, town or village, any governmental entity operating any public school or college, any school district or any other public agency or instrumentality which exercises governmental powers under the laws of the state, shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a member, officer or employee of the YJSC board, nor shall service as such member, officer or employee of the YJSC board be deemed incompatible or in conflict with such office or employment, except for the three board members who were jointly appointed by the mayor and the superintendent of the city school district.

(3) Except for the mayor of Yonkers, the president of the Yonkers board of education and the superintendent of the city school district, the remaining members of the board shall be independent members. The official or officials having the authority to appoint or remove such remaining members shall take such actions as may be necessary to satisfy this requirement and further, shall consider the prospective diversity of the members of the board when making their determinations to appoint

1 any member. For purposes of this section, an independent member is one
2 who: (i) is not, and in the past two years has not been employed by the
3 board, the city or the school district; (ii) is not, and in the past two
4 years has not been, employed by an entity that received remuneration
5 valued at more than fifteen thousand dollars for goods and services
6 provided to the board, the city or the school district or received any
7 other form of financial assistance valued at more than fifteen thousand
8 dollars from the board, the city or the school district; (iii) is not a
9 relative of an executive officer or employee in an executive position
10 with the city of Yonkers or the Yonkers city school district or a member
11 of the Yonkers city council or the Yonkers board of education; and (iv)
12 is not, and in the past two years has not been, a lobbyist registered
13 under a state or local law and paid by a client to influence the manage-
14 ment decisions, contract awards, rate determinations or any other simi-
15 lar actions of the board, the city or the school district.

16 (4) Notwithstanding any other provision of any general, special or
17 local law, municipal charter or ordinance to the contrary, board
18 members, officers and employees of the board shall file annual financial
19 disclosure statements with the county board of ethics for the county in
20 which the board has its primary office pursuant to article 18 of the
21 general municipal law.

22 (c) A majority of the whole board shall constitute a quorum for the
23 transaction of any business or the exercise of any power of the board.
24 No action shall be taken by the board except pursuant to a favorable
25 vote of at least a majority of the whole board participating in a meet-
26 ing at which such action is taken.

27 (d) The board shall be effective upon filing with the secretary of
28 state a certificate of organization indicating that its organizational
29 meeting has been held and its conflict of interest policy has been
30 adopted and shall continue after the tenth anniversary of its date of
31 organizational meeting during any period when bonds or notes are
32 outstanding.

33 (e) Except as otherwise limited by this act, the YJSC board shall have
34 the following powers and responsibilities in addition to those specially
35 conferred elsewhere in this act, subject only to agreements with bond-
36 holders:

37 (1) to make plans and studies necessary, convenient or desirable for
38 the effectuation of the purposes and powers of the board and to prepare
39 recommendations in regard thereto;

40 (2) to make use of existing studies, surveys, plans, data and other
41 material in the possession of the city, the city school district, or any
42 person in order to avoid duplication of effort;

43 (3) to enter into cooperative agreements with the state, any state
44 agency, the city, or the city school district for any lawful purposes
45 necessary or desirable to effect the purposes of this act upon such
46 terms and conditions as shall be determined to be reasonable;

47 (4) to develop and maintain the joint schools construction and modern-
48 ization plan for so long as the projects authorized pursuant to this
49 act, are yet to be undertaken; and

50 (5) to do all things necessary, convenient or desirable to carry out
51 its purposes and for the exercise of the powers granted in this act.

52 (f) (1) The board shall adopt a conflict of interest policy to ensure
53 that its directors, officers and employees act in the city's and city
54 school district's best interest and comply with applicable legal
55 requirements, including but not limited to the requirements set forth in
56 subdivision (g) of this section.

1 (2) The conflict of interest policy shall include, at a minimum, the
2 following provisions: (i) a definition of the circumstances that consti-
3 tute a conflict of interest; (ii) procedures for disclosing a conflict
4 of interest to the board; (iii) a requirement that the person with the
5 conflict of interest not be present at or participate in board deliber-
6 ation or vote on the matter giving rise to such conflict, provided that
7 nothing in this subdivision shall prohibit the board from requesting
8 that the person with the conflict of interest present information as
9 background or answer questions at a board meeting prior to the commence-
10 ment of deliberations or voting relating thereto; (iv) a prohibition
11 against any attempt by the person with the conflict to influence improv-
12 properly the deliberation or voting on the matter giving rise to such
13 conflict; (v) a requirement that the existence and resolution of the
14 conflict be documented in the board's records, including in the minutes
15 of any meeting at which the conflict was discussed or voted upon; and
16 (vi) procedures for disclosing, addressing, and documenting related
17 party transactions in accordance with subdivision (g) of this section.

18 (3) The conflict of interest policy shall require that prior to the
19 filing of the certificate of organization, and annually thereafter, all
20 members of the board shall complete, sign and submit to the county board
21 of ethics for the county in which the board has its primary office
22 pursuant to article 18 of the general municipal law a written statement
23 identifying, to the best of the member's knowledge, any entity of which
24 such member is an officer, director, trustee, member, owner (either as a
25 sole proprietor or a partner), or employee and with which the board has
26 a relationship, and any transaction in which the board is a participant
27 and in which the member might have a conflicting interest. The policy
28 shall require that each board member annually resubmit such written
29 statement. The county board of ethics shall provide a copy of all
30 completed statements to each board member.

31 (4) If the board has complied substantially with section 2824 and
32 subdivision 3 of section 2825 of the public authorities law, it shall be
33 deemed in compliance with this subdivision.

34 (5) Nothing in this subdivision shall be interpreted to require the
35 board to adopt any specific conflict of interest policy not otherwise
36 required by this subdivision or any other law or rule, or to supersede
37 or limit any requirement or duty governing conflicts of interest
38 required by any other law or rule.

39 (g) (1) The board shall not enter into any related party transaction
40 unless the transaction is determined by the board to be fair, reasonable
41 and in the board's best interest at the time of such determination. Any
42 member, officer or employee who has an interest in a related party tran-
43 saction shall disclose in good faith to the board the material facts
44 concerning such interest.

45 (2) With respect to any related party transaction in which a related
46 party has an substantial financial interest, the board, shall: (i) prior
47 to entering into the transaction, consider alternative transactions to
48 the extent available; (ii) approve the transaction by not less than a
49 majority vote of the entire board; and (iii) contemporaneously document
50 in writing the basis for the board's approval, including its consider-
51 ation of any alternative transactions.

52 (3) SED may bring an action to enjoin, void or rescind any related
53 party transaction or proposed related party transaction that violates
54 any provision of this section or was otherwise not reasonable or in the
55 best interests of the board at the time the transaction was approved, or
56 to seek restitution, and the removal of members or officers, or seek to

1 require any person or entity to: (i) account for any profits made from
2 such transaction, and pay them to the board; (ii) pay the board the
3 value of the use of any of its property or other assets used in such
4 transaction; (iii) return or replace any property or other assets lost
5 to the board as a result of such transaction, together with any income
6 or appreciation lost to the board by reason of such transaction, or
7 account for any proceeds of sale of such property, and pay the proceeds
8 to the board together with interest at the legal rate; and (iv) pay, in
9 the case of willful and intentional conduct, an amount up to double the
10 amount of any benefit improperly obtained.

11 (4) No related party may participate in deliberations or voting relat-
12 ing to a related party transaction in which he or she has an interest;
13 provided that nothing in this section shall prohibit the board from
14 requesting that a related party present information as background or
15 answer questions concerning a related party transaction at a board meet-
16 ing prior to the commencement of deliberations or voting relating there-
17 to.

18 (h) Notwithstanding any other provision of any general, special or
19 local law, municipal charter or ordinance to the contrary, for the
20 purposes of title 2 of article 1 of the public authorities law the board
21 shall be considered a local authority.

22 S 5. Joint schools construction and modernization plan; project costs.

23 (a) The superintendent, in consultation with the Yonkers board of educa-
24 tion, shall submit to the YJSC board a comprehensive draft plan recom-
25 mending and outlining the projects for phase one it proposes to be
26 undertaken pursuant to this act. The YJSC board shall consider the plan
27 in developing a comprehensive joint schools construction and moderniza-
28 tion plan recommending and outlining the projects it proposes to be
29 potentially undertaken pursuant to this act. The comprehensive joint
30 schools construction and modernization plan shall include:

31 (1) an estimate of total costs to be financed, not to exceed five
32 hundred twenty-three million dollars (\$523,000,000), plus such addi-
33 tional amount of bonds, notes and other obligations necessary to provide
34 for a debt service reserve fund and to pay reasonable costs of issuance,
35 a proposed financing plan, a proposed method of financing, terms and
36 conditions of the financing, and estimated financing costs (calculated
37 on a net interest cost basis). The plan shall address what specific
38 options would be used to ensure that sufficient resources exist to cover
39 the local share of any such project cost on an annual basis;

40 (2) information concerning the number of buildings to be constructed
41 or reconstructed to the satisfaction of SED;

42 (3) a district wide technology plan and a description of related inci-
43 dental expenses;

44 (4) information concerning the potential persons to be involved in the
45 financing and such persons' roles and responsibilities;

46 (5) estimates on the design, construction, reconstruction and rehabil-
47 itation costs by project, any administrative costs for potential
48 projects, and an outline of the timeframe expected for completion of
49 each potential project;

50 (6) direction to the program manager in the implementation of the
51 plan;

52 (7) any proposed amendments to the city school district's five year
53 capital facilities plan submitted in accordance with subdivision 6 of
54 section 3602 of the education law, the regulations of the commissioner
55 and the provisions of this section; and

1 (8) a diversity plan, in compliance with section eleven of this act,
2 to develop diversity goals, including appropriate community input and
3 public discussion, and develop strategies that would create and coordi-
4 nate any efforts to ensure a more diverse workforce for the projects.
5 The MWBE/DBE utilization master plan should address accountability for
6 attainment of the diversity goals, what forms of monitoring would be
7 used, and how such information would be publicly communicated. Prior to
8 the development of the comprehensive joint schools construction and
9 modernization plan, the YJSC board and district shall hold not less than
10 one public hearing per school site to ensure sufficient public input and
11 allow for significant public discussion on school building needs in such
12 city, with at least one such hearing to be held in each neighborhood
13 potentially impacted by a proposed project and in each neighborhood from
14 which the majority of students impacted reside. The hearing must be
15 widely publicized, including, but not limited to, social media distrib-
16 ution by the board of education and the YJSC board. The Yonkers joint
17 schools construction board shall submit the components of such plan
18 described in paragraph one of this subdivision to the comptroller, along
19 with any other information requested by the comptroller, for his or her
20 review and approval.

21 (b) The aggregate amount of project costs authorized and undertaken
22 pursuant to this act as phase one shall not exceed five hundred twenty-
23 three million dollars (\$523,000,000), plus such additional amount of
24 bonds, notes and other obligations necessary to provide for a debt
25 service reserve fund and to pay reasonable costs of issuance, unless
26 otherwise authorized by law. Due to the urgent need to address increased
27 enrollment, phase one shall consist of construction of up to three new
28 schools along with critical infrastructure system replacements at the
29 existing schools to maintain safe operation of the existing schools
30 until future renovations are made as part of the joint schools
31 construction and modernization plan. Such infrastructure system replace-
32 ment will be coordinated so that the work remains in place and is incor-
33 porated into the future renovation of the schools.

34 S 6. Project eligibility. To be eligible for selection as a project to
35 be undertaken pursuant to this section, such project shall be included
36 by the city school district in its joint schools construction and
37 modernization plan as a special section of the district's five-year
38 capital facilities plan that is required pursuant to subdivision 6 of
39 section 3602 of the education law and the regulations of the commission-
40 er. The facilities modernization plan and any portions of such plan
41 relating to such projects, including any amendments thereto, shall have
42 the contents required in the regulations of the commissioner and shall
43 be submitted to the commissioner for approval. Notwithstanding anything
44 to the contrary in this section, the city school district may elect to
45 finance a project under its ongoing capital improvement plan pursuant to
46 the powers and authority granted to all school districts in the state or
47 as part of the joint schools construction and modernization plans pursu-
48 ant to the special powers and authority granted to the city school
49 district and the YJSC board by this act. Commencing on the effective
50 date of this section, the city school district shall create and maintain
51 a written schedule listing each project undertaken, certified to annual-
52 ly by the city's commissioner of finance, which schedule shall identify
53 each project and its cost and formally designate such project as being
54 undertaken pursuant to either the joint schools construction and modern-
55 ization plan or the capital improvement plan.

1 S 7. Determination of projects. (a) Upon approval by the commissioner
2 of the YJSC board's joint schools construction and modernization plan,
3 the YJSC board may select projects to be undertaken pursuant to this
4 section, as provided for in such approved joint schools construction and
5 modernization plan. After the board has selected a new project and plans
6 and specifications for such project have been prepared and approved by
7 the board, which are consistent with the approved comprehensive plan,
8 the board shall deliver such plans and specifications to the commis-
9 sioner for his or her approval. After approval by the commissioner, the
10 plans and specifications shall be returned to the board. All such spec-
11 ifications shall detail the number of students the completed project is
12 intended to serve, the site description, the types of subjects to be
13 taught, the types of activities for school, recreational, social, safe-
14 ty, or other purposes intended to be incorporated in the school building
15 or on its site and such other information as the board and the commis-
16 sioner shall deem necessary or advisable.

17 (b) The YJSC board, upon receipt of such approved plans and specifica-
18 tions for a project may enter into contracts for such project, as
19 described in section eight of this act.

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

22 (a) (1) The YJSC board is hereby authorized and empowered to enter
23 into contracts relating to the design (pursuant to the approved plans
24 and specifications), construction, reconstruction, rehabilitation,
25 equipping, financing or managing of one or more projects undertaken
26 pursuant to this section with any person, upon such terms and conditions
27 and for such consideration and for such terms and duration, not to
28 exceed thirty years, as may be agreed upon by the board and such person
29 notwithstanding the provisions of any other general, special, or local
30 law to the contrary, relating to the length, duration, and terms of
31 contracts that the city or the city school district may enter into, as
32 set forth in subdivision (e) of this section. The district program
33 manager shall establish reasonable guidelines or limits on incidental
34 costs to assure that to the greatest extent possible such costs for each
35 project do not exceed the state's maximum incidental cost allowance, in
36 order to maximize efficient use of state building aid.

37 (2) Notwithstanding any other provision of law to the contrary, the
38 YJSC board shall submit estimated project costs for the projects author-
39 ized pursuant to paragraph five of subdivision (a) of section five of
40 this act after the completion of schematic plans and specifications for
41 review by the commissioner. If the total project costs associated with
42 such projects exceed the sum of the estimated individual approved cost
43 allowance of each building project by more than the lesser of fifty-two
44 million dollars (\$52,000,000) or ten percent of the approved costs, and
45 the city school district has not otherwise demonstrated to the satisfac-
46 tion of the SED the availability of additional local shares for such
47 excess costs, then the YJSC board shall not proceed with the preparation
48 of final plans and specifications for such projects until the projects
49 have been redesigned or value-engineered to reduce estimated project
50 costs so as not to exceed the above cost limits.

51 (3) Notwithstanding any other provision of law to the contrary, the
52 YJSC board shall submit estimated project costs for the projects author-
53 ized pursuant to paragraph five of subdivision (a) of section five of
54 this act after the completion of fifty percent of the final plans and
55 specifications for review by the commissioner. If the total project
56 costs associated with such projects exceed the sum of the estimated

1 individual approved cost allowance of each building project by more than
2 the lesser of fifty-two million dollars (\$52,000,000) or ten percent of
3 the approved costs, and the city school district has not otherwise
4 demonstrated to the satisfaction of the SED the availability of addi-
5 tional local share for such excess costs, then the YJSC board shall not
6 proceed with the completion of the remaining fifty percent of the plans
7 and specifications for such projects until the projects have been rede-
8 signed or value-engineered to reduce estimated project costs so as not
9 to exceed the above cost limits.

10 (b) A contract entered into between the board and any person pursuant
11 to this section may be awarded either pursuant to public bidding in
12 compliance with section 103 of the general municipal law or, in order to
13 foster major investment in existing school buildings or new school
14 buildings and to deliver quality products and services that are benefi-
15 cial to the city school district and the public it serves, on the basis
16 of factors other than cost alone, including, but not limited to, adher-
17 ence to facility design, quality and durability or materials, energy
18 efficiency, incorporating systems and approaches which provide maximum
19 facility value using the best current development, and construction
20 techniques available, and maximization of state building aid, and such a
21 contract may be entered into pursuant to the following provisions of
22 this section for the award of a contract based on evaluation of
23 proposals submitted in response to a request for proposals prepared by
24 or for the board; provided, however, that contracts or agreements
25 involving construction which are not awarded in compliance with section
26 103 of the general municipal law must include a project labor agreement
27 in accordance with paragraph (f) of this subdivision. If a project labor
28 agreement is not performed on the project, all construction contracts
29 must be awarded pursuant to sections 101 and 103 of the general municip-
30 al law.

31 (c) Notwithstanding any inconsistent provision of this act, all work
32 performed on any project authorized by this act where all or any portion
33 thereof involves a lease, grant, bond, covenant, debt agreement, permit,
34 contract or agreement entered into by the YJSC board for construction,
35 demolition, reconstruction, excavation, rehabilitation, repair, reno-
36 vation, alteration, or improvement shall be deemed public work and shall
37 be subject to and performed in accordance with the provisions of article
38 8 of the labor law to the same extent and in the same manner as a
39 contract of the state, and compliance with all the provisions of article
40 8 of the labor law shall be required of any lessee, sublessee, contrac-
41 tor or subcontractor on the project including the enforcement of
42 prevailing wage requirements by the fiscal officer as defined in para-
43 graph e of subdivision 5 of section 220 of the labor law to the same
44 extent as a contract of the state.

45 (d) Every contract entered into by the YJSC board for a project shall
46 contain a provision that the design of such project shall be subject to
47 the review and approval of the Yonkers board of education and that the
48 design and construction standards of such project shall be subject to
49 the review and approval of the commissioner. In addition, every such
50 contract shall contain a provision that the contractor shall furnish a
51 labor and material bond guaranteeing prompt payment of moneys that are
52 due to all persons furnishing labor and materials pursuant to the
53 requirements of any contracts for a project undertaken pursuant to this
54 section and a performance bond for the faithful performance of the
55 project, which shall conform to the provisions of section 103-f of the
56 general municipal law, and that a copy of such performance and payment

1 bonds shall be kept by the YJSC board and shall be open to public
2 inspection.

3 (e) (1) The YJSC board may require a contractor awarded a contract,
4 subcontract, lease, grant, bond, covenant or other agreement for a
5 project to enter into a project labor agreement during and for the work
6 involved with such project when such requirement is part of the request
7 for proposals for the project and when it has been determined that the
8 record supporting the decision to enter into such an agreement estab-
9 lishes that it is justified by the interests underlying the competitive
10 bidding laws, and (2) any contract, subcontract, lease, grant, bond,
11 covenant or other agreement for projects undertaken pursuant to this act
12 shall not be subject to sections 101 or 103 of the general municipal law
13 when the YJSC board has chosen to require a project labor agreement.
14 This exemption shall only apply to the projects undertaken pursuant to
15 this act and shall not apply to projects undertaken by any other school
16 district or municipality unless otherwise specifically authorized.

17 (f) All contracts entered into by the YJSC board in excess of three
18 million dollars (\$3,000,000) with respect to any contract for
19 construction, reconstruction, demolition, excavation, rehabilitation,
20 repair, renovation, alteration, or improvement shall require that each
21 contractor and subcontractor shall participate in apprentice training
22 programs registered by the department of labor. Participation in such an
23 apprenticeship program means the contractor or subcontractor: (1) is
24 signatory to a collective bargaining agreement with a labor organization
25 which sponsors an apprenticeship program registered with the department
26 of labor; (2) individually sponsors an apprenticeship program registered
27 by the department of labor; or (3) is signatory to or otherwise bound by
28 a project labor agreement covering the project which provides for the
29 referral of apprentices. In all cases, such apprenticeship program must
30 be specific to the type and scope of work which is being performed.

31 (g) For the purposes of article 15-A of the executive law, YJSC board
32 shall be deemed a state agency as that term is defined in such article
33 and such contracts shall be deemed state contracts within the meaning of
34 that term as set forth in such article.

35 (h) In the event the YJSC board shall cease to exist for any reason
36 whatsoever during the life of such contracts as it has entered into
37 pursuant to this section, such contracts shall remain in full force and
38 effect and the city and city school district shall stand in the place
39 and stead of the board with respect to all rights and obligations under
40 such contracts and with respect to all powers granted to the board by
41 this section; provided, however, that such powers are exercised by the
42 city school district pursuant to its jurisdiction and the general laws
43 applicable thereto, except as modified by this section.

44 S 9. Program manager. (a) The YJSC board shall utilize the services of
45 a program manager selected by the city and the city school district
46 through the request for proposal process to oversee the implementation
47 of the joint schools construction and modernization plan. Prior to
48 selection, the program manager must demonstrate satisfactory experience
49 in planning, designing, and constructing new and/or reconstructing
50 existing school buildings, public facilities, commercial facilities,
51 and/or infrastructure facilities, and in the negotiation and management
52 of labor contracts and agreements, training programs, educational
53 programs, and physical technological requirements for educational
54 programs.

55 (b) All contracts entered into by the YJSC board for projects under-
56 taken pursuant to this section shall be managed by such program manager.

1 The program manager shall also review project schedules, review payment
2 schedules, prepare cost estimates and review for coordination purposes
3 the safety programs of contractors and all training programs, if
4 required. The program manager shall implement procedures for verifica-
5 tion by it that all work for which payment has been requested has been
6 satisfactorily completed.

7 (c) The program manager, and its affiliates or subsidiaries, if any,
8 shall be prohibited from awarding contracts or being awarded contracts
9 for or performing any work other than contemplated for the program
10 manager.

11 S 10. Requests for proposals for the award of projects. (a) The YJSC
12 board shall consult with the commissioner in creating guidelines to be
13 used in the preparation of individual requests for proposals in
14 connection with projects prior to the development of any requests for
15 proposals by the program manager. Prior to the issuance by the program
16 manager of a request for proposals, the YJSC board shall cause to be
17 published a notice of such issuance in the official newspaper of the
18 city school district, if any, and in at least one newspaper of general
19 circulation in the city. Concurrent with the publication of such notice,
20 a draft request for proposals shall be filed with the YJSC board.

21 (b) Each proposal shall require the inclusion of the following infor-
22 mation relating to each project:

23 (1) the background and experience of the person including any history
24 of labor violations, and when applicable, the identity and experience of
25 the person's general contractor, heating and plumbing contractor, elec-
26 trical contractor, and design firm;

27 (2) the ability of the person to secure adequate financing, if appli-
28 cable, including the identification of the firm, if any, that will be
29 used for financing the project; and

30 (3) identification and specification of all direct and indirect costs
31 which would become a charge to the YJSC board, in whatever form, relat-
32 ing to the project and such other information as may be determined to
33 have a material bearing on the ability to evaluate any proposal.

34 (c) Proposals received in response to a request for proposals shall be
35 evaluated taking into consideration (1) maximization of state building
36 aid, (2) net cost, (3) the financial and organizational capacity of
37 contractors and subcontractors in relation to the magnitude of work they
38 may perform, the record of performance of contractors and subcontractors
39 on previous work, the record of contractors and subcontractors in
40 complying with existing labor laws, rules, or regulations and maintain-
41 ing harmonious labor relations, and the commitment of contractors to
42 work with minority and women owned business enterprises pursuant to
43 article 15-A of the executive law and disadvantaged business enterprises
44 through subcontractor relationships, and (4) such additional factors set
45 forth in the request for proposals, including, but not limited to, qual-
46 ity and durability of materials, energy efficiency, facility design
47 incorporating systems and approaches which provide maximum facility
48 value at the lowest possible cost for the reconstruction, rehabilitation
49 and equipping, or new construction and equipping, of such projects.

50 (d)(1) A contract award may be made to any responsible person selected
51 taking into consideration:

52 (i) maximization of state building aid;

53 (ii) net cost;

54 (iii) the financial and organizational capacity of contractors and
55 subcontractors in relation to the magnitude of work they may perform,
56 the record of performance of contractors and subcontractors on previous

work, the record of contractors and subcontractors in complying with existing labor standards and maintaining harmonious labor relations, and the commitment of contractors to work with minority and women owned business enterprises pursuant to article 15-A of the executive law and disadvantaged business enterprises through subcontractor relationships; and

(iv) such additional factors set forth in the request for proposals, including, but not limited to, quality and durability of materials, energy efficiency, facility design incorporating systems and approaches which provide maximum facility value at the lowest possible cost for the reconstruction, rehabilitation and equipping, or new construction and equipping, of such projects.

(2) Notwithstanding the provisions of this subdivision, if an award is made to any person whose total proposal does not provide the lowest net cost, the city school district or the YJSC board shall adopt a resolution after a public hearing which includes particularized findings relevant to factors evaluated indicating that the requirements of the city school district or the YJSC board, as applicable, are met by such award and that such action is in the public interest. Any such contract may be a single guaranteed maximum price general contract, utilize a full construction management contract approach, or utilize a turnkey contract approach or any other method deemed advisable in the reasonable judgment of the YJSC board.

S 11. Compliance officer. All contracts entered into by the YJSC board for projects undertaken by this section shall be monitored by a compliance officer. The compliance officer shall have the authority to:

(a) develop, implement, advertise, promote and monitor policies and procedures to utilize and provide sufficient MWBE, DBE and skilled minority employment resources participation opportunities to be followed by prime contractors and subcontractors for such projects; and have access to all proposed bid specifications documentations, records, drawings, blueprints and any other documentation associated with such bid specifications;

(b) support the joint schools construction and modernization plan by developing and implementing an MWBE/DBE Utilization Master Plan for the governance of all project contracts;

(c) provide technical assistance to potential MWBE and DBE contractors and subcontractors interested in bidding on any such project;

(d) obtain and maintain records and documentation as are necessary to confirm compliance with any established MWBE, DBE or skilled minority employment resources utilization goals for any such project;

(e) identify contractors in non-compliance with the established MWBE, DBE or skilled minority employment resources utilization goals or in willful violation of any federal, state and local laws rules and regulations;

(f) monitor and report the upward/downward price adjustment and payment amounts to MWBE's and DBE's listed on contractors utilization plan for any such project; and

(g) develop and work with YJSC board to enforce agreed financial or monetary sanctions for any contractors non-compliance with MWBE/DBE Utilization Master Plan.

(h) the compliance officer shall report to the YJSC board on a monthly basis.

S 12. Building aid. Notwithstanding any other provision of law to the contrary, building aid that would otherwise be payable for the school district portion of expenditures for capital outlays and debt service

1 for each project undertaken pursuant to the provisions of this act in
2 accordance with subdivision 6 of section 3602 of the education law,
3 shall be paid to the city.

4 S 13. Operation and maintenance. (a) Notwithstanding any other gener-
5 al, special, or local law or provision of this section to the contrary,
6 any project undertaken pursuant to this section shall be operated and
7 maintained by the board of education of the city school district in the
8 same manner as existing school buildings owned by the city are operated
9 and maintained by such board.

10 (b) Notwithstanding any other provision of any general, special, or
11 local law to the contrary, any project undertaken pursuant to the
12 provisions of this act shall be exempt from all taxes (including sales
13 and use taxes), special assessments, and special ad valorem levies and
14 from the payment of any and all charges and rents for sewer systems,
15 both while such project is being constructed and during its use by the
16 city school district for school purposes.

17 S 14. Maintenance of effort exclusion. Payment of debt service on
18 bonds, notes or other obligations issued to secure financing for
19 projects undertaken pursuant to this act shall not be considered when
20 determining the "city amount" required pursuant to subparagraph (ii) of
21 paragraph a of subdivision 5-b of section 2576 of the education law;
22 provided, however, that this provision shall not otherwise affect the
23 determination of said "city amount" with respect to funding unrelated to
24 projects undertaken pursuant to this act.

25 S 15. SED oversight of projects. Nothing in this act shall be
26 construed to exempt a project undertaken pursuant to this section from
27 the review and approval procedures applied to such projects by SED when
28 undertaken by the city school district pursuant to the education law.

29 S 16. Financing of projects. (a) To finance project costs authorized
30 and undertaken pursuant to this act, bonds, notes and other obligations
31 in an aggregate principal amount not to exceed five hundred twenty-three
32 million dollars (\$523,000,000), plus such additional amount of bonds,
33 notes and other obligations necessary to provide for a debt service
34 reserve fund and to pay reasonable costs of issuance, are authorized to
35 be issued on behalf of the YJSC board pursuant to subdivisions (d) or
36 (e) of this section; provided, however, that bonds, notes and other
37 obligations issued to refund or advance refund previously issued bonds,
38 notes and other obligations under this act may exceed such aggregate
39 principal limitation; provided, further however, that any accretion of
40 principal of bonds, notes and other obligations issue pursuant to the
41 authority contained in this act that would constitute interest under the
42 Internal Revenue Code of 1986, as amended shall not count against such
43 aggregate principal limitation. Any bonds, notes or other obligations
44 issued by or on behalf of the YJSC board pursuant to this act, and the
45 income therefrom shall, to the maximum extent practicable, be exempt
46 from taxation.

47 (b) Notwithstanding the provisions of any other general, special, or
48 local law to the contrary, any bonds, notes or other obligations issued
49 to finance any project authorized and undertaken pursuant to this act,
50 including ancillary financing costs described in subdivision (a) of this
51 section, may be issued without regard to any debt limitation applicable
52 to the city or the city school district or any instrumentality thereof.

53 (c) Notwithstanding any general, special, or local law or ordinance to
54 the contrary, contracts entered into by the YJSC board for projects
55 undertaken pursuant to this act may be initially funded by the city from
56 any available monies or from the proceeds of city obligations issued in

1 anticipation of permanent financing from any source provided under the
2 act and the reimbursement to the city of any available monies so
3 advanced or the payment of obligations of the city issued in antic-
4 ipation of permanent financing (including permanent financing issued
5 through the city of Yonkers industrial development agency for such
6 purpose) is hereby specifically authorized.

7 (d) Notwithstanding any limitations contained in article 18-A of the
8 general municipal law, including subdivisions (4) and (12) of section
9 854 of the general municipal law, a project undertaken pursuant to this
10 section shall be a "project" within the definition and for the purposes
11 of subdivision (4) of section 854 of the general municipal law, which
12 may be financed, owned, or leased by the city of Yonkers industrial
13 development agency or any successor agency thereto and the city of Yonk-
14 ers industrial development agency is expressly authorized to refinance
15 obligations issued by the city in anticipation of financing authorized
16 by this act and/or reimburse the city for monies advanced by the city
17 for projects undertaken pursuant to this act. In connection with the
18 city of Yonkers industrial development agency financing of the costs of
19 any project undertaken pursuant to this act, the city and the city
20 school district may grant a leasehold or license interest in the land
21 and or building constituting such project to the city of Yonkers indus-
22 trial development agency and may enter into installment purchase
23 contracts to facilitate such financing.

24 (e) Projects undertaken pursuant to this act may be financed through a
25 special program agreement with the state of New York municipal bond bank
26 agency pursuant to the provisions of section 2435-a of the public
27 authorities law. It shall be the duty of the YJSC board to compare the
28 financing available for such projects through the city of Yonkers indus-
29 trial development agency with financing available through the state of
30 New York municipal bond bank agency, and to employ the financing mech-
31 anism that will result in the lowest cost to the taxpayers of the city
32 and the state calculated on a net interest cost basis. It shall be the
33 duty of the YJSC board and the city of Yonkers industrial development
34 agency to share with the state of New York municipal bond bank agency
35 any information in their possession that is required by the state of New
36 York municipal bond bank agency to determine the cost of financing such
37 projects and to compute the interest rate that would have been applica-
38 ble to a bond issuance by the state of New York municipal bond bank
39 agency in the event that financing is obtained through the city of Yonk-
40 ers industrial development agency. Any failure to provide such informa-
41 tion within thirty days of receipt of a request from the state of New
42 York municipal bond bank agency shall be deemed to be a failure of the
43 board to submit the data needed to compute the apportionment of state
44 building aid, and the commissioner shall withhold such apportionment
45 until such information is fully submitted. Upon request of the YJSC
46 board, the director of the state of New York municipal bond bank agency
47 shall submit such reports as the commissioner may require on the financ-
48 ing of such projects and/or the interest rate that would have been
49 applicable to such projects if they had been financed through such agen-
50 cy.

51 (f) Notwithstanding any other provision of any general, special, or
52 local law or provision of this act to the contrary, any project under-
53 taken pursuant to this act shall be operated and maintained by the board
54 of education of the city school district in the same manner as existing
55 school buildings owned by the city are operated and maintained by such
56 board.

1 S 17. Security for bonds, notes and other obligations; remedies. In
2 the event that the city or city school district shall fail to make a
3 payment in such amount and by such date as is provided to be made by
4 such city or city school district under agreements entered into with the
5 city of Yonkers industrial development agency or any successor agency
6 thereto, such entity shall so certify to the state comptroller. Such
7 certificate shall be in such form as the state comptroller deems desira-
8 ble, but shall specify the amount by which such payment shall have been
9 deficient. The state comptroller, upon receipt of such certificate from
10 such entity, shall withhold such amount of state and/or school aid paya-
11 ble to such city or city school district to the extent of the amount so
12 stated in such certificate as not having been made, and shall immediate-
13 ly pay over to each financial institution acting as trustee on behalf of
14 bondholders of the Yonkers industrial development agency or any succes-
15 sor agency thereto, the amount so withheld by the state comptroller. Any
16 amount so paid to bondholders from such state and/or school aid shall
17 not obligate the state to make, nor entitle the city or the city school
18 district to receive, any additional amounts of state and/or school aid.
19 Nothing contained in this section shall be deemed to prevent the state
20 from modifying, reducing or eliminating any program or programs of state
21 and/or school aid; nor shall the state be obligated by the terms hereof
22 to maintain state and/or school aid at any particular level or amount.

23 S 18. Progress reports. On June 30, 2017 and annually thereafter,
24 until completion of the projects in a total aggregate maximum amount of
25 \$523,000,000, plus such additional amount of bonds, notes and other
26 obligations necessary to provide for a debt service reserve fund and to
27 pay reasonable costs of issuance, authorized pursuant to this act, the
28 YJSC board shall issue a report to the governor, the comptroller, the
29 commissioner, the temporary president of the senate, the speaker of the
30 assembly, the city mayor, the city council and the city school district
31 on the progress and status of the projects undertaken by the YJSC board.
32 Provided further, that if any such entities request information on the
33 progress and status of the projects prior to such report, it shall be
34 provided to such entities by the YJSC board. In addition, on or before
35 June 30, 2019, the YJSC board shall issue a report to the city mayor,
36 the city school district, the governor, the commissioner, the comp-
37 troller, the temporary president of the senate, the minority leader of
38 the senate, the speaker of the assembly, the minority leader of the
39 assembly, the state board of regents, and the chairs and ranking minori-
40 ty members of the New York state senate and assembly committees on
41 education, the finance committee of the New York state senate, the ways
42 and means committee of the New York state assembly and the division of
43 the budget. Such report shall identify the fiscal and pedagogical
44 results of the projects undertaken pursuant to this act, along with
45 recommendations for its continuance to a phase two, amendments, or
46 discontinuance.

47 S 19. Clause (a) of subparagraph 5 of paragraph e of subdivision 6 of
48 section 3602 of the education law is amended by adding a new item (v) to
49 read as follows:

50 (V) NOTWITHSTANDING THE PROVISIONS OF ITEM (I) OF THIS CLAUSE, WHERE
51 SUCH CITY OR CITY SCHOOL DISTRICT HAS ENTERED INTO AN AGREEMENT WITH THE
52 STATE OF NEW YORK MUNICIPAL BOND BANK AGENCY PURSUANT TO SUBDIVISION ONE
53 OF SECTION TWENTY FOUR HUNDRED THIRTY-FIVE-A OF THE PUBLIC AUTHORITIES
54 LAW AND SECTION SIXTEEN OF THE YONKERS CITY SCHOOL DISTRICT JOINT
55 SCHOOLS CONSTRUCTION AND MODERNIZATION ACT, OR AN AGREEMENT WITH THE
56 CITY OF YONKERS INDUSTRIAL DEVELOPMENT AGENCY FOR PROJECTS AUTHORIZED

1 PURSUANT TO THE YONKERS CITY SCHOOL DISTRICT JOINT SCHOOLS CONSTRUCTION
2 AND MODERNIZATION ACT, TO FINANCE DEBT RELATED TO SCHOOL REHABILITATION
3 OR RECONSTRUCTION OF SCHOOL BUILDINGS OR CONSTRUCTION OF NEW SCHOOL
4 BUILDINGS THAT IS SUBJECT TO SUBPARAGRAPH THREE OF THIS PARAGRAPH, THE
5 LESSER OF: (A) THE NET INTEREST COST, AS DEFINED BY THE COMMISSIONER,
6 APPLICABLE TO THE OBLIGATIONS ISSUED BY THE STATE OF NEW YORK MUNICIPAL
7 BOND BANK AGENCY OR THE CITY OF YONKERS INDUSTRIAL DEVELOPMENT AGENCY
8 FOR SUCH PURPOSE; OR (B) SUCH NET INTEREST COST, AS DEFINED BY THE
9 COMMISSIONER, THAT WOULD HAVE BEEN APPLICABLE TO BONDS ISSUED BY THE
10 STATE OF NEW YORK MUNICIPAL BOND BANK AGENCY IF THE PROJECT HAD BEEN
11 AUTHORIZED TO BE FINANCED AND HAD BEEN FINANCED THROUGH SUCH ENTITY, AS
12 CERTIFIED TO THE COMMISSIONER BY THE EXECUTIVE DIRECTOR OF THE STATE OF
13 NEW YORK MUNICIPAL BOND BANK AGENCY, SHALL BE THE INTEREST RATE ESTAB-
14 LISHED FOR SUCH CITY APPLICABLE TO SUCH DEBT.

15 S 20. The opening paragraph of subdivision 6 of section 3602 of the
16 education law, as amended by chapter 416 of the laws of 2007, is amended
17 to read as follows:

18 Apportionment for capital outlays and debt service for school building
19 purposes. Any apportionment to a school district pursuant to this subdivi-
20 sion shall be based upon base year approved expenditures for capital
21 outlays incurred prior to July first, two thousand one from its general
22 fund, capital fund or reserved funds and current year approved expendi-
23 tures for debt service, including debt service for refunding bond issues
24 eligible for an apportionment pursuant to paragraph g of this subdivi-
25 sion and lease or other annual payments to the New York city educational
26 construction fund created by article ten of this chapter or the city of
27 Yonkers educational construction fund created by article ten-B of this
28 chapter which have been pledged to secure the payment of bonds, notes or
29 other obligations issued by the fund to finance the construction, acqui-
30 sition, reconstruction, rehabilitation or improvement of the school
31 portion of combined occupancy structures, or for lease or other annual
32 payments to the New York state urban development corporation created by
33 chapter one hundred seventy-four of the laws of nineteen hundred sixty-
34 eight, pursuant to agreement between such school district and such
35 corporation relating to the construction, acquisition, reconstruction,
36 rehabilitation or improvement of any school building, or for annual
37 payments to the dormitory authority pursuant to any lease, sublease or
38 other agreement relating to the financing, refinancing, acquisition,
39 design, construction, reconstruction, rehabilitation, improvement,
40 furnishing and equipping of, or otherwise provide for school district
41 capital facilities or school district capital equipment made under the
42 provisions of section sixteen hundred eighty of the public authorities
43 law, or for annual payments pursuant to any lease, sublease or other
44 agreement relating to the financing, refinancing, acquisition, design,
45 construction, reconstruction, rehabilitation, improvement, furnishing
46 and equipping of, or otherwise providing for educational facilities of a
47 city school district under the provisions of section sixteen of chapter
48 six hundred five of the laws of two thousand, or for payments, pursuant
49 to any assignment authorized by section twenty-seven hundred ninety-
50 nine-tt of the public authorities law, of debt service in furtherance of
51 funding the five-year educational facilities capital plan of the city of
52 New York school district or related debt service costs and expenses as
53 set forth in such section, for annual payments pursuant to any lease,
54 sublease or other agreement relating to the financing, refinancing,
55 design, reconstruction, rehabilitation, improvement, furnishing and
56 equipping of, or otherwise providing for projects authorized pursuant to

1 the city of Syracuse and the board of education of the city school
2 district of the city of Syracuse cooperative school reconstruction act,
3 for annual payments pursuant to any lease, sublease or other agreement
4 relating to the financing, refinancing, design, reconstruction, rehabil-
5 itation, improvement, furnishing and equipping of, or otherwise provid-
6 ing for projects authorized pursuant to the city of Rochester and the
7 board of education of the city school district of the city of Rochester
8 school facilities modernization program act, FOR ANNUAL PAYMENTS PURSU-
9 ANT TO ANY LEASE, SUBLEASE OR OTHER AGREEMENT RELATING TO THE FINANCING,
10 REFINANCING, DESIGN, CONSTRUCTION, RECONSTRUCTION, REHABILITATION,
11 IMPROVEMENT, FURNISHING AND EQUIPPING OF, OR OTHERWISE PROVIDING FOR
12 PROJECTS AUTHORIZED PURSUANT TO THE YONKERS CITY SCHOOL DISTRICT FACILI-
13 TIES MODERNIZATION PROGRAM ACT, or for lease, lease-purchase or other
14 annual payments to another school district or person, partnership or
15 corporation pursuant to an agreement made under the provisions of
16 section four hundred three-b, subdivision eight of section twenty-five
17 hundred three, or subdivision six of section twenty-five hundred fifty-
18 four of this chapter, provided that the apportionment for such lease or
19 other annual payments under the provisions of section four hundred
20 three-b, subdivision eight of section twenty-five hundred three, or
21 subdivision six of section twenty-five hundred fifty-four of this chap-
22 ter, other than payments under a lease-purchase agreement or an equiv-
23 alent agreement, shall be based upon approved expenditures in the
24 current year. Approved expenditures for capital outlays from a school
25 district's general fund, capital fund or reserved funds that are
26 incurred on or after July first, two thousand two, and are not aidable
27 pursuant to subdivision six-f of this section, shall be aidable as debt
28 service under an assumed amortization established pursuant to paragraphs
29 e and j of this subdivision. In any such case approved expenditures
30 shall be only for new construction, reconstruction, purchase of existing
31 structures, for site purchase and improvement, for new garages, for
32 original equipment, furnishings, machinery, or apparatus, and for
33 professional fees and other costs incidental to such construction or
34 reconstruction, or purchase of existing structures. In the case of a
35 lease or lease-purchase agreement entered pursuant to section four
36 hundred three-b, subdivision eight of section twenty-five hundred three
37 or subdivision six of section twenty-five hundred fifty-four of this
38 chapter, approved expenditures for the lease or other annual payments
39 shall not include the costs of heat, electricity, water or other utili-
40 ties or the costs of operation or maintenance of the leased facility. An
41 apportionment shall be available pursuant to this subdivision for
42 construction, reconstruction, rehabilitation or improvement in a build-
43 ing, or portion thereof, being leased by a school district only if the
44 lease is for a term of at least ten years subsequent to the date of the
45 general construction contract for such construction, reconstruction,
46 rehabilitation or improvement. Each school district shall prepare a five
47 year capital facilities plan, pursuant to regulations developed by the
48 commissioner for such purpose, provided that in the case of a city
49 school district in a city having a population of one million inhabitants
50 or more, such facilities plan shall comply with the provisions of
51 section twenty-five hundred ninety-p of this chapter and this subdivi-
52 sion. Such plan shall include, but not be limited to, a building inven-
53 tory, and estimated expense of facility needs, for new construction,
54 additions, alterations, reconstruction, major repairs, energy consump-
55 tion and maintenance by school building, as appropriate. Such five year
56 plan shall include a priority ranking of projects and shall be amended

1 if necessary to reflect subsequent on-site evaluations of facilities
2 conducted by state supported contractors.

3 S 21. Subdivision 12 of section 2432 of the public authorities law, as
4 amended by section 21 of part A4 of chapter 58 of the laws of 2006, is
5 amended to read as follows:

6 (12) "Special Program Municipality". Any city having a population of
7 less than one million but more than three hundred fifty thousand; and
8 any city having a population of less than two hundred fifty thousand but
9 more than two hundred thousand, determined according to the federal
10 decennial census of nineteen hundred eighty. Such term shall also
11 include the city of Syracuse solely for the purpose of the city of Syra-
12 cuse and the board of education of the city school district of the city
13 of Syracuse cooperative school reconstruction act AND THE CITY OF YONK-
14 ERS SOLELY FOR THE PURPOSE OF THE YONKERS CITY SCHOOL DISTRICT JOINT
15 SCHOOLS CONSTRUCTION AND MODERNIZATION ACT.

16 S 22. Subdivision 1 of section 2435-a of the public authorities law,
17 as amended by section 22 of part A4 of chapter 58 of the laws of 2006,
18 is amended to read as follows:

19 (1) In order to fulfill the purposes of this title and to provide a
20 means by which the special program municipalities may (a) receive moneys
21 to refund certain property taxes determined to be in excess of state
22 constitutional tax limits or to reimburse the special program munici-
23 palities for the prior refunding of such taxes or (b) receive moneys to
24 be applied to the cost of settling litigation involving the city school
25 districts of special program municipalities and the teachers' unions in
26 such special program municipalities, or (c) receive moneys for the
27 financing of public improvements to be applied to the cost of the recon-
28 struction, rehabilitation or renovation of an educational facility
29 pursuant to the provisions of subdivision (b) of section sixteen of
30 chapter six hundred five of the laws of two thousand, or (d) receive
31 moneys for the financing of public improvements to be applied to the
32 cost of a project for design, reconstruction or rehabilitation of a
33 school building pursuant to the provisions of section fourteen of the
34 city of Syracuse and the board of education of the city school district
35 of the city of Syracuse cooperative school reconstruction act, OR (E)
36 RECEIVE MONEYS FOR THE FINANCING OF PUBLIC IMPROVEMENTS TO BE APPLIED TO
37 THE COST OF A PROJECT FOR DESIGN, RECONSTRUCTION OR REHABILITATION OF A
38 SCHOOL BUILDING, OR THE CONSTRUCTION OF A NEW SCHOOL BUILDING, PURSUANT
39 TO THE PROVISIONS OF SECTION TWELVE OF THE YONKERS CITY SCHOOL DISTRICT
40 JOINT SCHOOLS CONSTRUCTION AND MODERNIZATION ACT, and notwithstanding
41 any general or special law to the contrary, the agency and each special
42 program municipality are hereby authorized to enter into one or more
43 special program agreements, which special program agreements shall,
44 consistent with the provisions of this title, contain such terms,
45 provisions and conditions as, in the judgment of the agency, shall be
46 necessary or desirable. Each special program agreement shall specify the
47 amount to be made available to the respective special program munici-
48 pality from the proceeds of an issue of special program bonds and shall
49 require such special program municipality, subject to appropriation by
50 the appropriate legislative body of such special program municipality,
51 to make payments to the agency in the amounts and at the times deter-
52 mined by the agency to be necessary to provide for payment of such issue
53 of special program bonds and such other fees, charges, costs and other
54 amounts as the agency shall in its judgment determine to be necessary or
55 desirable.

1 S 23. Subdivision 4 of section 2436 of the public authorities law, as
2 amended by section 23 of part A4 of chapter 58 of the laws of 2006, is
3 amended to read as follows:

4 4. In the event that a special program municipality shall fail to make
5 a payment in such amount (as calculated in accordance with the special
6 program agreement to which such municipality shall be a party) and by
7 such date as is provided to be made by such municipality in its special
8 program agreement, the chairman of the agency shall so certify to the
9 comptroller. Such certificate shall be in such form as the agency deems
10 desirable, but shall specify the amount by which such payment shall have
11 been deficient. The comptroller, upon receipt of such certificate from
12 the agency, shall withhold from such special program municipality any
13 state aid payable to such municipality to the extent of the amount so
14 stated in such certificate as not having been made, and shall immediate-
15 ly pay over to the agency the amount so withheld; provided, however,
16 that in the case of a special program agreement entered into for the
17 purpose described in paragraph (b) or (c) or (d) OR (E) of subdivision
18 one of section twenty-four hundred thirty-five-a of this title, the
19 comptroller shall be authorized to withhold from the special program
20 municipality such school aid as is payable to the city school district
21 of the special program municipality, to the extent of the amount so
22 stated in such certificate as not having been made, and shall immediate-
23 ly pay over to the agency the amount so withheld. Any amount so paid to
24 the agency from such state and/or school aid shall not obligate the
25 state to make, nor entitle the special program municipality to receive,
26 any additional amounts of state and/or school aid. Nothing contained
27 therein shall be deemed to prevent the state from modifying, reducing or
28 eliminating any program or programs of state and/or school aid; nor
29 shall the state be obligated by the terms hereof to maintain state
30 and/or school aid at any particular level or amount.

31 S 24. Subdivision 1 of section 2438 of the public authorities law, as
32 amended by section 7 of part N of chapter 56 of the laws of 2010, is
33 amended to read as follows:

34 (1) The agency shall not issue bonds and notes in an aggregate princi-
35 pal amount at any one time outstanding exceeding one billion dollars,
36 excluding tax lien collateralized securities, special school purpose
37 bonds, special school deficit program bonds, special program bonds
38 issued to finance the reconstruction, rehabilitation or renovation of an
39 educational facility pursuant to the provisions of subdivision (b) of
40 section sixteen of chapter six hundred five of the laws of two thousand,
41 special program bonds issued to finance the cost of a project for
42 design, reconstruction or rehabilitation of a school building pursuant
43 to the provisions of section fourteen of the city of Syracuse and the
44 board of education of the city school district of the city of Syracuse
45 cooperative school reconstruction act, SPECIAL PROGRAM BONDS ISSUED TO
46 FINANCE THE COST OF A PROJECT FOR DESIGN, CONSTRUCTION, RECONSTRUCTION
47 OR REHABILITATION OF A SCHOOL BUILDING PURSUANT TO THE PROVISIONS OF
48 SECTION THIRTEEN OF THE YONKERS CITY SCHOOL DISTRICT JOINT SCHOOLS
49 CONSTRUCTION AND MODERNIZATION ACT, recovery act bonds, public safety
50 communications bonds and bonds and notes issued to refund outstanding
51 bonds and notes.

52 S 25. Effect of inconsistent provisions. Insofar as the provisions of
53 this act are inconsistent with the provisions of any other law, general,
54 special, or local, or of the city charter or an ordinance or resolution
55 of the city council or the board of education of the city school
56 district, or any rule or regulation, the provisions of this act shall be

1 controlling, provided that nothing contained in this act shall be held
2 to supplement or otherwise expand the powers or duties of the city or
3 the city school district except as specified in this act.

4 S 26. Severability; construction. The provisions of this act shall be
5 severable, and if the application of any clause, sentence, paragraph,
6 subdivision, section or part of this act to any person or circumstance
7 shall be adjudged by any court of competent jurisdiction to be invalid,
8 such judgment shall not necessarily affect, impair or invalidate the
9 application of any such clause, sentence, paragraph, subdivision,
10 section, part of this act or remainder thereof, as the case may be, to
11 any other person or circumstance, but shall be confined in its operation
12 to the clause, sentence, paragraph, subdivision, section or part thereof
13 directly involved in the controversy in which such judgment shall have
14 been rendered.

15 S 27. This act shall take effect immediately.