

STATE OF NEW YORK

5454

2019-2020 Regular Sessions

IN ASSEMBLY

February 12, 2019

Introduced by M. of A. GOODELL -- Multi-Sponsored by -- M. of A. BLANK-
ENBUSH, CROUCH, MORINELLO, ORTIZ -- read once and referred to the
Committee on Education

AN ACT to amend the education law, in relation to creating a school
board empowerment act which allows local school districts to declare a
fiscal emergency under designated conditions and fiscally restructure
so as to minimize adverse impacts on student education; and providing
for the repeal of such provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. The education law is amended by adding a new title 5-a to
2 read as follows:

TITLE V-A

SCHOOL BOARD EMPOWERMENT

Article 78. School Board Empowerment (§§ 3850-3853)

ARTICLE 78

SCHOOL BOARD EMPOWERMENT

Section 3850. Declaration of fiscal emergency.

3851. Temporary freeze of expenditure increases.

3852. Restructuring operations.

3853. Restructuring plan.

§ 3850. Declaration of fiscal emergency. Notwithstanding any other
provision of the law to the contrary, upon a majority vote of the
school board a fiscal emergency may be declared allowing the school
board to take reasonable steps to ameliorate the fiscal emergency pursu-
ant to the provisions of this article. To declare a fiscal emergency the
board must be able to demonstrate:

1. projected expenses exceed all available revenue; and

2. the school budget was rejected by voters or failed to receive the
votes necessary to exceed any enacted property tax cap. Such school
board vote shall be made following a public hearing at which the school

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

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1 board shall provide evidence that projected expenses exceed all avail-
2 able revenue. Evidence proffered by the school board shall include a
3 showing of projected increases in contractually mandated costs, pension
4 costs, health care costs, utility costs, and other expenditures, exceed
5 revenues from state aid and other revenues. Such public hearing shall be
6 conducted pursuant to the provisions of article seven of the public
7 officers law.

8 § 3851. Temporary freeze of expenditure increases. 1. Notwithstanding
9 any other provision of law to the contrary, upon the declaration of a
10 fiscal emergency pursuant to section thirty-eight hundred fifty of this
11 article the school board shall have the authority to freeze any
12 increases in expenditures in a manner that minimizes any adverse impact
13 on student education. Expenditure freezes may include freezing employee
14 salaries and any contractually negotiated increases to employee salaries
15 provided that before implementing a salary freeze the school board
16 determines by a majority vote that:

17 a. the school board has considered all other reasonable alternatives
18 prior to impairing any existing employee contracts;

19 b. no other reasonable course of action would serve its purpose; and

20 c. its actions are reasonable in light of the surrounding circum-
21 stances.

22 2. All expenditure freezes approved by the school board shall be
23 disclosed at a public hearing conducted pursuant to the provisions of
24 article seven of the public officers law.

25 § 3852. Restructuring operations. 1. Notwithstanding any other
26 provision of the law to the contrary should a school board vote affirma-
27 tively to adopt an employee salary freeze the school board shall be
28 required to comply with all the provisions of this section.

29 2. The school board shall enter into a ninety-day period of negoti-
30 ations with its employees and/or their duly appointed representatives.
31 At the request of either party, a public employment relations board
32 mediator shall be assigned to oversee and assist such negotiations.

33 3. Upon expiration of such ninety-day period the school board shall
34 have the power to restructure operations including changing the terms
35 and conditions of any current employment contracts, adjusting pay levels
36 and mandatory staffing requirements, work rules, and health insurance
37 benefits and contributions. To implement any measure that impairs any
38 employees' rights under a current contract the school board shall be
39 required to show:

40 a. that performance under the current contract terms would have an
41 adverse impact on student education due to fiscal constraints;

42 b. that the school board has considered all other reasonable alterna-
43 tives prior to impairing any existing employee contracts and no other
44 course of action would better serve its purpose; and

45 c. the school board's actions are reasonable in light of the surround-
46 ing circumstances.

47 4. Any revised contracts shall remain in effect until a new collective
48 bargaining agreement is negotiated.

49 5. The provisions of sections fifteen hundred five-a, eighteen hundred
50 four, nineteen hundred seventeen, nineteen hundred seventeen-a, twenty-
51 five hundred ten, twenty-five hundred eighty-eight, three thousand thir-
52 teen, three thousand fourteen-a, three thousand fourteen-b, three thou-
53 sand fourteen-c, and three thousand fourteen-d of this chapter
54 pertaining to seniority base employee retention shall not apply when a
55 school board has declared a fiscal emergency pursuant to section thir-
56 ty-eight hundred fifty of this article and is in the process of restruc-

1 turing operations under the provisions of this section. Decisions on the
2 retention of teachers, should positions be abolished, shall be based on
3 a number of factors including, but not limited to: the schools' needs
4 for particular license areas; the annual professional performance review
5 conducted pursuant to section three thousand twelve-c of this chapter,
6 available student performance data; attendance; an assessment of the
7 teacher's performance by the teacher's building principal or other
8 building administrator in charge of the school or program; the educa-
9 tional qualifications of the teacher including curriculum specialized
10 education, degrees, licenses, or areas of expertise; the length of
11 satisfactory service; and other factors related to the teacher's experi-
12 ence and demonstrated ability. The teacher's salary shall not be a
13 factor in making a layoff recommendation. The board of education shall
14 exercise its discretion and shall approve or reject the recommendations
15 of the superintendent so as to minimize the adverse impact on student
16 education.

17 6. School boards shall have the authority to enter into new collective
18 bargaining agreements that alter employee contribution requirements
19 and/or the amount of employee salaries considered by the retirement
20 system for pension purposes.

21 7. The school board shall include analysis of other plausible means of
22 raising revenue, and upon a majority vote implement such measures before
23 reducing employee salaries or benefits or utilize such revenue to offset
24 reductions in employee salaries or benefits.

25 § 3853. Restructuring plan. The school board shall be required to
26 submit a restructuring plan to the department. Such restructuring plan
27 shall provide detailed analysis of the board's compliance with section
28 thirty-eight hundred fifty-two of this article.

29 § 2. This act shall take effect immediately and shall expire December
30 31, 2022, when upon such date the provisions of this act shall be deemed
31 repealed.