STATE OF NEW YORK

6755

2019-2020 Regular Sessions

IN SENATE

September 30, 2019

Introduced by Sen. FUNKE -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT authorizing the commissioner of education, in consultation with the comptroller to appoint a monitor to oversee the Rochester City school district and establishing the powers and duties of the monitor; 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:

Section 1. Definitions. For the purposes of this act:

(a) "Monitor" shall mean the person appointed pursuant to section two of this act.

(b) "Board of education" or "board" shall mean the board of education of the Rochester City school district.

(c) "Superintendent" shall mean the superintendent of the Rochester City school district.

(d) "Commissioner" shall mean the commissioner of education.

(e) "School district" or "district" shall mean the Rochester City school district.

(f) "Comptroller" shall mean the state comptroller.

(g) "Relatives" shall mean a Rochester City school district board member's spouse, domestic partner, child, stepchild, stepparent, or any person who is a direct descendant of the grandparents of the current board member or of the board member's spouse or domestic partner.

§ 2. Appointment. (a) The commissioner of education shall appoint a monitor, subject to appropriation, to provide direct oversight of the fiscal policies, practices, programs and decisions of the school district, the board of education and the superintendent. The commissioner of education shall provide the monitor with technical support and assistance for the purposes of carrying out his or her duties under this

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

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act, if requested by the monitor. The monitor shall serve at the pleasure of the commissioner of education.

(b) The monitor shall be paid a fixed salary set by the commissioner of education and shall be reimbursed for actual and necessary expenses incurred in the performance of his or her duties including travel and supplies. The costs associated with the implementation of this act shall be borne by the state and shall be paid through a state appropriation.

(c) The monitor shall be a non-voting ex-officio member of the school board. The monitor shall be an individual who is not a resident or employee of the school district or a relative of board members of the school district at the time of his or her appointment. The monitor shall have experience in school district finances and, to the extent practicable, shall have experience in one or more of the following areas:

(i) elementary and secondary education;

(ii) the operation of school districts in New York;

(iii) educating students with disabilities; or

(iv) educating English language learners.

§ 3. (a) The monitor shall be entitled to attend all meetings of the board, including executive sessions; provided however, such monitor shall not be considered for purposes of establishing a quorum of the board. The school district shall fully cooperate with any monitor appointed by the commissioner of education, including but not limited to providing such monitor with access to any necessary documents and records of the district including access to electronic information systems, databases and planning documents, consistent with all applicable state and federal statutes including but not limited to the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g) and section 2-d of the education law.

(b) The board, in consultation with the monitor, shall adopt a conflict of interest policy that complies with all existing applicable laws and regulations and ensures that its board members act in the school district's best interest and comply with applicable legal requirements. The conflict of interest policy shall include, but not be limited to:

(i) a definition of the circumstances that constitute a conflict of interest;

(ii) procedures for disclosing a conflict of interest to the board;

(iii) a requirement that the person with the conflict of interest not participate in board deliberation or vote on the matter giving rise to such conflict, provided that nothing in this subdivision shall prohibit the board from requesting that the person with the conflict of interest present information as background or answer questions at a board meeting prior to the commencement of deliberations or voting relating thereto;

(iv) a prohibition against any attempt by the person with the conflict to influence improperly the deliberation or voting on the matter giving rise to such conflict; and

(v) a requirement that the existence and resolution of the conflict be documented in the board's records, including in the minutes of any meeting at which the conflict was discussed or voted upon.

§ 4. Financial plan. The financial plan shall be hereinafter known as the "plan". (a) No later than November first, two thousand twenty, the board, in consultation with the monitor, shall develop a proposed financial plan for the two thousand twenty--two thousand twenty-one school year and the four subsequent school years. The financial plan shall ensure that annual aggregate operating expenses shall not exceed annual aggregate operating revenues for such school year and that the major

operating funds of the district be balanced in accordance with generally accepted accounting principles. The financial plan shall include statements of all estimated revenues, expenditures, and cash flow projections of the district.

(b) Prior to submitting the proposed plan to the monitor for review and approval of the monitor, the board of education shall conduct a public hearing on the plans and consider the input of the community. The proposed plan shall be made public on the district's website at least three business days before such public hearing. Once the proposed financial plan has been adopted by the board of education, such plan shall be submitted to the monitor for final approval.

(c) No later than fifteen calendar days after submitting the proposed plan to the monitor, unless the monitor needs additional information to make an informed decision, the monitor shall approve or disapprove the financial plan. In the event the monitor shall disapprove such plan, the monitor shall promptly provide the board written notice of its reasons for disapproval. Within fifteen calendar days from the receipt of such notice, the board shall modify the rejected plan. If the modified plan is approved by the monitor, the board of education shall adopt and implement such plan. If the modified plan is not approved by the monitor, the monitor shall impose a plan of his or her own formulation, and the board shall then adopt and implement such plan. The final financial plan shall be made available to the public, including on the district's website, at least three business days after adoption.

§ 5. Fiscal and operational oversight by the commissioner of education and the comptroller.

(a) The board of education shall annually submit the school district's proposed budget for the next succeeding school year to the monitor no later than 45 days before the date scheduled for the school district's budget vote. The monitor shall review the proposed budget to ensure that it is balanced within the context of revenue and expenditure estimates and mandated programs and, to the greatest extent possible, is consistent with the financial plan. The monitor shall present its findings to the board of education no later than 30 days prior to the date scheduled for the school district's budget vote. The board of education, with the approval of the monitor, shall make adjustments to the proposed budget consistent with any recommendations made by the monitor. The school district shall make available on the district's website: the initial proposed budget; the monitor's findings; and the final proposed budget prior to the date of the school district's budget vote. Nothing in this act shall be construed to abrogate the duties and responsibilities of the school district consistent with applicable state law and regulations.

(b) The district shall provide quarterly reports to the monitor and annual reports to the commissioner and comptroller on the fiscal and operational status of the school district to ensure that it maintains a balanced budget in accordance with subdivision (a) of this section. In addition, the monitors shall provide an annual report to the commissioner and comptroller on all contracts that the district entered into throughout the year.

(c) The comptroller shall annually conduct a general fiscal audit of the school district, and the district shall post the comptroller's audit and the board's response on the district's website.

(d) The monitor shall have the power to approve or disapprove the appointment of a superintendent by the board of education. If the monitor disapproves of the appointment, then the board shall recommend a new

candidate for the monitor to approve or disapprove until an appointment is approved by the monitor.

(e) The monitor shall have the authority to approve or deny all travel outside the district paid for by the school district.

(f) The monitor shall have authority to approve or deny all contracts and expenditures of the district, except for collective bargaining agreements negotiated in accordance with article 14 of the civil service law.

(g) The monitor shall work with the district's shared decision-making committee formed in accordance with part 100.11 of the commissioner of education's regulations in developing district goals, implementation of district priorities or budgetary recommendations.

(h) The monitor shall assist in resolving any disputes and conflicts, included but not limited to, those between the superintendent and the board of education and among the members of the board of education.

(i) The monitor shall attempt to engage in cost saving measures including, but not limited to, shared service agreements.

§ 6. This act shall take effect immediately and shall expire June 30, 2025, when upon such date the provisions of this act shall be deemed repealed.