STATE OF NEW YORK

6588

2019-2020 Regular Sessions

IN SENATE

June 17, 2019

Introduced by Sens. BROOKS, BOYLE -- 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 state monitor to oversee the Wyandanch union free school district and establishing the powers and duties of the state 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) "State monitor" or "monitor" shall mean the person appointed pursuant to section two of this act, or an interim person appointed to such position.

(b) "Board" shall mean the board of education of the Wyandanch union free school district.

(c) "Superintendent" shall mean the superintendent of the Wyandanch union free school district.

§ 2. Appointment. (a) The commissioner of education shall appoint a state monitor subject to appropriation, who shall have experience in school district finance, to provide direct oversight of the fiscal policies, practices, programs and decisions of the Wyandanch union free 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 act, if requested by the state monitor. The state monitor shall serve at the pleasure of the commissioner of education.

(b) The commissioner of education shall have the authority to appoint a state monitor on an interim basis during the search for a permanent appointment and in the event of resignation, death, incapacity, or any other reason which causes the monitor to be unable to perform his or her duties and until such time as a permanent state monitor is appointed.

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

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Any state monitor appointed on an interim basis shall have the powers and duties of the state monitor contained in this act.

(c) The state monitor shall be a state employee as defined in the public officers law, and shall be paid a fixed salary set by the commissioner of education and shall be reimbursed for actual 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.

(d) Notwithstanding any other provision of general or special law, the earnings limitations contained in any such general or special law, local law and/or charter and applicable to the employment of persons in a position or positions in public service in any calendar year while retired and receiving a retirement allowance shall not apply to any appointment authorized by this act. If applicable, the state monitor may continue as retired and without loss, suspension or diminution of his or her retirement allowance provided that such individual is granted a waiver of retirement earnings limitation by the comptroller.

(e) 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 Wyandanch union free school district at the time of their appointment.

§ 3. (a) The monitor shall be entitled to attend all meetings of the board, including executive sessions; provided however, such monitor or monitors shall not be considered for purposes of establishing a quorum of the board. The Wyandanch union free school district shall fully cooperate with any monitor appointed by the commissioner of education, including but not limited to providing such monitor or monitors 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, including but not 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;

(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;

(vi) a board member is not, and in the past two years has not been, employed by the board; and

(vii) a board member is not, and in the past two years has not been, employed by an entity that received remuneration valued at more than one

thousand dollars for goods and services provided to the board or the school district or received any other form of financial assistance valued at more than one thousand dollars from the board or the school district.

§ 4. Financial plan. The financial plan shall be hereinafter known as the "plan". The financial plan shall contain actions sufficient to ensure, with respect to the major operating funds for each fiscal year of the plan, that annual aggregate operating expenses for such fiscal year shall not exceed annual aggregate operating revenues for such fiscal year. Each financial plan and financial plan modification shall provide that the major operating funds of the district will be balanced in accordance with generally accepted accounting principles. The school district shall develop the financial plan to be reviewed and approved by the monitor. The plan may, from time to time, be modified upon the approval of the monitor. The financial plan shall include statements of all estimated revenues and of all expenditures and cash flow projections of the district. Not later than November first, two thousand nineteen, the district, in consultation with the state monitor shall develop a proposed financial plan for the two thousand nineteen--two thousand twenty fiscal year and the four subsequent fiscal years. The financial plan shall contain actions sufficient to ensure that annual aggregate operating expenses for such fiscal year shall not exceed annual aggregate operating revenues for such fiscal year and that the major operating funds of the district will be balanced in accordance with generally accepted accounting principles. The proposed financial plan shall be made public, including on the district website, and available at least three business days before a public hearing is held. The board of education of the Wyandanch union free school district shall conduct a public hearing as soon as practicable after the proposed financial plan is developed and shall consider the input of the community before adopting the plan. Once the proposed financial plan has been adopted by the board of education, such plan shall be submitted to the state monitor for final approval. Not later than fifteen calendar days after submission to the monitor, unless the monitor needs additional information to make an informed decision, the monitor shall approve or disapprove the plan. In the event the monitor shall disapprove such plan, the monitor shall promptly thereafter notify the district of its reasons. Within fifteen calendar days from the receipt of such notification, the district shall modify the rejected plan. If the plan modification is approved by the monitor, the board of education shall adopt and implement such plan. If the plan modification is not approved by the monitor, the monitor shall impose a plan of his/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 website, at least three business days after adoption.

§ 5. Fiscal and operational oversight by the commissioner of education and the comptroller. During the effective period of this act the comptroller shall undertake an enhanced review of the district budget.

(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. 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.

(b) The district shall provide reports, on a quarterly basis, to the monitor, and/or at such other times as may be requested by the monitor, and the district shall annually provide to the commissioner and comptroller reports 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, including a list of all contracts that the district entered into throughout the year.

(c) The comptroller shall annually conduct a general fiscal audit of the Wyandanch union free 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 the 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.

(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 section 100.11 of the commissioner of education's regulations in developing any academic plans, 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, 2024, when upon such date the provisions of this act shall be deemed repealed.