STATE OF NEW YORK

9460

IN SENATE

May 30, 2022

Introduced by Sen. LIU -- read twice and ordered printed, and when printed to be committed to the Committee on New York City Education

AN ACT to amend the education law, in relation to the contract for excellence in a city school district in a city having a population of one million or more inhabitants

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

Section 1. Paragraph e of subdivision 1 of section 211-d of the education law, as amended by section 1 of part A of chapter 56 of the laws of 2022, is amended to read as follows:

e. Notwithstanding paragraphs a and b of this subdivision, a school district that submitted a contract for excellence for the two thousand eight--two thousand nine school year shall submit a contract for excellence for the two thousand nine--two thousand ten school year in conformity with the requirements of subparagraph (vi) of paragraph a of subdivision two of this section unless all schools in the district are identified as in good standing and provided further that, a school district that submitted a contract for excellence for the two thousand nine--two thousand ten school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand eleven--two thousand twelve school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the product of the amount approved by the commissioner in the contract for excellence for the two thousand nine--two thousand ten school year, multiplied by the district's gap elimination adjustment percentage and provided further that, a school district that submitted a contract for excellence for the two thousand eleven--two thousand twelve school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand twelve--two thousand thirteen school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than

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

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the amount approved by the commissioner in the contract for excellence for the two thousand eleven--two thousand twelve school year and provided further that, a school district that submitted a contract for excellence for the two thousand twelve--two thousand thirteen school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand thirteen--two thousand fourteen school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the amount approved by the commissioner in the contract for excellence for the two thousand twelve--two thousand thirteen school year and provided further that, a school district that submitted a contract for excellence for the two thousand thirteen--two thousand fourteen school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand fourteen--two thousand fifteen school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the amount approved by the commissioner in the contract for excellence for the two thousand thirteen--two thousand fourteen school year; and provided further that, a school district that submitted a contract for excellence for the two thousand fourteen--two thousand fifteen school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand fifteen--two thousand sixteen school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the amount approved by the commissioner in the contract for excellence for the two thousand fourteen--two thousand fifteen school year; and provided further that a school district that submitted a contract for excellence for the two thousand fifteen--two thousand sixteen school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand sixteen--two thousand seventeen school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the amount approved by the commissioner in the contract for excellence for the two thousand fifteen--two thousand sixteen school year; and provided further that, a school district that submitted a contract for excellence for the two thousand sixteen--two thousand seventeen school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand seventeen--two thousand eighteen school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the amount approved by the commissioner in the contract for excellence for the two thousand sixteen--two thousand seventeen school year; and provided further that a school district that submitted a contract for excellence for the two thousand seventeen--two thousand eighteen school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand eighteen--two thousand nineteen school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the amount approved by the

commissioner in the contract for excellence for the two thousand seventeen--two thousand eighteen school year; and provided further that, a school district that submitted a contract for excellence for the two thousand eighteen--two thousand nineteen school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand nineteen--two thousand twenty school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the amount approved by the commissioner in the contract for excellence for the two thousand eighteen--two thousand nineteen school year; and provided further that, a school district that submitted a contract for excellence for the two thousand nineteen--two thousand twenty school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand twenty--two thousand twenty-one school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the amount approved by the commissioner in the contract for excellence for the two thousand nineteen--two thousand twenty school year; and provided further that, a school district that submitted a contract for excellence for the two thousand twenty--two thousand twenty-one school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand twenty-one--two thousand twenty-two school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the amount approved by the commissioner in the contract for excellence for the two thousand twenty--two thousand twenty-one school year; and provided further that, a school district that submitted a contract for excellence for the two thousand twenty-one--two thousand twenty-two school year, unless all schools in the district are identified as in good standing, shall submit a contract for excellence for the two thousand twenty-two--two thousand twenty-three school year which shall, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, provide for the expenditure of an amount which shall be not less than the amount approved by the commissioner in the contract for excellence for the two thousand twenty-one--two thousand twenty-two school year**; provided, however, that, in a city school district in a city having a population of one million or more, notwithstanding the requirements of subparagraph (vi) of paragraph a of subdivision two of this section, the contract for excellence shall provide for the expenditure as set forth in subparagraph (v) of paragraph a of subdivision two of this section**. For purposes of this paragraph, the "gap elimination adjustment percentage" shall be calculated as the sum of one minus the quotient of the sum of the school district's net gap elimination adjustment for two thousand ten--two thousand eleven computed pursuant to chapter fifty-three of the laws of two thousand ten, making appropriations for the support of government, plus the school district's gap elimination adjustment for two thousand eleven--two thousand twelve as computed pursuant to chapter fifty-three of the laws of two thousand eleven, making appropriations for the support of the local assistance budget, including support for general support for public schools, divided by the total aid for adjustment computed pursuant to chapter fifty-three of the laws of two thousand eleven, making appropriations for the local assistance budget,

including support for general support for public schools. Provided, further, that such amount shall be expended to support and maintain allowable programs and activities approved in the two thousand nine--two thousand ten school year or to support new or expanded allowable programs and activities in the current year.

§ 2. Subparagraph (v) of paragraph a of subdivision 2 of section 211-d of the education law, as amended by section 2 of part A of chapter 57 of the laws of 2008, is amended to read as follows:

(v) In a city school district in a city having a population of one million or more inhabitants, each contract for excellence shall describe how the amounts apportioned to the school district in the current year as total foundation aid and academic achievement grants, in excess of one hundred three percent of the district's foundation aid base, [~~as adjusted for additional amounts payable as charter school basic tuition over such amount payable in the base year,~~] shall be used to support new programs and new activities or expand the use of programs and activities demonstrated to improve student achievement; provided however, up to thirty million dollars or twenty-five percent of additional funding received in the current year, whichever is less, may be used to maintain investments in the programs and activities listed in paragraph a of subdivision three of this section.

§ 3. Subparagraphs (ii) and (iii) of paragraph (b) of subdivision 2 of section 211-d of the education law, subparagraph (ii) as amended by section 2 of part A of chapter 57 of the laws of 2008, subparagraph (iii) as added by section 3-a of part A of chapter 57 of the laws of 2009, are amended to read as follows:

(ii) **(A)** In a city school district in a city having a population of one million or more inhabitants such contract shall also include a plan**, which shall be developed in collaboration with the collective bargaining units representing teachers and the principals and signed off on by the chancellor and the presidents of each bargaining unit,** to reduce [~~average~~] **actual** class sizes, [~~as defined by the commissioner, within five years for the following grade ranges: (A) pre-kindergarten-third grade~~] **beginning September two thousand twenty-two and to be achieved by September two thousand twenty-seven for all classes, with the exception of physical education and performing groups, as follows: (1) kindergarten-third grade to have no more than twenty students per class**; [~~(B)~~] **(2)** fourth-eighth grade **to have no more than twenty-three students per class**; and [~~(C)~~] **(3)** high school **to have no more than twenty-five students per class**. [~~Such~~] **Physical education and performing groups shall have no more than forty students per class at all levels. Each year of the plan, an additional twenty percent of the classrooms in the city school district, excluding special education classes, shall be in compliance with the class size targets such that the city school district is in full compliance by two thousand twenty-seven and all classes should maintain the target class size. The class size reduction plan shall prioritize schools serving populations with higher poverty levels.**

(B) The class size reduction plan shall include [~~class size reduction for low performing and overcrowded schools and also~~] **any exemptions to the class size targets. These exemptions shall be limited to: (1) space; (2) over-enrolled students; (3) license area shortages; and (4) severe economic distress. Any such exemptions shall be approved by the chancellor and the presidents of the collective bargaining units representing the teachers and the principals as part of the class size reduction plan. Should the chancellor and the presidents of the collective**

bargaining units representing the teachers and the principals be unable to reach agreement on the exemptions after thirty days, the issue shall be determined by an arbitrator. In addition, any exemption based on available space shall include a reference to the capital budget to demonstrate that the budget is aligned with resolving the exemption status. Exempted classes, for the years in which they are exempt, and special education classes shall not count toward the twenty percent target.

(C) The class size reduction plan shall also include the methods to be used to achieve [~~such~~] the class [~~sizes~~] size targets, such as the creation or construction of more classrooms and school buildings, the placement of more than one teacher in a classroom or methods to otherwise reduce the student to teacher ratio[~~; provided, however, that notwithstanding any law, rule or regulation to the contrary, the sole and exclusive remedy for a violation of the requirements of this paragraph shall be pursuant to a petition to the commissioner under subdivision seven of section three hundred ten of this title, and the decision of the commissioner on such petition shall be final and unreviewable~~], but only as a temporary measure until more classrooms are made available in conformance with the plan. For elective and specialty classes, the collective bargaining unit representing teachers may negotiate class sizes higher than the targets if such increase is approved by a majority of the staff in the school.

(iii) A city school district in a city having a population of one million or more inhabitants shall prepare [~~a report~~] annual reports, on the dates set forth below, to the commissioner on the status of the implementation of its plan to reduce [~~average~~] actual class sizes pursuant to subparagraph (ii) of this paragraph. Such report shall [~~identify~~] be publicly released and posted on the city school district's website, identifying all schools that received funds targeted at class size reduction efforts pursuant to the requirements of this section and [~~provide~~] providing the following information regarding such schools:

(A) the amount of contract for excellence funds received by each school and the school year in which it received such funds;

(B) a detailed description of how contract for excellence funds contributed to achieving class size reduction in each school that received such funding including specific information on the number of [~~classrooms~~] classes in each school that existed prior to receiving contract for excellence funds and the number of new [~~classrooms~~] classes that were created in each school for each year such funding was received, the number of classroom teachers that existed in each school prior to receiving contract for excellence funds and the number of new classroom teachers in each school for each year such funding was received, the student to teacher ratio in each school prior to receiving contract for excellence funds and the student to teacher ratio in each school for each year such funding was received;

(C) the actual student enrollment for the [~~two thousand six--two thousand seven school year, the actual student enrollment for the two thousand seven--two thousand eight school year, the actual student enrollment for the two thousand eight--two thousand nine school year,~~] current school year and the projected student enrollment for the [~~two thousand nine--two thousand ten~~] upcoming school year for each school by grade level;

(D) the actual [~~average~~] class sizes for the [~~two thousand six--two thousand seven school year, the actual average class sizes for the two thousand seven--two thousand eight school year, the actual average class~~

~~sizes for the two thousand eight--two thousand nine~~] current school year, and the projected [~~average~~] class sizes for the [~~two thousand nine--two thousand ten~~] upcoming school year for each school by grade level; [~~and~~]

(E) the annual capital plan for school construction and leasing to show how many classrooms will be added in each year and in which schools and districts to achieve the class size targets;

(F) how the school capacity and utilization formula is aligned to the class size targets in the city school district's class size reduction plan; and

(G) the schools that have made insufficient progress toward achieving the class size reduction [~~goals outlined~~] targets set forth in the approved [~~five year~~] class size reduction plan pursuant to subparagraph (ii) of this paragraph and a detailed description of the actions that will be taken to reduce class sizes in such schools.

[~~Such report shall be submitted to the commissioner on or before November seventeenth, two thousand nine and shall be made available to the public by such date.~~] The report shall be submitted to the commissioner on or before November fifteenth of each year and made available to the public by such date on the city school district's website. If the department determines that the November fifteenth report does not demonstrate sufficient decreases in class size, the department shall issue a letter making that determination public on its website and the city school district shall immediately submit a plan for corrective action, which shall be developed in collaboration with the collective bargaining units representing the teachers and the principals and signed off on by the chancellor and the president of each collective bargaining unit. The city school district's corrective action plan shall also be made available to the public on the city school district's website upon submission to the department. The final corrective action plan shall be made available to the public upon approval by the department. The report shall also be certified by the state or city comptroller that the city school district's capital and education funding plans will provide sufficient space and staffing for the reduction in class size set forth in this paragraph and, if not, what measures and/or funding should be added to the plan to achieve such targets.

(iv) Provided the commissioner approves and the city school district remains in compliance with the class size reduction plan, as set forth herein, the state shall take such compliance into consideration when determining increases in foundation aid.

(v) In addition to the annual reports, the city school district shall submit a financial impact statement on November fifteenth, two thousand twenty-four. The financial impact statement may recommend a pause of the class size reduction plan, but in no event may it result in a roll back or increase in class sizes.

§ 4. Paragraph d of subdivision 4 of section 211-d of the education law, as added by section 12 of part A of chapter 57 of the laws of 2007, is amended to read as follows:

d. [~~For the two thousand seven--two thousand eight school year, school districts shall solicit public comment on their contracts for excellence.~~] In a city school district in a city of one million or more inhabitants, the public process set forth in paragraphs a through c of this subdivision shall commence no later than thirty days after a state budget is enacted each year and be completed no later than thirty days after its commencement. Notice of the public process shall be provided fifteen days prior to the commencement of the first public hearing and

shall be posted on the city school district's website as well as transmitted via email to school administrators, parent and teacher organizations, and elected officials. The proposed plan shall be submitted for state approval within two weeks following the completion of the public process. The proposed plan shall be posted on the city school district's website within twenty-four hours of its submission along with a summary of the public comments and the city school district's explanation and reasons for which public comments were incorporated into the proposed plan and which public comments were not incorporated into the proposed plan.

§ 5. Subdivision 5 of section 211-d of the education law, as added by section 12 of part A of chapter 57 of the laws of 2007, is amended to read as follows:

5. **a.** Each contract for excellence shall be subject to approval by the commissioner and his or her certification that the expenditure of additional aid or grant amounts is in accordance with subdivision two of this section.

b. In a city school district of one million or more inhabitants, upon approval of the contract for excellence, one-third of the contract for excellence funds shall be released to the city school district. The remainder of the funds shall be released to the city school district upon submission of the November fifteenth report described in subdivision two of this section, only if such report demonstrates sufficient reduction in class sizes, and the remainder of the funds shall be released upon submission by the city school district of the corrective action plan described in subdivision two of this section. In the years following a year which required a corrective action plan pursuant to subdivision two of this section, no contract for excellence funds shall be provided by the state until and unless such corrective action plan has been fully implemented.

§ 6. This act shall take effect immediately; provided that the amendments to paragraph e of subdivision 1 of section 211-d of the education law made by section one of this act shall take effect on the same date and in the same manner as section 1 of part A of chapter 56 of the laws of 2022, takes effect.