STATE OF NEW YORK

6258

2021-2022 Regular Sessions

IN ASSEMBLY

March 11, 2021

Introduced by M. of A. MAGNARELLI -- read once and referred to the Committee on Education

AN ACT to amend part A-4 of chapter 58 of the laws of 2006 enacting the "city of Syracuse and the board of education of the city school district of the city of Syracuse cooperative school reconstruction act", in relation to construction and design contracts entered into by the JSC Board; and to amend the education law, in relation to the computation of building aid for reconstruction or modernizing of no more than three projects for the third phase of the city of Syracuse cooperative school reconstruction act

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

Section 1. Subdivision (h) of section 4 of part A-4 of chapter 58 of the laws of 2006 enacting the "city of Syracuse and the board of education of the city school district of the city of Syracuse cooperative school reconstruction act", as amended by chapter 459 of the laws of 2013, is amended to read as follows:

(h) "Project" shall mean work at an existing school building site that involves the design, reconstruction, or rehabilitation of an existing school building for its continued use as a school of the city school district, which may include an addition to an existing school building for such continued use at a cost, for such addition, of, for projects identified in subdivision (a) of section five of this act, no more than nine million dollars, and, for projects identified in subdivision (b) *and (c)* of section five of this act, no more than twenty million dollars, and which also may include (1) the construction or reconstruction of athletic fields, playgrounds, and other recreational facilities for such existing school building, and/or (2) the acquisition and installation of all equipment necessary and attendant to and for the use of such existing school building and/or the acquisition of additional real property necessary for the project.

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

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§ 2. Section 5 of part A-4 of chapter 58 of the laws of 2006 enacting the "city of Syracuse and the board of education of the city school district of the city of Syracuse cooperative school reconstruction act", as amended by chapter 9 of the laws of 2014, is amended to read as follows:

§ 5. (a) No more than seven projects, one each at the Central High School, the Blodgett School, the Shea Middle School, the H.W. Smith Elementary School, the Clary Middle School, the Dr. Weeks Elementary School and the Fowler High School, up to a total cost of two hundred twenty-five million dollars; and (b) no more than twenty projects which shall be located at the Bellevue Elementary School, the Clary Middle School, the Corcoran High School, the Danforth Middle School, the Edward Smith K-8 School, the Expeditionary Learning Middle School, the Fowler High School, the Frazer K-8 School, the Grant Middle School, the Greystone Building, the Henninger High School, the Huntington K-8 School, the Nottingham High School, the Shea Middle School and the Westside Academy at Blodgett, up to a total cost of three hundred million dollars**; and (c) no more than 10 projects, which shall be located at the STEM at Blodgett Middle School, the Corcoran High School, the Delaware Primary School, the Henninger High School, the Syracuse Latin School, the Lincoln Middle School, the Nottingham High School, the Roberts PreK-8 School, the Seymour Dual Language Academy and the Webster Elementary School, up to a total cost of three hundred million dollars**, shall be authorized and undertaken pursuant to this act, unless otherwise authorized by law.

§ 3. Sections 6 and 7 of part A-4 of chapter 58 of the laws of 2006 enacting the "city of Syracuse and the board of education of the city school district of the city of Syracuse cooperative school reconstruction act", as amended by chapter 459 of the laws of 2013, are amended to read as follows:

§ 6. (1) Before formal selection of the projects identified in subdivision (a) of section five of this act occurs, the JSC board shall develop a comprehensive plan recommending and outlining the projects it proposes to be potentially undertaken pursuant to this act. Such plan shall include: (a) an estimate of total costs to be financed, proposed financing plan, proposed method of financing, terms and conditions of the financing, estimated financing costs, and, if city general obligation bonds or notes are not proposed as the method of financing, a comparison of financing costs between such bonds or notes and the proposed method of financing. The plan should also address what specific options would be used to ensure that sufficient resources exist to cover the local share of any such project cost on an annual basis; (b) information concerning the potential persons to be involved in the financing and such person's role and responsibilities; (c) estimates on the design, reconstruction and rehabilitation costs by project, any administrative costs for potential projects, and an outline of the time-frame expected for completion of each potential project; (d) a detailed description of the request for proposals process and an outline of the criteria to be used for selection of the program manager and all contractors; (e) any proposed amendments to the city school district's five year capital facilities plan submitted in accordance with subdivision 6 of section 3602 of the education law and the regulations of the commissioner; and (f) a diversity plan, in compliance with subdivision (b) of section eight of this act, to develop diversity goals, including appropriate community input and public discussion, and develop strategies that would create and coordinate any efforts to ensure a more

diverse workforce for the projects. The diversity plan should address accountability for attainment of the diversity goals, what forms of monitoring would be used, and how such information would be publicly communicated.

Prior to the development of the comprehensive plan, the JSC board shall hold as many public hearings as may be necessary to ensure sufficient public input and allow for significant public discussion on the school building needs in such city, with at least one hearing to be held in each neighborhood potentially impacted by a proposed project.

The JSC board shall submit the components of such comprehensive plan outlined in paragraph (a) of subdivision one of this section to the comptroller, along with any other information requested by the comptroller, for his or her review and approval.

(2) Before formal selection of the projects pursuant to subdivision (b) **and (c)** of section five of this act occurs, the city school district shall provide to the JSC board a comprehensive draft plan recommending and outlining the projects it proposes to be potentially undertaken pursuant to this act. Such plan will be subject to the review and approval of the JSC board and shall include: (a) an estimate of total costs to be financed, proposed financing plan, proposed method of financing, terms and conditions of the financing, estimated financing costs, and, if city general obligation bonds or notes are not proposed as the method of financing, a comparison of financing costs between such bonds or notes and the proposed method of financing. The plan should also address what specific options would be used to ensure that sufficient resources exist to cover the local share of any such project cost on an annual basis; (b) information concerning the potential persons to be involved in the financing and such person's role and responsibilities; (c) estimates on the design, reconstruction and rehabilitation costs by project, any administrative costs for potential projects, and an outline of the time-frame expected for completion of each potential project; (d) a detailed description of the request for proposals process and an outline of the criteria to be used for selection of the program manager and all contractors; (e) any proposed amendments to the city school district's five year capital facilities plan submitted in accordance with subdivision 6 of section 3602 of the education law and the regulations of the commissioner; and (f) a diversity plan, in compliance with subdivision (b) of section eight of this act, to develop diversity goals, including appropriate community input and public discussion, and develop strategies that would create and coordinate any efforts to ensure a more diverse workforce for the projects. The diversity plan should address accountability for attainment of the diversity goals, what forms of monitoring would be used, and how such information would be publicly communicated.

As part of the development of the comprehensive plan, the school district shall hold as many public hearings as may be necessary to ensure sufficient public input and allow for significant public discussion on the school building needs in such city, with at least one hearing to be held in each neighborhood potentially impacted by a proposed project.

The JSC board shall submit the components of such comprehensive plan outlined in paragraph (a) of subdivision two of this section to the comptroller, along with any other information requested by the comptroller, for his or her review and approval.

§ 7. (a) Notwithstanding any general, special or local law to the contrary and upon approval by the comptroller pursuant to section six of

this act, the city school district may select projects, pursuant to subdivision (a) of section five of this act to be undertaken pursuant to this act, as provided for in such approved comprehensive plan. After the city school district has selected a new project and plans and specifications for such project have been prepared and approved by the city school district, which are consistent with the approved comprehensive plan, the city school district shall deliver such plans and specifications to the city, for approval by such city, acting through the common council, and after the common council has approved such plans and specifications, the city shall deliver them to the commissioner for his or her approval. After approval by the commissioner, the plans and specifications shall be returned to the city school district and such district shall then deliver them to the JSC board. All such specifications shall detail the number of students the completed project is intended to serve, the site description, the types of subjects to be taught, the types of activities for school, recreational, social, safety, or other purposes intended to be incorporated in the school building or on its site and such other information as the city school district, the city, the common council, and the commissioner shall deem necessary or advisable.

(b) Notwithstanding any general, special or local law to the contrary and upon approval by the comptroller pursuant to section six of this act, the city school district may select projects, pursuant to subdivision (b) **and (c)** of section five of this act to be undertaken pursuant to this act, as provided for in such approved comprehensive plan. After the city school district has selected a new project and plans and specifications for such project have been prepared and approved by the city school district in consultation with the city engineer, which are consistent with the approved comprehensive plan, the city school district shall deliver such plans and specifications to the commissioner for his or her approval. After approval by the commissioner, the plans and specifications shall be delivered to the JSC board. All such specifications shall detail the number of students the completed project is intended to serve, the site description, the types of subjects to be taught, the types of activities for school, recreational, social, safety, or other purposes intended to be incorporated in the school building or on its site and such other information as the city school district, the city engineer, and the commissioner shall deem necessary or advisable.

(c) Notwithstanding any other provision of law to the contrary, if the total project cost associated with the projects authorized pursuant to subdivision (b) **and (c)** of section five of this act exceeds the estimated total project cost of 300 million dollars, then the JSC board shall report such information, along with explanatory documentation regarding the increase in cost, to the governor, the New York state comptroller, the commissioner, the temporary president of the senate and the speaker of the assembly.

(d) Notwithstanding any other provision of law to the contrary, the JSC board shall submit estimated project costs for the projects authorized pursuant to subdivision (b) **and (c)** of section five of this act after the completion of schematic plans and specifications for review by the commissioner. If the total project costs associated with such projects exceed the sum of the estimated individual approved cost allowance of each building project by more than the lesser of 30 million dollars or ten percent of the approved costs, and the city school district has not otherwise demonstrated to the satisfaction of the New

York state education department the availability of additional local shares for such excess costs, then the JSC board shall not proceed with the preparation of final plans and specifications for such projects until the projects have been redesigned or value-engineered to reduce estimated project costs so as not to exceed the above cost limits.

(e) Notwithstanding any other provision of law to the contrary, the JSC board shall submit estimated project costs for the projects authorized pursuant to subdivision (b) **and (c)** of section five of this act after the completion of fifty percent of the final plans and specifications for review by the commissioner. If the total project costs associated with such projects exceed the sum of the estimated individual approved cost allowance of each building project by more than the lesser of 30 million dollars or ten percent of the approved costs, and the city school district has not otherwise demonstrated to the satisfaction of the New York state education department the availability of additional local share for such excess costs, then the JSC board shall not proceed with the completion of the remaining fifty percent of the plans and specifications for such projects until the projects have been redesigned or value-engineered to reduce estimated project costs so as not to exceed the above cost limits.

§ 4. Subdivision (a) of section 10 of part A-4 of chapter 58 of the laws of 2006 enacting the "city of Syracuse and the board of education of the city school district of the city of Syracuse cooperative school reconstruction act", as amended by chapter 459 of the laws of 2013, are amended to read as follows:

(a) The JSC board may require a contractor awarded a public contract, subcontract or other agreement for a project to enter into a project labor agreement during and for the work involved with such project when such requirement is part of the JSC board's specifications for the project and when the JSC board determines that the record supporting the decision to enter into such an agreement establishes that it is justified by the interests underlying the competitive bidding laws. In addition, the JSC board may choose to extend the project labor agreement entered into for the first **or second** phase of the JSC construction projects to the projects authorized herein, contingent upon the completion of a supplemental project labor agreement benefits analysis.

§ 5. Section 11 of part A-4 of chapter 58 of the laws of 2006 enacting the "city of Syracuse and the board of education of the city school district of the city of Syracuse cooperative school reconstruction act", as amended by chapter 459 of the laws of 2013, is amended to read as follows:

§ 11. (a) All contracts entered into by the JSC board for projects pursuant to subdivision (a) of section five of this act shall be managed by an independent program manager. Selection of the program manager shall be pursuant to the competitive process established in section seven of this act. The program manager shall have experience in planning, designing, and constructing new and/or reconstructing existing school buildings, public facilities, commercial facilities, and/or infrastructure facilities, and in the negotiation and management of labor contracts and agreements, training programs, educational programs, and physical technological requirements for educational programs. The program manager shall manage all projects undertaken pursuant to subdivision (a) of section five of this act, review project schedules, review payment schedules, prepare cost estimates and assess the safety programs of contractors and all training programs, if required. The program

manager shall implement procedures for verification by it that all work for which payment has been requested has been satisfactorily completed.

(b) All construction and design contracts entered into by the JSC board for projects pursuant to subdivision (b) of section five of this act shall be managed by the city engineer in agreement with the school district or, at the discretion of the JSC board, an independent program manager or construction managers selected for one or more projects. Selection of the program manager and/or the construction manager or managers shall be pursuant to a competitive process established in accordance with the city's standard request for proposals process using the JSC board as the approving governing body instead of the common council for such contract awards. The program manager shall have experience in planning, designing, and constructing new and/or reconstructing existing school buildings in New York state, public facilities, commercial facilities, and/or infrastructure facilities, and in the negotiation and management of labor contracts and agreements, training programs, educational programs, and physical technological requirements for educational programs. The program manager shall manage all projects assigned by the JSC board to the program manager and undertaken pursuant to subdivision (b) of section five of this act, review project schedules, review payment schedules, prepare cost estimates and assess the safety programs of contractors and all training programs, if required. The program manager shall implement procedures for verification by it that all work for which payment has been requested has been satisfactorily completed. Provided, however, that the JSC board may choose to utilize the services of an independent construction manager at one or more of the projects to be authorized herein with said construction manager managing the project within the management plan set forth by the independent program manager and the JSC board.

(c) **All construction and design contracts entered into by the JSC board for projects pursuant to subdivision (c) of section five of this act shall be managed by the city engineer in agreement with the school district or, at the discretion of the JSC board, an independent program manager or construction managers selected for one or more projects. Selection of the program manager and/or the construction manager or managers shall be pursuant to a competitive process established in accordance with the city's standard request for proposals process using the JSC board as the approving governing body instead of the common council for such contract awards. The program manager shall have experience in planning, designing, and constructing new and/or reconstructing existing school buildings in New York state, public facilities, commercial facilities, and/or infrastructure facilities, and in the negotiation and management of labor contracts and agreements, training programs, educational programs, physical technological requirements for educational programs and knowledge of state education department facilities planning and building aid requirements. The program manager shall manage all projects assigned by the JSC board to the program manager and undertaken pursuant to subdivision (b) of section five of this act, review project schedules, review payment schedules, prepare cost estimates and assess the safety programs of contractors and all training programs, if required. The program manager shall implement procedures for verification by it that all work for which payment has been requested has been satisfactorily completed. Provided, however, that the JSC board may choose to utilize the services of an independent construction manager at one or more of the projects to be authorized herein with said construction manager managing the project within the**

management plan set forth by the independent program manager and the JSC board.

(d) The program manager, and its affiliates or subsidiaries, if any, shall be prohibited from awarding contracts or being awarded contracts for or performing any work on projects undertaken pursuant to this act.

§ 6. Section 19 of part A-4 of chapter 58 of the laws of 2006 enacting the "city of Syracuse and the board of education of the city school district of the city of Syracuse cooperative school reconstruction act", as amended by chapter 459 of the laws of 2013, is amended to read as follows:

§ 19. (a) On January 15, 2007 and annually thereafter, until completion of the projects authorized pursuant to this act, the JSC board shall issue a report to the governor, the comptroller, the commissioner, the temporary president of the senate, the speaker of the assembly, the city, the common council and the city school district on the progress and status of the projects undertaken by the JSC board. Provided further, that if any such entities request information on the progress and status of the projects prior to such report, it shall be provided to such entities by the JSC board.

(b) On or before June 30, 2014 or upon the completion of the projects authorized pursuant to subdivision (a) of section five of this act, whichever shall first occur, the JSC board shall issue a report to the city, the city school district, the governor, the commissioner, the comptroller, the temporary president of the senate, the minority leader of the senate, the speaker of the assembly, the minority leader of the assembly, the state board of regents, and the chairs and ranking minority members of the New York state senate and assembly committees on education, the finance committee of the New York state senate, and the ways and means committee of the New York state assembly. Such report shall identify the fiscal and pedagogical results of the projects undertaken pursuant to this act, along with recommendations for its continuance, amendments, or discontinuance.

(c) On or before June 30, 2020 or upon the completion of the projects authorized pursuant to subdivision (b) of section five of this act, whichever shall first occur, the JSC board shall issue a report to the city, the city school district, the governor, the commissioner, the comptroller, the temporary president of the senate, the minority leader of the senate, the speaker of the assembly, the minority leader of the assembly, the state board of regents, and the chairs and ranking minority members of the New York state senate and assembly committees on education, the finance committee of the New York state senate, and the ways and means committee of the New York state assembly. Such report shall identify the fiscal and pedagogical results of the projects undertaken pursuant to this act, along with recommendations for its continuance, amendments, or discontinuance.

(d) On or before June 30, 2027 or upon the completion of the projects authorized pursuant to subdivision (c) of section five of this act, whichever shall first occur, the JSC board shall issue a report to the city, the city school district, the governor, the commissioner, the comptroller, the temporary president of the senate, the minority leader of the senate, the speaker of the assembly, the minority leader of the assembly, the state board of regents, and the chairs and ranking minority members of the New York state senate and assembly committees on education, the finance committee of the New York state senate, and the ways and means committee of the New York state assembly. Such report shall identify the fiscal and pedagogical results of the projects under-

taken pursuant to this act, along with recommendations for its continuance, amendments, or discontinuance.

§ 7. Paragraph a of subdivision 6 of section 3602 of the education law is amended by adding a new subparagraph 9 to read as follows:

(9) Notwithstanding any other provision of law to the contrary, for the purpose of computation of building aid for reconstruction or modernizing of no more than three projects pursuant to a chapter of the laws of two thousand twenty-one enacting the third phase of the city of Syracuse cooperative school reconstruction act, multi-year cost allowances for each project shall be established and utilized two times in the first five-year period. Subsequent multi-year cost allowances shall be established no sooner than ten years after establishment of the first maximum cost allowance authorized pursuant to this subparagraph.

§ 8. This act shall take effect immediately.