STATE OF NEW YORK

6052

2021-2022 Regular Sessions

IN SENATE

March 31, 2021

Introduced by Sen. REICHLIN-MELNICK -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend chapter 89 of the laws of 2016 relating to supplementary funding for dedicated programs for public school students in the East Ramapo central school district, in relation to the powers and duties of monitors in the East Ramapo central school district

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

Section 1. Paragraph (a) of section 3 of chapter 89 of the laws of 2016 relating to supplementary funding for dedicated programs for public school students in the East Ramapo central school district is amended and a new paragraph (c) is added to read as follows:

(a) Appointment of monitor team. In accordance with the powers and duties of the board of regents and the commissioner pursuant to subdivision 2 of section 305 of the education law, section 308 of the education law, and section 215 of the education law, the commissioner shall appoint up to [~~3~~] **2** monitors to carry out the provisions of this act including but not limited to providing oversight, guidance and technical assistance related to the educational and fiscal policies, practices, programs and decisions of the East Ramapo central school district, the board of education and the superintendent.

(c) The reasonable and necessary expenses incurred by the monitor or monitors while performing his or her official duties shall be paid by the school district. Notwithstanding any other provision of law, the monitor or monitors shall be entitled to defense and indemnification by the school district to the same extent as a school district employee.

§ 2. Sections 4, 6, 7 and 8 of chapter 89 of the laws of 2016 relating to supplementary funding for dedicated programs for public school students in the East Ramapo central school district, section 8 as amended by section 42-b of part A of chapter 56 of the laws of 2020, are amended to read as follows:

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

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§ 4. (a) (i) The monitor or monitors 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, provided further that the monitor or monitors may be excused from executive sessions when privileged issues are being discussed. The East Ramapo central school district shall fully cooperate with any monitor or monitors appointed by the commissioner, including but not limited to providing such monitor or monitors with access, in a timely manner, 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 Family Educational Rights and Privacy Act (FERPA)(20 U.S.C. §1232g) and section 2-d of the education law.

(ii) The board clerk shall provide the monitor or monitors with copies of the board agenda and all resolutions and motions that will be taken up by the board at the next board meeting no later than 48 hours prior to such board meeting. If a resolution or motion is to approve a contract or where the resolution is required to comply with state law or regulation and the date to comply with such law or regulation is within 21 days of the board meeting, the board clerk shall provide the monitor or monitors with copies of the resolution and proposed contract language at least seven days prior to such meeting. In the event the monitor or monitors are not provided with copies of such documents 48 hours prior to the next board meeting or in the case of contracts or resolutions required to comply with state law or regulation, seven days prior to the next board meeting, the monitor or monitors may, at their discretion, remove an item including board resolutions or motions, except for resolution or motions related to collective bargaining agreements negotiated in accordance with article 14 of the civil service law, from consideration by the board at such meeting. An item removed from consideration by the monitor or monitors may not be reconsidered by the board for a period of 10 days or the next board meeting; whichever is later unless the monitor or monitors expressly authorizes consideration at an earlier date.

(b) The board, in consultation with the monitor or monitors, shall adopt a conflict of interest policy that complies with all existing applicable laws, rules and regulations that ensures its board members and administration 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 be present at or participate in board deliberations or votes 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.

(c) In the event that the monitor or monitors find that a board decision, a proposed resolution, or that the board's failure to act in a timely manner, violates state law, the rules of the board of regents, the regulations of the commissioner, or is inconsistent with the terms of the long term strategic academic and fiscal improvement plan, the monitor or monitors may:

(i) Override decisions or proposed resolutions by the board through the issuance of a directive which shall contain the specific findings as to the necessity of such override and any potential corrective action by the board that would address the deficiency in such board decision. The monitor or monitors shall provide written notice to the board, superintendent and commissioner of their intention to override the board decision or proposed resolution at any time but in no event later than 48 hours after such decision was made by the board unless the commissioner has extended the period to override due to extenuating circumstances that necessitate additional time. The override notice shall stay the proceedings of the board on such decision or, if the notice is provided prior to action by the board, it shall remove such item from consideration by the board pending the issuance of a directive by the monitor or monitors. The monitor or monitors must submit the directive to the board, superintendent and the commissioner no later than 10 days following notice of such override. Upon the issuance of a directive, the override of the board's decision shall be final and conclusive unless the monitor or monitors fail to issue such directive within 10 days or within such period established by the monitor or monitors if the period was extended, withdraws such override, or the commissioner overrules the monitor or monitors' override within 10 days of the issuance of the directive. The monitor or monitors may extend the period to submit such directive at intervals of 10 additional days for each extension if the board, superintendent or school district employees fail to provide them, in a timely manner, with all relevant information related to the decision subject to such override.

(ii) Submit a resolution for adoption by the board. The resolution shall be submitted to the clerk no later than 48 hours prior to the next scheduled board meeting who shall cause the resolution to be placed on the next board meeting agenda and a copy to be issued to the board, superintendent and commissioner accompanied by specific findings as to the necessity of such resolution. The monitor or monitors may direct the board to meet at a date prior to their next scheduled board meeting to take up such resolution. The monitor or monitors may withdraw the resolution prior to, or during, the next board meeting, if the board takes sufficient action to resolve the issues contained in the resolution. If the resolution is not withdrawn, it shall be deemed to be adopted at the next board meeting through its submission and shall have the full force and effect as any other resolution adopted by the board.

(iii) The monitor or monitors may not override a board decision or submit a resolution related to collective bargaining agreements negotiated in accordance with article 14 of the civil service law.

(d) The monitor or monitors may direct the board, superintendent, and/or other school district officers to undergo any training as deemed necessary and pursuant to timelines established by the state monitor.

(e) The monitor or monitors shall have the power to approve or disapprove the appointment of a superintendent by the board of education on

or after the effective date of this act. The board shall submit the recommendation for superintendent to the monitor or monitors for approval. The monitor or monitors shall have 10 days to approve or disapprove the board's recommendation. If after such period no action is taken by the monitor or monitors, the recommendation for superintendent shall be deemed approved. If the monitor or monitors disapproves of the appointment, then the board shall recommend a new candidate for the monitor or monitors to approve or disapprove until an appointment is approved by the monitor or monitors. In the event that a vacancy occurs in the position of superintendent due to the disapproval of a recommendation, the monitor or monitors may appoint a current school employee as interim superintendent until a recommendation for superintendent is approved.

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

(a) The board of education [~~in consultation with the monitor or monitors~~] shall annually submit the school district's proposed budget for the next succeeding school year to the [~~commissioner~~] monitor or monitors no later than [~~45 days before the date scheduled for~~] March first prior to the school district's budget vote. The [~~commissioner~~] monitor or monitors shall review the budget to ensure that it, to the greatest extent possible, expands educational programming for students including but not limited to extracurricular activities, course offerings, non-mandated support services, non-mandated art and music classes, programs and services for English language learners and students with disabilities, and maintaining class size. The [~~commissioner~~] monitor or monitors shall also review the proposed budget to ensure that it is balanced within the context of revenue and expenditure estimates and mandated programs. The [~~commissioner~~] monitor or monitors shall present his or her findings to the board of education and to the commissioner no later than [~~30~~] 45 days prior to the date scheduled for the school district's budget vote. The commissioner shall require the board of education [~~shall~~] to make adjustments to the proposed budget consistent with any recommendations made by the [~~commissioner~~] monitor or monitors if the commissioner determines such amendments are necessary to comply with the long term strategic academic and fiscal improvement plan under this act. The school district shall make available on the district's website: the initial proposed budget, the [~~commissioner's~~] monitor or monitors' findings, and the final proposed budget [~~prior to the date of the school district's budget vote~~] at least seven days prior to the date of the school district's budget hearing. In the event of a revote, the board of education, in conjunction with the monitor or monitors, shall develop and submit the school district's proposed budget for the next succeeding school year to the commissioner no later than seven days prior to the budget hearing. The board of education shall provide the commissioner with any information he or she requests in order to make a determination pursuant to this subdivision within three business days of such request.

(b) [~~The monitor or monitors appointed by the commissioner shall quarterly, and the district shall annually provide to the commissioner reports on the fiscal and operational status of the school district to ensure compliance with subdivision (a) of this section. In addition, monitors shall provide an annual report to the commissioner and comptroller on contracts that the district entered into throughout the year. All reports shall be subject to review by the comptroller at the request of the commissioner.~~] The district shall provide quarterly reports to

the monitor or monitors and annual reports to the commissioner and board of regents on the academic, fiscal, and operational status of the school district. In addition, the monitor or monitors shall provide semi-annual reports to the commissioner, board of regents, the governor, the temporary president of the senate, and the speaker of the assembly on the academic, fiscal, and operational status of the school district. Such semi-annual report shall include all the contracts that the district entered into throughout the year.

(c) The monitor or monitors shall have the authority to disapprove travel outside the state paid for by the district.

(d) The monitor or monitors shall work with the district's shared decision-making committee as defined in 8 NYCRR 100.11 in developing the academic improvement plan, financial plan, district goals, implementation of district priorities and budgetary recommendations.

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

(f) The monitor or monitors may recommend, and the board shall consider by vote of a resolution at the next scheduled meeting of the board, cost saving measures including, but not limited to, shared service agreements.

§ 7. To ensure compliance with the comprehensive expenditure plan, in the event the district plans to reduce budget appropriations for programs restored or created under the comprehensive expenditure plan or the strategic academic and fiscal improvement plan as well as the sale of school buildings or other real property and capital improvement contracts in excess of one hundred thousand dollars ($100,000), the district shall submit a plan to the [~~commissioner~~] monitor or monitors for approval.

§ 8. The commissioner may overrule any decision of the monitor or monitors, except for collective bargaining agreements negotiated in accordance with article 14 of the civil service law, if he or she deems that such decision is not aligned with the long term strategic academic and fiscal improvement plan or the school district's budget or is contrary to state law, or regulation. If the commissioner overruled a decision of the monitor or monitors, the commissioner may direct the board to take corrective action on such matter if it is necessary to comply with state law, regulation or the long term strategic academic and fiscal improvement plan. In the event there is disagreement between the monitors, the commissioner may resolve such disagreements and direct the monitors to take action as a result of such resolution.

§ 9. The monitor or monitors may notify the commissioner and the board in writing when he or she deems the district is violating an element of the long term strategic academic and fiscal improvement plan in this act. Within twenty days, the commissioner shall determine whether the district is in violation of any of the elements of the plan highlighted by the monitor and shall order the district to comply immediately with the plan and remedy any such violation. The school district shall suspend all actions related to the potential violation of the long term strategic academic and fiscal improvement plan until the commissioner issues a determination.

§ 10. Nothing in this act shall be construed to abrogate the duties and responsibilities of the school district consistent with applicable state law and regulations.

§ 11. This act shall take effect July 1, 2016 and shall expire and be deemed repealed June 30, [~~2021, except that paragraph (b) of section five of this act and section seven of this act shall expire and be deemed repealed June 30, 2021~~] 2026.

§ 3. Paragraph (b) of section 5 of chapter 89 of the laws of 2016 relating to supplementary funding for dedicated programs for public school students in the East Ramapo central school district, as amended by section 48 of part YYY of chapter 59 of the laws of 2017, is amended to read as follows:

(b) [~~In order to receive such funds, the~~] The school district in consultation with the monitor or monitors shall develop a long term strategic academic and fiscal improvement plan within 6 months from the enactment of this act and shall annually revise such plan by October first of each year thereafter. Such plan, including such annual revisions thereto, shall be submitted to the commissioner for approval and shall include a set of goals with appropriate benchmarks and measurable objectives and identify strategies to address areas where improvements are needed in the district, including but not limited to its financial stability, academic opportunities and outcomes, education of students with disabilities, education of English language learners, the educational welfare of all students and shall ensure compliance with all applicable state and federal laws and regulations. This improvement plan shall also include a comprehensive expenditure plan that will describe how any funds appropriated to the district in addition to those appropriated through the school aid formula including but not limited to the funds made available to the district pursuant to this section will be spent in the applicable school year. The comprehensive expenditure plan shall ensure that funds supplement, not supplant, expenditures from local, state and federal funds for services provided to public school students, except that such funds may be used to continue services funded pursuant to this act in prior years. Such expenditure plan shall be developed and annually revised in consultation with the monitor or monitors appointed by the commissioner. The board of education of the East Ramapo central school district must annually conduct a public hearing on the expenditure plan and shall consider the input of the community before adopting such plan. Such expenditure plan shall also be made publicly available and shall be annually submitted along with comments made by the community to the commissioner for approval once the plan is finalized. Upon review of the improvement plan and the expenditure plan, required to be submitted pursuant to this subdivision or section seven of this act, the commissioner shall approve or deny such plan in writing and, if denied, shall include the reasons therefor. The district in consultation with the monitors may resubmit such plan or plans with any needed modifications thereto.

§ 4. This act shall take effect immediately; provided, however, that the amendments to chapter 89 of the laws of 2016 made by sections one, two and three of this act shall not affect the repeal of such chapter and shall be deemed to be repealed therewith.