STATE OF NEW YORK

6828

2023-2024 Regular Sessions

IN ASSEMBLY

May 8, 2023

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

AN ACT to amend the education law, in relation to empowering the commissioner of education to declare a disaster has substantially impacted a school board or school budget election and to allow school boards to set an additional day for voting

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

Section 1. The education law is amended by adding a new section 2022-a to read as follows:

§ 2022-a. Disaster; additional day for voting. 1. For the purposes of this section: a. the term "disaster" shall mean a fire, earthquake, tornado, hurricane, storm, cyberattack, flood, high water, landslide, snowstorm, explosion, power failure, nuclear or chemical contamination, act of sabotage, enemy attack, contagious disease outbreak, or other event which results in substantial damage to property, hardship, suffering, or possible or actual loss of life.

b. the term "affected district" shall mean any district for which the commissioner has issued a disaster determination pursuant to subdivision two of this section.

2. The commissioner, with respect to any school board or school budget elections conducted within the state, either at the request of the school board or by the commissioner's own judgement, may determine that, as the direct consequence of a disaster, less than ten per centum of the registered voters of any common, central, central high, union free, or city school district, actually voted in such election or elections. The commissioner shall notify each affected district, and each county board of elections of each county in which an affected district is located, that an additional day of voting shall be held, which notice shall show: the nature of the disaster; the school district or districts affected thereby; the number of persons duly registered to vote therein at such

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

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school board or school budget election; and the number of persons who voted therein at such school board or school budget election.

3. a. The school board for each affected district, by resolution, shall thereafter set a date for an additional day for voting, which shall not be less than seven days after nor more than fourteen days after the original date of the school district or school budget election except as provided in paragraphs c and d of this subdivision, and shall determine the hours during which the polls shall remain open on such additional day for voting; provided, however, that in any event the polls shall remain open for not less than eleven hours.

b. The clerk of the school board of each affected district shall: (i) cause the resolution to be mailed to each county board of elections with jurisdiction over all or part of the school district by overnight delivery, return receipt requested, (ii) publish notice of the date of the additional day of voting not less than twice in each week preceding the date for the additional day for voting, in two newspapers having general circulation within such district if there are two, or in one newspaper if there is only one, (iii) notify all qualified voters by mail, and such notice shall also direct attention to any change of polling places, the original notice of disaster determination from the commissioner of education, and contain such other and additional information as in the judgment of the school board shall be necessary and proper, (iv) cause notice of the date of the additional day of voting to be made available on the district's website, if one exists.

c. If the school board for an affected district determines, by resolution, that it would not be feasible to hold an additional day of voting within the timelines established in this section, the board shall inform the commissioner of education, who shall extend only as long as is necessary the ability of the board to determine the date for an additional day of voting, except pursuant to paragraph d of this subdivision.

d. Where a school district budget has been resubmitted to voters pursuant to section two thousand twenty-three-a or two thousand seven of this part, the provisions of paragraph b of this subdivision shall apply, and: (i) if there is a disaster on the original day of voting, and pursuant to a disaster determination by the commissioner the district has scheduled an additional day of voting, and after the additional day of voting the proposed budget fails, school districts may resubmit their budget to voters on the third Tuesday in June, pursuant to either section two thousand twenty-three-a or two thousand seven of this part, (ii) if there is no disaster on the original day of voting, but a disaster instead on the date of the resubmission of the budget to voters pursuant to either section two thousand twenty-three-a or two thousand seven of this part, the commissioner may issue a disaster determination pursuant to subdivision two of this section, upon which the district shall hold an additional day of voting no sooner than five days after the resubmission vote, but no later than the last day of the month of June.

4. Official ballots shall be provided at public expense, pursuant to subdivision eighteen of section thirty-six hundred forty-one of this chapter, at each polling place for such additional day of voting. In any election district in which voting machines were used upon the original day of voting, they shall be used for the additional day for voting. The original seal on such machines shall not be removed nor shall the machines be unlocked until the opening of the polls on the additional day for voting and the board of elections shall provide an additional

seal to be used as soon as the polls are closed on such day. County boards of elections which have provided voting machines to school districts for original days of voting shall continue to provide such voting machines until the additional day of voting is complete.

5. Only those persons qualified to vote upon the original date of the school district election who did not vote on such date shall be entitled to vote on the additional day for voting. Voting on the additional day provided for in this section shall be accomplished solely by physically appearing at the polling place, and nothing contained in this section shall be construed to extend the time set by law for casting or canvassing an absentee, military, or special ballot; provided, however, that nothing contained herein shall be deemed to invalidate any absentee, military, or special ballot duly received on the original date of the general election.

§ 2. Section 3641 of the education law is amended by adding a new subdivision 18 to read as follows:

18. School election disaster fund. a. For the purpose of this subdivision: (1) The term "eligible school district" shall mean a common, union free, central, central high school, or city school district that has conducted an additional day of voting following a disaster determination by the commissioner pursuant to section two thousand twenty-two-a of this chapter.

(2) The term "all actual costs associated with administering an additional day of elections" shall mean all costs borne by eligible districts directly associated with administering an additional day of voting, including: (i) wages for poll workers and other staff associated with the additional day of voting, (ii) postage, printing, and mailing costs to provide notice of the date of the additional election day to eligible voters, (iii) costs of publishing notice in one or more newspapers of the date of the additional election day, (iv) costs of transporting voters to polling locations on the additional day of voting, (v) costs associated with maintaining a polling place for the additional time, (vi) costs for addressing damage to polling locations caused by the disaster, (vii) rental and other costs due to the additional time of maintaining the voting machine, (viii) necessary purchase of voting machines due to damage done to other voting machines as a result of the disaster, (ix) printing and furnishing of ballots for the additional day of voting, (x) all other costs as the commissioner shall deem appropriate.

b. Within the amount appropriated for such purpose, subject to a request for funds developed by the commissioner and approved by the director of the budget, the commissioner shall disburse monies to eligible school districts from the school election disaster fund pursuant to this subdivision, beginning in the two thousand twenty-three--two thousand twenty-four school year, to reimburse eligible school districts for all actual costs associated with administering an additional day of elections.

(1) For a three-month period following their day of additional voting, eligible school districts may submit an application to the commissioner, in a form and manner prescribed by the commissioner, to request funding pursuant to this subdivision. The commissioner may determine that, as the direct consequence of the disaster for which the commissioner issued a disaster determination pursuant to section two thousand twenty-two-a of this chapter, that an eligible school district's ability to make a filing with respect to this subdivision is substantially impaired. Upon

making such a finding, the commissioner shall extend for a reasonable time the period for making such filing.

(2) The commissioner shall make available such application on or before May fifteenth of the preceding school year.

(3) Monies from the school election disaster fund shall be allocated upon approval of applications by the commissioner.

(4) Applications submitted by eligible school districts shall include information required by the commissioner, including a showing of all actual costs associated with administering an additional day of elections.

(5) Notwithstanding any other provision of law to the contrary, disbursements pursuant to this subdivision shall be in addition to, and in no way shall replace, reduce, or alter any other funds, aid, grants, or other monies received by eligible school districts from the state, including for the purposes of foundation aid.

§ 3. This act shall take effect immediately.