

## CHAPTER 78

**AN ACT** concerning the operation of school districts, amending various parts of the statutory law, and supplementing chapter 60 of Title 19 of the Revised Statutes.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

C.19:60-1.2 Moving date of certain school district annual school election.

1. a. Notwithstanding any other law or regulation to the contrary, a Type II district with a board of school estimate may move the date of the school district's annual school election pursuant to the provisions of section 1 of P.L.2011, c.202 (C.19:60-1.1).

b. Notwithstanding any other law or regulation to the contrary, in the event that the date of the annual school election is moved to the day of the general election in a Type II district with a board of school estimate, the election shall be held for the purpose of electing members of the board of education and for any other purpose authorized by law. The board of school estimate shall not determine the district's general fund tax levy for the budget year, other than the general fund tax levy required to support a proposal for additional funds pursuant to paragraph (9) of subsection d. of section 5 of P.L.1996, c.138 (C.18A:7F-5).

c. Notwithstanding any other law or regulation to the contrary, in a Type II district with a board of school estimate that has moved the date of its annual school election to November and subsequently moves the annual school election to the third Tuesday in April, a vote shall be held for the purpose of electing members of the board of education and for any other purpose authorized by law. The board of school estimate shall determine the district's general fund tax levy for the budget year, including any proposal for additional funds pursuant to paragraph (9) of subsection d. of section 5 of P.L.1996, c.138 (C.18A:7F-5).

2. Section 5 of P.L.1996, c.138 (C.18A:7F-5) is amended to read as follows:

C.18A:7F-5 Notification of districts of aid payable; budget submissions.

5. As used in this section, "cost of living" means the CPI as defined in section 3 of P.L.2007, c.260 (C.18A:7F-45).

a. Within 30 days following the approval of the Educational Adequacy Report, the commissioner shall notify each district of the base per pupil amount, the per pupil amounts for full-day preschool, the weights for grade level, county vocational school districts, at-risk pupils, bilingual pupils, and combination pupils, the cost coefficients for security aid and for transportation aid, the State average classification rate and the excess cost for general special education services pupils, the State average classification rate and the excess cost for speech-only pupils, and the geographic cost adjustment for each of the school years to which the report is applicable.

Annually, within two days following the transmittal of the State budget message to the Legislature by the Governor pursuant to section 11 of P.L.1944, c.112 (C.52:27B-20), the commissioner shall notify each district of the maximum amount of aid payable to the district in the succeeding school year pursuant to the provisions of P.L.2007, c.260 (C.18A:7F-43 et al.), and shall notify each district of the district's adequacy budget for the succeeding school year.

For the 2008-2009 school year and thereafter, unless otherwise specified within P.L.2007, c.260 (C.18A:7F-43 et al.), aid amounts payable for the budget year shall be based on budget year pupil counts, which shall be projected by the commissioner using data from prior years. Adjustments for the actual pupil counts of the budget year shall be made to State aid amounts

payable during the school year succeeding the budget year. Additional amounts payable shall be reflected as revenue and an account receivable for the budget year.

Notwithstanding any other provision of this act to the contrary, each district's State aid payable for the 2008-2009 school year, with the exception of aid for school facilities projects, shall be based on simulations employing the various formulas and State aid amounts contained in P.L.2007, c.260 (C.18A:7F-43 et al.). The commissioner shall prepare a report dated December 12, 2007 reflecting the State aid amounts payable by category for each district and shall submit the report to the Legislature prior to the adoption of P.L.2007, c.260 (C.18A:7F-43 et al.). Except as otherwise provided pursuant to this subsection and paragraph (3) of subsection d. of section 5 of P.L.2007, c.260 (C.18A:7F-47), the amounts contained in the commissioner's report shall be the final amounts payable and shall not be subsequently adjusted other than to reflect the phase-in of the required general fund local levy pursuant to paragraph (4) of subsection b. of section 16 of P.L.2007, c.260 (C.18A:7F-58) and to reflect school choice aid to which a district may be entitled pursuant to section 20 of that act. The projected pupil counts and equalized valuations used for the calculation of State aid shall also be used for the calculation of adequacy budget, local share, and required local share. For 2008-2009, extraordinary special education State aid shall be included as a projected amount in the commissioner's report dated December 12, 2007 pending the final approval of applications for the aid. If the actual award of extraordinary special education State aid is greater than the projected amount, the district shall receive the increase in the aid payable in the subsequent school year pursuant to the provisions of subsection c. of section 13 of P.L.2007, c.260 (C.18A:7F-55). If the actual award of extraordinary special education State aid is less than the projected amount, other State aid categories shall be adjusted accordingly so that the district shall not receive less State aid than as provided in accordance with the provisions of sections 5 and 16 of P.L.2007, c.260 (C.18A:7F-47 and C.18A:7F-58).

In the event that the commissioner determines, following the enactment of P.L.2007, c.260 (C.18A:7F-43 et al.) but prior to the issuance of State aid notices for the 2008-2009 school year, that a significant district-specific change in data warrants an increase in State aid for that district, the commissioner may adjust the State aid amount provided for the district in the December 12, 2007 report to reflect the increase.

b. Each district shall have a required local share. For districts that receive educational adequacy aid pursuant to subsection b. of section 16 of P.L.2007, c.260 (C.18A:7F-58), the required local share shall be calculated in accordance with the provisions of that subsection.

For all other districts, the required local share shall equal the lesser of the local share calculated at the district's adequacy budget pursuant to section 9 of P.L.2007, c.260 (C.18A:7F-51), or the district's budgeted local share for the prebudget year.

In order to meet this requirement, each district shall raise a general fund tax levy which equals its required local share.

No municipal governing body or bodies or board of school estimate, as appropriate, shall certify a general fund tax levy which does not meet the required local share provisions of this section.

c. Annually, on or before March 4, each district board of education shall adopt, and submit to the commissioner for approval, together with such supporting documentation as the commissioner may prescribe, a budget that provides for a thorough and efficient education. Notwithstanding the provisions of this subsection to the contrary, the commissioner may adjust the date for the submission of district budgets if the commissioner determines that the availability of preliminary aid numbers for the subsequent school year warrants such adjustment.

Notwithstanding any provision of this section to the contrary, for the 2005-2006 school year each district board of education shall submit a proposed budget in which the advertised per pupil administrative costs do not exceed the lower of the following:

(1) the district's advertised per pupil administrative costs for the 2004-2005 school year inflated by the cost of living or 2.5 percent, whichever is greater; or

(2) the per pupil administrative cost limits for the district's region as determined by the commissioner based on audited expenditures for the 2003-2004 school year.

The executive county superintendent of schools may disapprove the school district's 2005-2006 proposed budget if he determines that the district has not implemented all potential efficiencies in the administrative operations of the district. The executive county superintendent shall work with each school district in the county during the 2004-2005 school year to identify administrative inefficiencies in the operations of the district that might cause the superintendent to reject the district's proposed 2005-2006 school year budget.

For the 2006-2007 school year and each school year thereafter, each district board of education shall submit a proposed budget in which the advertised per pupil administrative costs do not exceed the lower of the following:

(1) the district's prior year per pupil administrative costs; except that the district may submit a request to the commissioner for approval to exceed the district's prior year per pupil administrative costs due to increases in enrollment, administrative positions necessary as a result of mandated programs, administrative vacancies, nondiscretionary fixed costs, and such other items as defined in accordance with regulations adopted pursuant to section 7 of P.L.2004, c.73. In the event that the commissioner approves a district's request to exceed its prior year per pupil administrative costs, the increase authorized by the commissioner shall not exceed the cost of living or 2.5 percent, whichever is greater; or

(2) the prior year per pupil administrative cost limits for the district's region inflated by the cost of living or 2.5 percent, whichever is greater.

d. (1) A district's general fund tax levy shall not exceed the district's adjusted tax levy as calculated pursuant to sections 3 and 4 of P.L.2007, c.62 (C.18A:7F-38 and 18A:7F-39).

(2) (Deleted by amendment, P.L.2007, c.260).

(3) (Deleted by amendment, P.L.2007, c.260).

(4) Any debt service payment made by a school district during the budget year shall not be included in the calculation of the district's adjusted tax levy.

(5) (Deleted by amendment, P.L.2007, c.260).

(6) (Deleted by amendment, P.L.2007, c.260).

(7) (Deleted by amendment, P.L.2004, c.73).

(8) (Deleted by amendment, P.L.2010, c.44)

(9) Any district may submit at the annual school budget election, in accordance with subsection c. of section 4 of P.L.2007, c.62 (C.18A:7F-39), a separate proposal or proposals for additional funds, including interpretive statements, specifically identifying the program purposes for which the proposed funds shall be used, to the voters, who may, by voter approval, authorize the raising of an additional general fund tax levy for such purposes. In the case of a district with a board of school estimate, one proposal for the additional spending shall be submitted to the board of school estimate. Any proposal or proposals submitted to the voters or the board of school estimate shall not: include any programs and services that were included in the district's prebudget year net budget unless the proposal is approved by the commissioner upon submission by the district of sufficient reason for an exemption to this requirement; or include any new programs and services necessary for

students to achieve the thoroughness standards established pursuant to subsection a. of section 4 of P.L.2007, c.260 (C.18A:7F-46).

The executive county superintendent of schools may prohibit the submission of a separate proposal or proposals to the voters or board of school estimate if he determines that the district has not implemented all potential efficiencies in the administrative operations of the district, which efficiencies would eliminate the need for the raising of an additional general fund tax levy.

(10) Notwithstanding any provision of law to the contrary, if a district proposes a budget with a general fund tax levy and equalization aid which exceed the adequacy budget, the following statement shall be published in the legal notice of public hearing on the budget pursuant to N.J.S.18A:22-28, posted at the public hearing held on the budget pursuant to N.J.S.18A:22-29, and printed on the sample ballot required pursuant to section 10 of P.L.1995, c.278 (C.19:60-10):

"Your school district has proposed programs and services in addition to the core curriculum content standards adopted by the State Board of Education. Information on this budget and the programs and services it provides is available from your local school district."

(11) Any reduction that may be required to be made to programs and services included in a district's prebudget year net budget in order for the district to limit the growth in its budget between the prebudget and budget years by its tax levy growth limitation as calculated pursuant to sections 3 and 4 of P.L.2007, c.62 (C.18A:7F-38 and 18A:7F-39), shall only include reductions to excessive administration or programs and services that are inefficient or ineffective.

e. (1) Any general fund tax levy rejected by the voters for a proposed budget that includes a general fund tax levy and equalization aid in excess of the adequacy budget shall be submitted to the governing body of each of the municipalities included within the district for determination of the amount that should be expended notwithstanding voter rejection. In the case of a district having a board of school estimate, other than a Type II district with a board of school estimate in which the annual election is in November, the general fund tax levy shall be submitted to the board for determination of the amount that should be expended. If the governing body or bodies or board of school estimate, as appropriate, reduce the district's proposed budget, the district may appeal any of the reductions to the commissioner on the grounds that the reductions will negatively impact on the stability of the district given the need for long term planning and budgeting. In considering the appeal, the commissioner shall consider enrollment increases or decreases within the district; the history of voter approval or rejection of district budgets; the impact on the local levy; and whether the reductions will impact on the ability of the district to fulfill its contractual obligations. A district may not appeal any reductions on the grounds that the amount is necessary for a thorough and efficient education.

(2) Any general fund tax levy rejected by the voters for a proposed budget that includes a general fund tax levy and equalization aid at or below the adequacy budget shall be submitted to the governing body of each of the municipalities included within the district for determination of the amount that should be expended notwithstanding voter rejection. In the case of a district having a board of school estimate, other than a Type II district with a board of school estimate in which the annual election is in November, the general fund tax levy shall be submitted to the board for determination. Any reductions may be appealed to the commissioner on the grounds that the amount is necessary for a thorough and efficient education or that the reductions will negatively impact on the stability of the district given

the need for long term planning and budgeting. In considering the appeal, the commissioner shall also consider the factors outlined in paragraph (1) of this subsection.

In addition, the municipal governing body or board of school estimate shall be required to demonstrate clearly to the commissioner that the proposed budget reductions shall not adversely affect the ability of the school district to provide a thorough and efficient education or the stability of the district given the need for long term planning and budgeting.

(3) In lieu of any budget reduction appeal provided for pursuant to paragraphs (1) and (2) of this subsection, the State board may establish pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), an expedited budget review process based on a district's application to the commissioner for an order to restore a budget reduction.

(4) When the voters, municipal governing body or bodies, board of education in the case of a school district in which the annual school election has been moved to November pursuant to subsection a. of section 1 of P.L.2011, c.202 (C.19:60-1.1), or the board of school estimate authorize the general fund tax levy, the district shall submit the resulting budget to the commissioner within 15 days of the authorization.

f. (Deleted by amendment, P.L.2007, c.260).

g. (Deleted by amendment, P.L.2007, c.260).

3. N.J.S.18A:22-12 is amended to read as follows:

Contents of notice.

18A:22-12. The notice shall also set forth that said budget will be on file and open to the examination of the public between reasonable hours to be fixed therein and at a place to be named therein, from the date of said publication until the date of the holding of the public hearing, that in any district having a board of school estimate, except as otherwise provided in this section, the public hearing will be held before the board of school estimate and in other districts that the public hearing will be held before the board of education and that at said public hearing said budget will be on file and open to the examination of the public accordingly and will be produced for the information of those attending the same. In a Type II district having a board of school estimate in which the annual school election is in November, the public hearing shall be held before the board of education.

4. N.J.S.18A:22-26 is amended to read as follows:

Board of school estimate, board of education of type II district to determine appropriation amount.

18A:22-26. a. Except as otherwise provided in subsection b. of this section, at or after the public hearing but not later than April 8, the board of school estimate of a type II district having a board of school estimate shall fix and determine by a recorded roll call majority vote of its full membership the amount of money necessary to be appropriated for the use of the public schools in the district for the ensuing school year, exclusive of the amount which shall be apportioned to it by the commissioner for the year pursuant to the provisions of section 5 of P.L.1996, c.138 (C.18A:7F-5) and shall make a certificate of the amount signed by at least a majority of all members of the board, which shall be delivered to the board of education and a copy thereof, certified under oath to be correct and true by the secretary of the board of school estimate, shall be delivered to the county board of taxation on or before April 15 in each year and a duplicate of the certificate shall be delivered to the board or governing body of each of the municipalities within the territorial limits of the district having

the power to make appropriations of money raised by taxation in the municipalities or political subdivisions and to the executive county superintendent of schools and the amount shall be assessed, levied and raised under the procedure and in the manner provided by law for the levying and raising of special school taxes in other type II districts and shall be paid to the board secretary or treasurer of school moneys, as appropriate, of the district for such purposes.

Within 15 days after receiving the certificate the board of education shall notify the board of school estimate, the governing body of each municipality within the territorial limits of the school district, and the commissioner if it intends to appeal to the commissioner the board of school estimate's determination as to the amount of money requested pursuant to the provisions of section 5 of P.L.1996, c.138 (C.18A:7F-5), necessary to be appropriated for the use of the public schools of the district for the ensuing school year.

b. At or after the public hearing on the budget but not later than April 8, the board of education of each type II district having a board of school estimate in which the annual school election is in November, shall fix and determine by a recorded roll call majority vote of its full membership the amount of money necessary to be raised for the use of the public schools in the district, exclusive of the amount which shall be apportioned to it by the commissioner for the year pursuant to the provisions of section 5 of P.L.1996, c.138 (C.18A:7F-5). By that same date the board of school estimate shall fix and determine by a recorded roll call majority vote of its full membership the amount of any additional funds pursuant to paragraph (9) of subsection d. of section 5 of P.L.1996, c.138 (C.18A:7F-5) and shall make a certificate of that amount signed by at least a majority of all members of the board, which shall be delivered to the board of education. The secretary of the board of education shall certify the amount so fixed and determined by the board of education and the board of school estimate and shall deliver a copy of the certificate to the county board of taxation of the county on or before April 15 in each year and a duplicate of the certificate shall be delivered to the board or governing body of each of the municipalities within the territorial limits of the districts having the power to make appropriations of money raised by taxation in the municipalities or political subdivisions and to the executive county superintendent of schools and the amount shall be assessed, levied and raised under the procedure and in the manner provided by law for the levying and raising of special school taxes in other type II districts and shall be paid to the board secretary or treasurer of school moneys, as appropriate, of the district for such purposes.

5. Section 1 of P.L.1995, c.278 (C.19:60-1) is amended to read as follows:

C.19:60-1 School elections, adjustments, ballots.

1. a. Except as otherwise provided in this section, an annual school election shall be held in a type II district on the third Tuesday in April. However, in any school year, the Commissioner of Education shall make any adjustments to the school budget and election calendar which may be necessary to change the annual school election date or any other school budget and election calendar date if that date coincides with a period of religious observance that limits significantly the usual activities of the followers of a particular religion or that would result in significant religious consequences for such followers. The commissioner shall inform local school boards, county clerks and boards of elections of these adjustments no later than the first working day in January of the year in which the adjustments are to occur.

As used in this subsection "a period of religious observance" means any day or portion thereof on which a religious observance imposes a substantial burden on an individual's ability to vote.

An annual school election shall be held simultaneously with the general election on the first Tuesday after the first Monday in November in school districts in which the annual school election has been moved to that date pursuant to subsection a. of section 1 of P.L.2011, c.202 (C.19:60-1.1) or pursuant to section 1 of P.L.2012, c.78 (C.19:60-1.2). The annual school election in November shall be for the purpose of submitting a proposal to the voters for the approval of additional funds in a type II district without a board of school estimate pursuant to paragraph (9) of subsection d. of section 5 of P.L.1996, c.138 (C.18A:7F-5), for the purpose of electing members of the board of education, and for any other purpose authorized by law.

b. All school elections shall be by ballot and, except as otherwise provided by P.L.1995, c.278 (C.19:60-1 et al.), shall be conducted in the manner provided for general elections pursuant to Title 19 of the Revised Statutes. No grouping of candidates or party designation shall appear on any ballot to be used in a school election.

6. Section 45 of P.L.2011, c. 202 (C.18A:12-15.1) is amended to read as follows:

C.18A:12-15.1 Terms of board members in certain districts.

45. In the case of a school district in which the annual school election has been moved to November pursuant to subsection a. of section 1 of P.L.2011, c.202 (C.19:60-1.1) or section 1 of P.L.2012, c.78 (C.19:60-1.2), the term of office of a member of a board of education that is set to expire in April of a given year shall be extended until the day in January next following the year in which the term was originally set to expire when the member's successor takes office.

7. Section 8 of P.L.1995, c.278 (C.19:60-8) is amended to read as follows:

C.19:60-8 Positions on ballot determined by drawing.

8. The county clerk shall conduct the ballot draw for candidates for school board member in those school districts that hold November elections, in accordance with the procedures set forth in R.S.19:14-12. In those school districts that elect school board members at the annual April school election, the ballot draw shall be conducted as follows:

a. The drawing shall be done by the secretary of the board of education seven working days following the last day for filing a petition for the nomination of such a candidate. The person making the drawing shall make public announcement at the drawing of each name, the order in which the name is drawn and the term of office for which the drawing is made.

b. A separate drawing shall be made for each full term and for each unexpired term, respectively. The names of the several candidates for whom petitions have been filed for each of the terms shall be written upon paper slips which shall be placed in capsules of the same size, shape, color and substance and then placed in a covered box with an aperture in the top large enough to admit a person's hand and to allow the capsules to be drawn therefrom. The box shall be turned and shaken thoroughly to mix the capsules and the capsules shall be withdrawn one at a time.

c. Where there is more than one person to be elected for a given term of office, the position of the names on the ballots for each term of office shall be determined as above described. The name of the candidate for each term of office first drawn from the box shall

be printed directly below the proper term for which the person was nominated and the name of the candidate next drawn shall be printed next in order, and so on, until the last name shall be drawn from the box.

The secretary of the board of education shall, within two days following the drawing, certify to the county clerk the results of the drawing.

8. Section 1 of P.L.2011, c.202 (C.19:60-1.1) is amended to read as follows:

C.19:60-1.1 Procedure for moving the date of school elections.

1. a. (1) The question of moving the date of a school district's annual school election to the first Tuesday after the first Monday in November, to be held simultaneously with the general election, shall be submitted to the legal voters of a local or regional school district, other than a Type II district with a board of school estimate, whenever a petition signed by not less than 15% of the number of legally qualified voters who voted in the district at the last preceding general election held for the election of electors for President and Vice-President of the United States is filed with the board of education. The question shall be submitted to the voters of the district at the next general election, provided that at least 60 days have lapsed since the date of the filing of the petition. In the event that the question is not approved by the voters, no petition may be filed to submit the question to the voters within one year after an election shall have been held pursuant to any petition filed pursuant to this subsection.

The date of the annual school election may be moved to the first Tuesday after the first Monday in November without voter approval, upon the adoption of a resolution by the board of education of a local or regional school district, other than a Type II district with a board of school estimate, or the governing body or bodies of the municipality or municipalities constituting the district.

(2) In the event that the date of a school district's annual school election is moved to the day of the general election, the annual school election in November shall be held for the purpose of submitting a proposal to the voters for approval of additional funds pursuant to paragraph (9) of subsection d. of section 5 of P.L.1996, c.138 (C.18A:7F-5), for the purpose of electing members of the board of education, and for any other purpose authorized by law. A vote shall not be required on the district's general fund tax levy for the budget year, other than the general fund tax levy required to support a proposal for additional funds.

(3) In addition to the process set forth in paragraph (1) of this subsection, in the event that all the constituent districts of a limited purpose regional school district approve moving the date of their annual school elections to November, by any of the procedures established pursuant to this subsection, then the annual school election for the limited purpose regional school district shall also be conducted simultaneously with the general election.

(4) In the event that the date of a school district's annual school election is moved to the day of the general election pursuant to this subsection, the board of education and the county board of elections shall enter into an agreement, pursuant to guidelines established by the Secretary of State, under which the board of education shall pay any agreed upon increase in the costs, charges, and expenses that may be associated with holding the school election simultaneously with the general election.

b. (1) In the case of a school district that has moved the date of its annual school election to November pursuant to subsection a. of this section, the question of moving the date of the school district's annual school election to the third Tuesday in April shall be submitted to the legal voters of a local or regional school district, other than a Type II district with a board of



school estimate, whenever a petition signed by not less than 15% of the number of legally qualified voters who voted in the district at the last preceding general election held for the election of electors for President and Vice-President of the United States is filed with the board of education. The question shall be submitted to the voters of the district at the next general election, provided that at least 60 days have lapsed since the date of the filing of the petition.

The date of the annual school election may be moved to the third Tuesday in April without voter approval, upon the adoption of a resolution by the board of education of a local or regional school district, other than a Type II district with a board of school estimate, or the governing body or bodies of the municipality or municipalities constituting the district.

No resolution may be adopted and no petition may be filed pursuant to this subsection until at least four annual school elections have been held in November.

(2) In the event that the date of the annual school election is moved to the third Tuesday in April, a vote shall be held on the district's general fund tax levy for the budget year including any proposal for additional funds pursuant to paragraph (9) of subsection d. of section 5 of P.L.1996, c.138 (C.18A:7F-5), the election of members of the board of education, and for any other purpose authorized by law.

(3) In addition to the process set forth in paragraph (1) of this subsection, in the event that all the constituent districts of a limited purpose regional school district approve moving the date of their annual school elections to the third Tuesday in April, by any of the procedures established pursuant to this subsection, then the annual school election for the limited purpose regional school district shall also be conducted on the third Tuesday in April.

c. Notice, in writing, to change the date of a school election from the third Tuesday in April to the first Tuesday in November shall be given to the county clerk no less than 60 days prior to the third Tuesday in April to take effect for that year's election. For a change from the first Tuesday in November to the third Tuesday in April, notice must be given to the county clerk no less than 85 days prior to the third Tuesday in April to take effect for that year's election. Timely notice shall also be given by the board of education or municipal governing body adopting such resolution to any other affected boards of education and municipal governing bodies.

9. This act shall take effect immediately.

Approved December 7, 2012.