SENATE, No. 2030



STATE OF NEW JERSEY

217th LEGISLATURE



INTRODUCED APRIL 18, 2016

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator JOSEPH M. KYRILLOS, JR.

District 13 (Monmouth)

SYNOPSIS

Establishes governance structure for county administrative school districts.

CURRENT VERSION OF TEXT

As introduced.



An Act concerning the governance and operation of county administrative school districts, amending N.J.S.18A:18A-2, and supplementing Title 18A of the New Jersey Statutes.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

1. (New section) Notwithstanding any provision of law or regulation to the contrary, all of the public schools in a county in which the voters have approved the establishment of a county administrative school district shall be governed by the provisions of this act relating to county administrative school districts on and after July 1, 2017.

2. (New section) As used in this act:

“Board” means the board of education of a county administrative school district;

“Chief school administrator” means the chief school administrator of a county administrative school district.

3. (New section) Notwithstanding any provision of law or regulation to the contrary, the schools of each county administrative school district shall be conducted by and under the supervision of a board of education of the county administrative school district, which shall be a body corporate and which shall be constituted and governed as provided by this act.

4. (New section) a. Upon the establishment of a county administrative school district, the boards of education of the public school districts in the county, and the board of education of any county vocational school district and county special services school district, may continue to exist in an advisory role. However, the board of education of a local public school district, county vocational school district or county special services school district may pass a resolution to dissolve itself pursuant to regulations promulgated by the State Board of Education pursuant to section 22 of this act.

b. Upon the establishment of a county administrative school district, the position of district superintendent of schools, together with any other local district-level administrative or supervisory personnel positions, shall be abolished.

c. The board of education of the county administrative school district shall appoint a district supervisor for each municipality in the county to oversee operations of the public schools located in the municipality and perform such other duties as the board may prescribe. The district supervisor shall work under the supervision of the chief school administrator of the county administrative school district.

5. (New section) For each county administrative school district established in accordance with this act, there shall be a board of education consisting of the executive county superintendent of schools and four members appointed by the chief elected executive officer of the county, or the director of the board of chosen freeholders, with the advice and consent of that board, as appropriate to the appointment procedures established by the form of government of the county. No more than two members shall be members of the same political party, but no changes for adjustment of party representation shall be made in a board except as vacancies occur.

In making the first appointments to a board, one person shall be appointed to serve for one year, one for two years, one for three years and one for four years from November 1 next succeeding the date of their respective appointments.

Annually during the month of October a member of the board shall be appointed to serve for a term of four years, and thereafter until the appointment and qualification of a respective successor, to take the place of the member whose term or terms shall expire on November 1 then next ensuing.

Each member of the board shall be a citizen and resident of the county and shall have been a citizen and resident for the three years preceding the member’s appointment to the board. If a member shall cease to be a resident of the county, membership in the board shall cease.

Vacancies in the board shall be deemed to exist, and shall be filled, in the manner prescribed in P.L.1979, c.302 (C.40A:9-12.1).

6. (New section) The board of education of a county administrative school district shall organize annually on November 1 by the election of a president and vice-president, unless November 1 shall fall on Sunday, in which case the board shall organize on the following day.

If the organization meeting cannot take place on the day hereinabove provided for by reason of a lack of a quorum or for any other reason, the meeting shall be held within 3 days thereafter.

7. (New section) The board of education of a county administrative school district shall be a body corporate and shall be known as and called "the board of education of the county of" (here insert the name of the county in which such district shall be located).

8. (New section) The board of education of a county administrative school district may:

a. Make purchases and enter into contracts for the provision or performance of goods or services;

b. Provide or contract for the provision of transportation for all public and nonpublic pupils within the county;

c. Purchase, sell, and improve school grounds, erect, purchase, lease, enlarge, improve, and repair school buildings, including any building or buildings for school purposes owned by any municipality in the county, with or without furnishings and equipment, and purchase school furniture and other necessary equipment;

d. Insure school buildings, furniture, and other school property, and receive, lease, and hold in trust any and all real and personal property for the benefit of the school district;

e. Employ and dismiss district supervisors, principals, teachers, janitors, mechanics, and laborers; fix, alter, and order paid their salaries and compensation, and prescribe the course of study to be pursued;

f. Appoint a treasurer, who shall not be a member of the board and fix the treasurer’s salary and term of office. The treasurer shall give bond in such amounts and with such security as the board shall determine;

g. Make, amend, and repeal rules, not inconsistent with this act, or with the rules of the State board, for its own government, for the transaction of business, and for the government and management of the school and school property under its control;

h. Provide textbooks and other necessary supplies and apparatus;

i. Adopt an official seal by which all its official acts may be authenticated;

j. Make an annual report to the commissioner on or before August 1 in the manner and form prescribed by him;

k. Appoint a secretary and fix his salary and term of office; and

l. Do all other acts and things that may be necessary for the proper organization and functioning of the public schools of the district during its first year.

9. (New section) a. The Governor, with the advice and consent of the Senate, shall by contract appoint, for a term of no fewer than three nor more than five years, a chief school administrator for each county administrative school district established pursuant to section 1 of this act.

b. No person shall be appointed or act as or perform the duties of chief school administrator unless that person holds an appropriate certificate as prescribed by the State board.

c. The chief school administrator shall devote himself exclusively to the duties of his office.

d. The Governor shall fix the salaries of the chief school administrators.

e. At the conclusion of the term of the initial contract or of any subsequent contract as hereinafter provided, the chief school administrator shall be deemed reappointed for another contracted term of the same duration as the previous contract unless either:

(1) the Governor, with the advice and consent of the Senate, by contract reappoints him for a different term, which shall be not less than three nor more than five years, in which event reappointments thereafter shall be deemed for the new term unless a different term is again specified; or

(2) at least one year prior to the expiration of the first or any subsequent contract the board shall notify the chief school administrator in writing that he will not be reappointed at the end of the current term, in which event his employment shall cease at the expiration of that term.

f. A chief school administrator shall not, during the term of his contract, be dismissed or reduced in compensation except for inefficiency, incapacity, or conduct unbecoming a chief school administrator or other just cause, and then only in the manner prescribed by subarticle B of article 2 of chapter 6 of Title 18A of the New Jersey Statutes.

10. (New section) The chief school administrator of a county administrative school district shall have general supervision over all aspects, including fiscal operations and instructional programs, of the county administrative school district, under rules and regulations prescribed by the State board. The chief school administrator shall keep himself informed as to the condition and progress of the schools in the county and report thereon, from time to time, to, and as directed by, the board of education of the county administrative school district. The chief school administrator shall have such other powers and perform such additional duties as may be prescribed by the board of education of the county administrative school district.

11. (New section) The board of education of a county administrative school district shall evaluate, in writing, the performance of the chief school administrator of the county administrative school district at least once a year. The board shall provide a copy of the evaluation to the chief school administrator and the chief school administrator and the board shall meet to discuss the findings. The evaluations shall be based upon the goals and objectives of the district, the responsibilities of the chief school administrator and such other criteria as the State board shall by regulation prescribe. Any contract entered into pursuant to section 9 of this act shall provide for an evaluation pursuant to this section and may provide for additional evaluation criteria or procedures which shall not be inconsistent with the regulations of the State board.

12. (New section) The chief school administrator, and all teachers, principals, and assistant superintendents of the board of education of a county administrative school district, shall have all rights and privileges of superintendents, teachers, principals, and assistant superintendents of schools, respectively, in school districts.

13. (New section) The school year for a county administrative school district shall begin on July 1 and end June 30.

14. (New section) No contract shall be entered into by the board of education of a county administrative school district, nor shall any bill or demand for money be paid, until it shall have been presented and passed on at a regularly called meeting of the board. A bill or demand for money, except for salaries, that exceeds $25 shall be itemized and shall be verified by affidavit or contain or have annexed to it a signed declaration in writing to the effect that the bill or demand is correct in all its particulars, that the articles have been furnished or services rendered as stated therein, and that no bonus has been given or received on account thereof.

15. (New section) There shall be for each county administrative school district a board of school estimate, which shall consist of two members of the board of education of the county administrative school district, appointed by that board, two members of the board of chosen freeholders of the county, appointed by that board, and the chief elected executive officer of the county or the director of the board of chosen freeholders, as the case may be.

The appointments shall be made annually between January 1 and January 15. In case of a vacancy occurring in the board by reason of the resignation, death, or removal of any appointed member, the vacancy shall be filled immediately by the body which originally appointed the member, by appointing another of its members to fill the vacancy. The secretary of the board of education of the county administrative school district shall be the secretary of the board of school estimate, but shall receive no compensation as such.

16. (New section) On or before the fourth Tuesday in March in each year the board of education of a county administrative school district shall prepare and deliver to each member of the board of school estimate an itemized statement of the amount of money estimated to be necessary for the general fund expenses of the county school district for the ensuing school year. The itemized statement shall calculate separately for each municipality the general fund expenses of the public schools located in that municipality, and shall calculate for the county administrative school district as a whole the amount of money estimated to be necessary to fund the administrative and other services provided at the county level to the public schools of the county. The board of education shall follow the procedures established in section 5 of P.L.1996, c.138 (C.18A:7F-5).

17. (New section) Between the fourth Tuesday in March and April 8 in each year the board of school estimate shall fix and determine, separately for each municipality in the county, by action taken at a public meeting of the board, the amount of money necessary to be appropriated for the general fund expenses of the public schools located in that municipality, and shall fix and determine for the county district as a whole the amount of money necessary to fund the administrative and other services provided at the county level to the public schools of the county, exclusive of the amount to be received from the State for general fund expenses. The board of school estimate shall follow the procedures established in section 5 of P.L.1996, c.138 (C.18A:7F-5).

18. (New section) Upon the determination of the amount of money necessary to be appropriated for the ensuing school year pursuant to section 17 of this act, the board of school estimate shall establish the tax levy amount required to be raised in each municipality for the general fund expenses of the public schools located in that municipality. The board of school estimate shall also establish the per pupil tax levy amount required to be raised to support the administrative and other services provided at the county level to the public schools of the county. The per pupil tax levy amount shall be established by dividing the amount of money necessary to be appropriated for the administrative and other services provided at the county level by the projected enrollment of the county administrative school district for the ensuing school year. The board of school estimate shall then calculate the amount of school tax levy that is required to be raised in the individual municipalities for administrative and other services provided at the county level by multiplying the per pupil tax levy amount by the number of students resident in that municipality who are projected to be enrolled in the county school district in the ensuing school year. The board of school estimate shall make a certificate for each municipality of the total amount calculated for that municipality for general fund expenses and county-level administrative and other services which shall be signed by at least a majority of the members of the board. The certificate shall be delivered to the governing body of the municipality, 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 the amount so certified shall be included in the taxes assessed, levied, and collected in the municipality.

19. (New section) All provisions of law relating to the entering into contract for the furnishing of supplies and to the preparation of plans and specifications for the construction, alteration or repair of any building by a board of education of a county administrative school district and the approval and filing thereof and of any such contract and to the advertisement for bids and the awarding of contracts as a result thereof, which are applicable to a board of education of a school district, shall likewise be applicable to a board of education of a county administrative school district and no municipal permit shall be required in connection with the making or performance of any such contract.

20. (New section) Whenever a board of education of a county administrative school district shall decide that it is necessary to sell bonds to raise money for any capital project as defined in N.J.S.18A:21-1, the board shall prepare and deliver to each member of the board of school estimate a statement of the amount of money estimated to be necessary for such purpose.

The board of school estimate shall fix and determine the necessary amount and shall make two certificates thereof, one of which certificates shall be delivered to the board of education and the other to the board of chosen freeholders of the county in which the school district is situate.

The board of chosen freeholders may appropriate such amount and borrow such amount for the purpose or purposes aforesaid, and secure the repayment of the sum so borrowed, together with interest thereon, by the issuance of bonds or notes of the county pursuant to the local bond law, notwithstanding any debt limitation or requirement for down payment therein provided for. The proceeds of the sale of such obligations shall be paid to the treasurer of the county administrative school district and shall be paid out by him only on the warrants or orders of the board of education of the county administrative school district. The treasurer shall in no event disburse such proceeds, except to pay the expenses of issuing and selling such obligations and for the purpose or purposes for which such obligations were issued.

21. (New section) The provisions of this act shall not apply to a regional school district with constituent municipalities in more than one county.

22. (New section) The State board shall prescribe rules and regulations pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), for the implementation of this act and for the organization, management, and control of the county administrative school districts.

23. N.J.S.18A:18A-2 is amended to read as follows:

18A:18A-2. As used in this chapter, unless the context otherwise indicates:

a. "Board of education" means and includes the board of education of any local school district, consolidated school district, regional school district, county administrative school district, county vocational school and any other board of education or other similar body other than the State Board of Education, the Commission on Higher Education or the Presidents' Council, established and operating under the provisions of Title 18A of the New Jersey Statutes and having authority to make purchases and to enter into contracts for the provision or performance of goods or services. The term "board of education" also shall include the board of trustees of a charter school established under P.L.1995, c.426 (C.18A:36A-1 et seq.).

b. "Purchasing agent" means the secretary, business administrator or the business manager of the board of education duly assigned the authority, responsibility and accountability for the purchasing activity of the board of education and having the power to prepare advertisements, to advertise for and receive bids and to award contracts as permitted by this chapter, but if there be no secretary, business administrator or business manager, such officer, committees or employees to whom such power has been delegated by the board of education.

c. (Deleted by amendment, P.L.1999, c.440.)

d. "District" means and includes any local school district, consolidated school district, regional school district, county administrative school district, county vocational school and any other board of education or other similar body other than the State board, established under the provisions of Title 18A of the New Jersey Statutes.

e. (Deleted by amendment, P.L.1999, c.440.)

f. (Deleted by amendment, P.L.1999, c.440.)

g. "Extraordinary unspecifiable services" means services which are specialized and qualitative in nature requiring expertise, extensive training and proven reputation in the field of endeavor.

h. "Professional services" means services rendered or performed by a person authorized by law to practice a recognized profession and whose practice is regulated by law and the performance of which services requires knowledge of an advanced type in a field of learning acquired by a prolonged formal course of specialized instruction and study as distinguished from general academic instruction or apprenticeship and training. Professional services may also mean services rendered in the provision or performance of goods or services that are original and creative in character in a recognized field of artistic endeavor.

i. (Deleted by amendment, P.L.1999, c.440.)

j. "Purchases" means transactions, for a valuable consideration, creating or acquiring an interest in goods, services and property, except real property or any interest therein.

k. "Work" means any task, program, undertaking, or activity, related to any development, redevelopment, construction or reconstruction performed or provided pursuant to a contract with a board of education.

l. "Aggregate" means the sums expended or to be expended for the provision or performance of any goods or services in connection with the same immediate purpose or task, or the furnishing of similar goods or services, during the same contract year through a contract awarded by a purchasing agent.

m. "Bid threshold" means the dollar amount set in N.J.S.18A:18A-3, above which a board of education shall advertise for and receive sealed bids in accordance with procedures set forth in N.J.S.18A:18A-1 et seq.

n. "Contract" means any agreement, including but not limited to a purchase order or a formal agreement, which is a legally binding relationship enforceable by law, between a vendor who agrees to provide or perform goods or services and a board of education which agrees to compensate a vendor, as defined by and subject to the terms and conditions of the agreement. A contract also may include an arrangement whereby a vendor compensates a board of education for the vendor's right to perform a service, such as, but not limited to, operating a concession.

o. "Contract year" means the period of 12 consecutive months following the award of a contract.

p. "Competitive contracting" means the method described in sections 45 through 49 of P.L.1999, c.440 (C.18A:18A-4.1 through C.18A:18A-4.5) of contracting for specialized goods and services in which formal proposals are solicited from vendors; formal proposals are evaluated by the purchasing agent or counsel or school business administrator; and the board of education awards a contract to a vendor or vendors from among the formal proposals received.

q. "Goods and services" or "goods or services" means any work, labor, commodities, equipment, materials, or supplies of any tangible or intangible nature, except real property or any interest therein, provided or performed through a contract awarded by a purchasing agent, including goods and property subject to N.J.S.12A:2-101 et seq.

r. "Library and educational goods and services" means textbooks, copyrighted materials, student produced publications and services incidental thereto, including but not limited to books, periodicals, newspapers, documents, pamphlets, photographs, reproductions, microfilms, pictorial or graphic works, musical scores, maps, charts, globes, sound recordings, slides, films, filmstrips, video and magnetic tapes, other printed or published matter and audiovisual and other materials of a similar nature, necessary binding or rebinding of library materials, and specialized computer software used as a supplement or in lieu of textbooks or reference material.

s. "Lowest price" means the least possible amount that meets all requirements of the request of a purchasing agent.

t. "Lowest responsible bidder or vendor" means the bidder or vendor: (1) whose response to a request for bids offers the lowest price and is responsive; and (2) who is responsible.

u. "Official newspaper" means any newspaper designated by the board of education pursuant to R.S.35:1-1 et seq.

v. "Purchase order" means a document issued by the purchasing agent authorizing a purchase transaction with a vendor to provide or perform goods or services to the board of education, which, when fulfilled in accordance with the terms and conditions of a request of a purchasing agent and other provisions and procedures that may be established by the board of education, will result in payment by the board of education.

w. "Quotation" means the response to a formal or informal request made by a purchasing agent to a vendor for provision or performance of goods or services, when the aggregate cost is less than the bid threshold. Quotations may be in writing, or taken verbally if a record is kept by the purchasing agent.

x. "Responsible" means able to complete the contract in accordance with its requirements, including but not limited to requirements pertaining to experience, moral integrity, operating capacity, financial capacity, credit, and workforce, equipment, and facilities availability.

y. "Responsive" means conforming in all material respects to the terms and conditions, specifications, legal requirements, and other provisions of the request.

z. "Public works" means building, altering, repairing, improving or demolishing any public structure or facility constructed or acquired by a board of education to house school district functions or provide water, waste disposal, power, transportation and other public infrastructures.

aa. "Concession" means the granting of a license or right to act for or on behalf of the board of education, or to provide a service requiring the approval or endorsement of the board of education, and which may or may not involve a payment or exchange, or provision of services by or to the board of education, provided that the term concession shall not include vending machines.

bb. "Index rate" means the rate of annual percentage increase, rounded to the nearest half-percent, in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, computed and published quarterly by the United States Department of Commerce, Bureau of Economic Analysis.

cc. "Proprietary" means goods or services of a specialized nature, that may be made or marketed by a person or persons having the exclusive right to make or sell them, when the need for such goods or services has been certified in writing by the board of education to be necessary for the conduct of its affairs.

dd. "Service or services" means the performance of work, or the furnishing of labor, time, or effort, or any combination thereof, not involving or connected to the delivery or ownership of a specified end product or goods or a manufacturing process. Service or services may also include an arrangement in which a vendor compensates the board of education for the vendor's right to operate a concession.

(cf: P.L.1999, c.440, s.50)

24. This act shall take effect immediately and its provisions shall first be applicable in the 2017-2018 school year.

STATEMENT

This bill provides a public school governance structure for counties in which the voters approve the establishment of a county administrative school district to take over the governance and operation of the public schools in the county. In counties that approve the establishment of a county administrative school district, the schools of the county would be conducted by and under the supervision of a board of education of the county administrative school district (“county board”) and administered by a chief school administrator of the county administrative school district. Local boards of education in the county, including the vocational school district and county special services school district boards, if any, would cede authority to govern the public schools within their jurisdiction to the county board, though they would continue to exist in an advisory capacity. The bill would abolish local district-level administrative or supervisory personnel positions, including the district superintendent of schools. The county board would instead appoint a district supervisor for each municipality in the county to oversee operations of the public schools located in the municipality and perform such other duties as the county board may prescribe. The district supervisor would work under the supervision of the chief school administrator.

The county board would consist of the executive county superintendent of schools and four members appointed by the chief elected executive officer of the county, or the director of the board of chosen freeholders, with the advice and consent of that board, as appropriate to the appointment procedures established by the form of government of the county. The bill would require each member of the board to be a citizen and resident of the county during service and for the three years preceding appointment. The bill would permit no more than two members of the same political party to serve on a county board. County boards would organize annually on November 1 by the election of a president and vice-president.

County boards would have the power to:

a. Make purchases and enter into contracts for the provision or performance of goods or services;

b. Provide or contract for the provision of transportation for all public and nonpublic pupils within the county;

c. Purchase, sell, and improve school grounds, erect, purchase, lease, enlarge, improve, and repair school buildings, including any building or buildings for school purposes owned by any municipality in the county, with or without furnishings and equipment, and purchase school furniture and other necessary equipment;

d. Take and condemn land and other property for school purposes in the manner provided by law regulating the ascertainment and payment of compensation for property condemned and taken for public uses;

e. Insure school buildings, furniture, and other school property, and receive, lease, and hold in trust any and all real and personal property for the benefit of the school district;

f. Employ and dismiss district supervisors, principals, teachers, janitors, mechanics, and laborers; fix, alter, and order paid their salaries and compensation, and prescribe the course of study to be pursued;

g. Appoint a treasurer and fix the treasurer’s salary and term of office;

h. Make, amend, and repeal rules for its own government, for the transaction of business, and for the government and management of the school and school property under its control;

i. Provide textbooks and other necessary supplies and apparatus;

j. Adopt an official seal by which all its official acts may be authenticated;

k. Make an annual report to the commissioner on or before August 1 in the manner and form prescribed by him;

l. Appoint a secretary and fix his salary and term of office; and

m. Do all other acts and things that may be necessary for the proper organization and functioning of the public schools of the district during its first year.

Provisions of law relating to contracts for the furnishing of goods or services that are applicable to a board of education of a local school district would be applicable to a county board.

The Governor would appoint a chief school administrator for a contract term of no fewer than three nor more than five years. An appropriate certificate, as prescribed by the State board, would be required for the position. The chief school administrator would have general supervision over all aspects of the county administrative school district, including fiscal operations and instructional programs, under rules and regulations prescribed by the State board, and would have such other powers and perform such additional duties as may be prescribed by the board of education of the county administrative school district.