ASSEMBLY, No. 2919

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 20, 2020

Sponsored by:
Assemblyman JAY WEBBER
District 26 (Essex, Morris and Passaic)

SYNOPSIS

Eliminates public school district budget reduction appeals to the Commissioner of Education.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning school district budget reduction appeals and amending various parts of the statutory law.

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

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

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

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined <u>thus</u> is new matter.

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, or on or before March 20 in the case of a school district with an annual school election in November, 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)**]** decision of the municipal governing body or board of school estimate, as appropriate, shall be final and no appeals shall be made to the commissioner.

(2) 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).

(cf: P.L.2013, c.280, s.1)

2. N.J.S.18A:22-14 is amended to read as follows:

18A:22-14. At or after the public hearing but not later than April 8, the board of school estimate of a type I district shall fix and determine by official action taken at a public meeting of the board the amount of money necessary to be appropriated for the use of the public schools in the district for the ensuing school year pursuant to section 5 of P.L.1996, c.138 (C.18A:7F-5), exclusive of the amount which shall have been apportioned to it by the commissioner and shall make two certificates of the amount signed by at least three members of the board, one of which shall be delivered to the board of education and the other to the governing body of the district. **[**Within 15 days after receiving the certificate the board of education shall notify the board of school estimate and governing body of the district 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.**]**

(cf: P.L.1996, c.138, s.55)

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

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 May 14, 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 May 19 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.

(cf: P.L.2013, c.280, s.4)

4. N.J.S.18A:22-37 is amended to read as follows:

18A:22-37. If the voters reject any of the items submitted at the annual April school election, the board of education shall deliver the proposed school budget pursuant to section 5 of P.L.1996, c.138 (C.18A:7F-5) to the governing body of the municipality, or of each of the municipalities included in the district within two days thereafter. The governing body of the municipality, or of each of the municipalities, included in the district shall, after consultation with the board, and by May 19, determine the amount which, in the judgment of the body or bodies, is necessary to be appropriated for each item appearing in the budget, pursuant to section 5 of P.L.1996, c.138 (C.18A:7F-5) and certify to the county board of taxation the totals of the amount so determined to be necessary for each of the following:

a. General fund expenses of schools; or

b. Appropriations to capital reserve account.

[Within 15 days after the governing body of the municipality or of each of the municipalities included in the district shall make the certification to the county board of taxation, the board of education shall notify the governing body or bodies if it intends to appeal to the commissioner pursuant to section 5 of P.L.1996, c.138 (C.18A:7F-5) the amount which the body or bodies determined to be necessary to be appropriated for each item appearing in the proposed school budget.**]**

Notwithstanding the provisions of this section to the contrary, whenever the Commissioner of Education changes the annual school election date pursuant to section 1 of P.L.1995, c.278 (C.19:60-1), the commissioner shall change the deadline set forth in this section by which date the governing body of the municipality or of each of the municipalities included in the district is required to determine the amount necessary to be appropriated for each item appearing in the budget, and certify to the county board of taxation

the totals of the amount so determined. The commissioner in changing the deadline shall ensure that the number of calendar days from the changed date of the annual school election to the deadline is no less than the number of calendar days from the third Tuesday of April to May 19 of that calendar year.
(cf: P.L.2013, c.173, s.2)

5. This act shall take effect immediately and shall first apply to the school district budgets for the first full school year beginning after the effective date of this act.

STATEMENT

This bill eliminates the option of a school district to appeal any reduction made to its proposed budget by the municipal governing body, in the case of a Type II district, or the board of school estimate, in the case of a Type I district.

Under current law, if the school budget of a Type II district is defeated by the voters, the budget is forwarded to the municipal governing body of each of the municipalities included within the district for a determination of the amount that should be expended in light of the budget's rejection by the voters. If the governing body or bodies reduce the district's proposed budget, the district has the option of appealing that reduction to the Commissioner of Education. Similarly, in Type I districts, the board of school estimate may reduce the district's proposed budget, and the school district may appeal that reduction to the commissioner. This bill eliminates such appeals and ensures that the will of the voters or the board of school estimate in regard to the district's proposed budget will be implemented.