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ASSEMBLY, No. 2684

STATE OF NEW JERSEY
212th LEGISLATURE

INTRODUCED FEBRUARY 27, 2006

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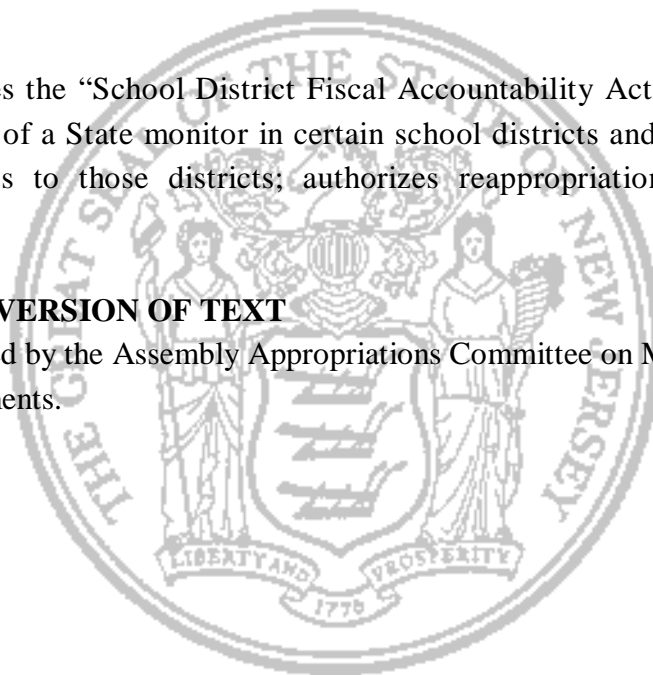
Senators Turner, Allen and Bryant

SYNOPSIS

Establishes the "School District Fiscal Accountability Act;" provides for appointment of a State monitor in certain school districts and advance State aid payments to those districts; authorizes reappropriation of budgeted funds.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on March 13, 2006, with amendments.



(Sponsorship Updated As Of: 3/21/2006)

1 AN ACT concerning the appointment of a State monitor in school
2 districts with serious fiscal deficiencies, supplementing Title
3 18A of the New Jersey Statutes, and making an appropriation.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 ¹1. This act shall be known and may be cited as the “School
9 District Fiscal Accountability Act.”¹

10
11 **[1.] 2.**¹ a. In addition to the powers provided pursuant to
12 P.L.2005, c.235 and P.L.1996, c.138 (C.18A:7F-1 et seq.) or any
13 other law, the Commissioner of Education shall have the authority
14 to appoint a State monitor and additional staff, as necessary, to
15 provide direct oversight of a board of education’s business
16 operations and personnel matters if the school district receives an
17 adverse or a disclaimer of opinion by its independent auditor in the
18 annual audit required pursuant to N.J.S.18A:23-1 or if any two or
19 more of the following circumstances apply to the school district:

20 (1) the school district ends the fiscal year with a deficit balance
21 as calculated for budgetary purposes in the general fund, special
22 revenue fund, or capital projects fund, with the exception of a
23 capital projects fund deficit caused by the issuance of bond
24 anticipation notes;

25 (2) the school district receives a qualified opinion by its
26 independent auditor in the annual audit required pursuant to
27 N.J.S.18A:23-1;

28 (3) the school district receives audit findings by its independent
29 auditor identified as material weaknesses in internal controls;

30 (4) the school district fails to develop and implement a plan
31 acceptable to the commissioner or his designee to address a
32 potential or actual deficit balance in the general fund, special
33 revenue fund, or capital projects fund, with the exception of a
34 capital projects fund deficit caused by the issuance of bond
35 anticipation notes; or

36 (5) the school district fails to implement a plan from the prior
37 year which causes findings from the independent auditor to be
38 repeated.

39 b. The State monitor shall:

40 (1) oversee the fiscal management and expenditures of school
41 district funds, including, but not limited to, budget reallocations and
42 reductions, approvals of purchase orders, budget transfers, and
43 payment of bills and claims;

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 thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted March 13, 2006.

- 1 (2) oversee the operation and fiscal management of school
2 district facilities, including the development and implementation of
3 recommendations for redistricting and restructuring of schools;
- 4 (3) ensure development and implementation of an acceptable
5 plan to address the circumstances set forth in subsection a. of this
6 section which resulted in the appointment of the State monitor. The
7 plan shall include measurable benchmarks and specific activities to
8 address the deficiencies of the school district;
- 9 (4) oversee all district staffing, including the ability to hire,
10 promote, and terminate employees;
- 11 (5) have authority to override a chief school administrator's
12 action and a vote by the board of education on any of the matters set
13 forth in this subsection ¹, except that all actions of the State monitor
14 shall be subject to the education, labor, and employment laws and
15 regulations, including the "New Jersey Employer-Employee
16 Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), and collective
17 bargaining agreements entered into by the school district¹; ¹**[and]**¹
- 18 (6) attend all meetings of the board of education, including
19 closed sessions¹; and
- 20 (7) meet with the board of education on at least a quarterly basis
21 to discuss with the members of the board the past actions of the
22 board which led to the appointment of the State monitor and to
23 provide board members with education and training that address the
24 deficiencies identified in board actions¹.
- 25 c. The Commissioner of Education shall notify the State Board
26 of Education following the appointment of a State monitor pursuant
27 to subsection a. of this section. The State monitor shall report
28 directly to the commissioner or his designee on a weekly basis. The
29 State monitor shall also report monthly to the board of education
30 and members of the public at the regularly scheduled board of
31 education meeting.
- 32 d. For purposes of the "New Jersey Tort Claims Act,"
33 N.J.S.59:1-1 et seq., the State monitor shall be considered a State
34 officer.
- 35 e. The State monitor shall provide oversight in the school
36 district until the commissioner determines that all remedial actions
37 required under the plan have been implemented and the necessary
38 local capacity and fiscal controls have been restored to school
39 district operations.
- 40 f. The salary of the State monitor shall be fixed by the
41 commissioner and adjusted from time to time as the commissioner
42 deems appropriate. The school district shall assume the total cost of
43 the State monitor and necessary additional staff appointed pursuant
44 to subsection a. of this section.
- 45
- 46 ¹**[2.]** 3.¹ a. The Commissioner of Education shall recommend to
47 the State Treasurer whether an advance State aid payment should be
48 made to a school district for which a State monitor has been

1 appointed. The commissioner's recommendation shall be based on
2 whether the payment is necessary to ensure the provision of a
3 thorough and efficient education. 'An advance State aid payment
4 shall be recorded by the school district as revenue for budget
5 purposes in the school year in which the advance State aid payment
6 is provided.'

7 b. The advance State aid payment shall be repaid by the school
8 district through automatic reductions in the State aid provided to the
9 school district in subsequent years. The term of the repayment shall
10 not exceed 10 years, but may be for a shorter term as determined by
11 the State Treasurer. At any time during the term of the repayment
12 the State Treasurer, in consultation with the Commissioner of
13 Education, may determine to impose interest on the unpaid
14 balance 'except that interest shall not be imposed in the case of a
15 school district for which a State monitor is appointed within 90
16 days of the effective date of this act'. The commissioner shall
17 transfer the amount of the reduction in State aid to the account
18 established pursuant to section '[4] 5' of this act.

19 c. In any year in which the school district's undesignated
20 general fund balance is greater than 1.5% of general fund
21 expenditures, the amount which exceeds 1.5% shall be an additional
22 amount applied to the following year's repayment of the advance
23 State aid payment and the school district's State aid shall be
24 reduced by this additional amount in that following year.
25

26 '[3.] 4.' a. The Office of the State Auditor shall conduct a
27 forensic audit of the fiscal operations of any school district which
28 has a year-end general fund deficit and also meets one of the other
29 criteria in subsection a. of section '[1] 2' of this act. The audit
30 shall be of the fiscal year in which the general fund deficit occurred
31 and shall be in addition to the audit required of school districts
32 pursuant to N.J.S.18A:23-1.

33 b. Notwithstanding the provisions of R.S.52:24-1 et seq. to the
34 contrary, the Office of the State Auditor shall submit the audit to
35 the commissioner, the Governor, and the Legislature. The Office of
36 the State Auditor shall also present the audit to the district's board
37 of education and the public at the board's next regularly scheduled
38 monthly meeting.

39 c. The Office of the State Auditor shall forward any findings of
40 fraudulent activities discovered as a result of the audit to the
41 appropriate law enforcement agency.

42 d. Within 30 days of the presentation of the audit by the Office
43 of the State Auditor to the board of education, the board shall
44 submit to the commissioner a plan that addresses all of the findings,
45 conclusions, and recommendations of the Office of the State
46 Auditor which have not been previously addressed by the school
47 district.

1 '[4.] 5.' There is established in the Department of '[the
2 Treasury] Education' a nonlapsing 'revolving dedicated account
3 designated the '"School District' Deficit Relief Account" which
4 shall be credited with the monies 'as may be' appropriated
5 pursuant to section '[6 of this act] 7 of P.L. _____, (pending before
6 the Legislature as this bill)', monies transferred by the
7 Commissioner of Education pursuant to subsection b. of section '[2
8 of this act] 3 of P.L. _____, (C. _____) (pending before the Legislature
9 as this bill)', and such other monies as may be appropriated¹,
10 transferred¹ or 'otherwise' made available for the purposes of
11 providing an advance State aid payment to a school district pursuant
12 to subsection a. of section '[2 of this act] 3 of P.L. _____,
13 c. (pending before the Legislature as this bill)'. Any interest that
14 shall accrue on the monies in the account shall be credited to the
15 account.

16

17 '[5.] 6.' The State Board of Education may promulgate rules
18 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
19 (C.52:14B-1 et seq.), to effectuate the purposes of this act.

20

21 '[6.] 7. a. The amount of any unexpended balance in the
22 Emergency Fund appropriation from the General Fund in the
23 Miscellaneous Grants-In-Aid program classification in the category
24 of State aid made to the Department of Education in P.L.2005,
25 c.132 is appropriated to the "School District Deficit Relief
26 Account" for the purpose of that account, subject to the approval of
27 the Director of the Division of Budget and Accounting in the
28 Department of the Treasury.

29 b.' There is appropriated from '[the General Fund \$10,000,000
30 for deposit in]' the '"School District' Deficit Relief Account"
31 established pursuant to section '[4] 5' of P.L. _____, c. (C. _____)
32 (pending before the Legislature as this bill) 'such sums as the
33 Commissioner of Education determines are necessary' for the
34 purposes of providing an advance State aid payment to a school
35 district pursuant to subsection a. of section '[2 of this act] 3 of
36 P.L. _____, c. (pending before the Legislature as this bill), subject to
37 the approval of the Director of the Division of Budget and
38 Accounting in the Department of the Treasury'.

39

40 '[7.] 8.' This act shall take effect immediately.