

CHAPTER 15

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

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

C.18A:7A-54 Short title.

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

C.18A:7A-55 Appointment of State monitor in certain school districts; duties.

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

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

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

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

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

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

b. The State monitor shall:

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

(2) oversee the operation and fiscal management of school district facilities, including the development and implementation of recommendations for redistricting and restructuring of schools;

(3) ensure development and implementation of an acceptable plan to address the circumstances set forth in subsection a. of this section which resulted in the appointment of the State monitor. The plan shall include measurable benchmarks and specific activities to address the deficiencies of the school district;

(4) oversee all district staffing, including the ability to hire, promote, and terminate employees;

(5) have authority to override a chief school administrator’s action and a vote by the board of education on any of the matters set forth in this subsection, except that all actions of the State monitor shall be subject to the education, labor, and employment laws and

regulations, including the “New Jersey Employer-Employee Relations Act,” P.L.1941, c.100 (C.34:13A-1 et seq.), and collective bargaining agreements entered into by the school district;

(6) attend all meetings of the board of education, including closed sessions; and

(7) meet with the board of education on at least a quarterly basis to discuss with the members of the board the past actions of the board which led to the appointment of the State monitor and to provide board members with education and training that address the deficiencies identified in board actions.

c. The Commissioner of Education shall notify the State Board of Education following the appointment of a State monitor pursuant to subsection a. of this section. The State monitor shall report directly to the commissioner or his designee on a weekly basis. The State monitor shall also report monthly to the board of education and members of the public at the regularly scheduled board of education meeting.

d. For purposes of the “New Jersey Tort Claims Act,” N.J.S.59:1-1 et seq., the State monitor shall be considered a State officer.

e. The State monitor shall provide oversight in the school district until the commissioner determines that all remedial actions required under the plan have been implemented and the necessary local capacity and fiscal controls have been restored to school district operations.

f. The salary of the State monitor shall be fixed by the commissioner and adjusted from time to time as the commissioner deems appropriate. The school district shall assume the total cost of the State monitor and necessary additional staff appointed pursuant to subsection a. of this section.

C.18A:7A-56 Recommendation of advance State aid payment to school district; repayment.

3. a. The Commissioner of Education shall recommend to the State Treasurer whether an advance State aid payment should be made to a school district for which a State monitor has been appointed. The commissioner’s recommendation shall be based on whether the payment is necessary to ensure the provision of a thorough and efficient education. An advance State aid payment shall be recorded by the school district as revenue for budget purposes in the school year in which the advance State aid payment is provided.

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

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

C.18A:7A-57 Forensic audit of certain school districts; presentation.

4. a. The Office of the State Auditor shall conduct a forensic audit of the fiscal operations of any school district which has a year-end general fund deficit and also meets one of the other criteria in subsection a. of section 2 of this act. The audit shall be of the fiscal year in

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which the general fund deficit occurred and shall be in addition to the audit required of school districts pursuant to N.J.S.18A:23-1.

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

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

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

C.18A:7A-58 "School District Deficit Relief Account."

5. There is established in the Department of Education a nonlapsing, revolving dedicated account designated the "School District Deficit Relief Account" which shall be credited with the monies as may be appropriated pursuant to section 7 of P.L.2006, c.15, monies transferred by the Commissioner of Education pursuant to subsection b. of section 3 of P.L.2006, c.15 (C.18A:7A-56), and such other monies as may be appropriated, transferred or otherwise made available for the purposes of providing an advance State aid payment to a school district pursuant to subsection a. of section 3 of P.L.2006, c.15. Any interest that shall accrue on the monies in the account shall be credited to the account.

C.18A:7A-59 Rules.

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

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

b. There is appropriated from the "School District Deficit Relief Account" established pursuant to section 5 of P.L.2006, c.15 (C.18A:7A-58) such sums as the Commissioner of Education determines are necessary for the purposes of providing an advance State aid payment to a school district pursuant to subsection a. of section 3 of P.L.2006, c.15, subject to the approval of the Director of the Division of Budget and Accounting in the Department of the Treasury.

8. This act shall take effect immediately.

Approved April 17, 2006.