

CHAPTER 78

AN ACT concerning non-operating school districts, supplementing Title 18A of the New Jersey Statutes, and amending N.J.S.18A:7-8.

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

C.18A:8-43 “Non-operating district” defined.

1. As used in this act:

“Non-operating district” means a school district that is not operating schools on the effective date of P.L.2009, c.78 (C.18A:8-43 et al.).

C.18A:8-44 Elimination of non-operating district through merger.

2. a. Except as otherwise provided in subsection b. of this section, the executive county superintendent of schools shall eliminate any non-operating district and merge that district with the district with which it participates in a sending-receiving relationship.

b. If a non-operating district is in a sending-receiving relationship with more than one district or is in a sending-receiving relationship with a district in need of improvement pursuant to the “No Child Left Behind Act of 2001,” Pub.L.107-110, then the executive county superintendent shall determine with which district the non-operating district shall be merged. The determination shall be based on the district that is able to accommodate the merger with the least disruption to its finances and educational operations. In making the determination the executive county superintendent shall examine, but need not be limited to, the following factors: current sending-receiving relationships; the quality and effectiveness of educational programming and district operations; proximity of school districts; transportation costs; school building capacity; and special education needs.

C.18A:8-45 Apportioning of annual or special appropriations.

3. The annual or special appropriations for a new district established pursuant to section 2 of this act, excluding the amounts to be raised for interest upon and the redemption of bonds payable by the district, shall be apportioned among the constituent districts of the new district in the first year of the merger in such manner as the commissioner determines to be the least fiscally disruptive. Thereafter the apportionment methodology shall be determined pursuant to chapter 13 of Title 18A of the New Jersey Statutes; however, if necessary, the commissioner may allow a five-year phase-in of the apportionment methodology.

The amount to be raised for interest upon and the redemption of bonds payable by the district for bonds issued prior to and after the effective date of this act, shall be apportioned among the constituent districts of the new district in such manner as the commissioner determines to be the least fiscally disruptive. The commissioner may allow a five-year phase-in of the apportionment methodology, if necessary.

C.18A:8-46 Calculation of State aid.

4. Notwithstanding the provisions of P.L.2007, c.260 (C.18A:7F-43 et al.) to the contrary, for the purposes of calculating State school aid, both the former non-operating district and the district with which it is merged pursuant to the provisions of section 2 of this act shall continue to be considered separate school districts.

C.18A:8-47 Board of education of newly-formed district; membership.

5. a. If the district with which the non-operating district is merged is a Type II district without a board of school estimate, except as otherwise provided in this subsection, the new

district established pursuant to section 2 of this act shall have a board of education with the same number of members as the board of education of the district with which the non-operating district has been merged. The members of the board of education of the district with which the non-operating district has been merged shall continue in office as members of the first board of education of the new district until the expiration of the respective terms for which they were elected.

In any year in which the term of a member of the board of education of the new district expires, his successor shall be elected at-large by the voters of the new district.

The executive county superintendent shall, not later than 30 days after the merger of the districts, appoint one member of the board of education of the former non-operating district to the board of the new district, who shall serve until the first Monday succeeding the first annual school election in which a member of the board of education of the new district is elected at-large; except that if the former non-operating district had representation on the board of education of the district with which it has been merged pursuant to section 2 of P.L.1995, c.8 (C.18A:38-8.2), then that representative shall be the person appointed by the executive county superintendent. The member appointed by the executive county superintendent shall be a voting member of the board.

b. If the district with which the non-operating district is merged is a Type I district, the new district shall have a board of education with the same number of members as the board of education of the district with which the non-operating district has been merged plus one additional member. The mayor or other chief executive officer of the municipality in which the former non-operating district is located shall appoint the one additional member.

c. If the district with which the non-operating district is merged is a regional district, the former non-operating district shall be treated as a constituent district of the regional district and the membership of the board of education of the new district shall be in accordance with the provisions of chapter 13 of Title 18A of the New Jersey Statutes.

C.18A:8-48 Eligibility of nonpublic school students for transportation.

6. In the event that nonpublic school students who reside in a municipality that comprises the new district were not eligible for pupil transportation services pursuant to N.J.S.18A:39-1 prior to the effective date of P.L.2009, c.78 (C.18A:8-43 et al.), then any nonpublic school student in that municipality shall be ineligible for pupil transportation services following the merger pursuant to section 2 of this act.

C.18A:8-49 Final audit of non-operating district's accounts.

7. a. The board of education of the district with which the non-operating district is merged shall cause a final audit of the non-operating district's accounts and financial transactions to be made by a public school accountant pursuant to N.J.S.18A:23-1 et seq., and shall provide for the liquidation of the assets of the non-operating district. The non-operating district shall be responsible for the costs of the final audit which shall be payable from the district's accounts prior to the liquidation of the assets. Upon completion of the liquidation, any cash balances, including any remaining reserve balances, shall be paid to the municipal governing body of the municipality in which the former non-operating district is located, and any indebtedness shall be the responsibility of that municipal governing body.

b. Upon the elimination of a non-operating district pursuant to section 2 of this act, the books, documents, and records of that district shall be turned over to the board of education of the new district.

c. Upon the elimination of a non-operating district pursuant to section 2 of this act, the municipal governing body of the municipality in which the former non-operating district is located shall take title to and control of all school grounds and buildings, unless the deed on the school grounds and building directs otherwise, and the furnishings and equipment therein, situated in the municipality.

C.18A:8-50 Governing of new district.

8. Unless otherwise provided in this act, a new district formed pursuant to section 2 of this act shall be governed by the provisions of chapter 13 of Title 18A of the New Jersey Statutes.

C.18A:8-51 Construction of act.

9. Nothing in this act shall be construed to prohibit an executive county superintendent from including a former non-operating district in the consolidation plan submitted by the executive county superintendent to the commissioner pursuant to subsection h. of N.J.S.18A:7-8.

10. N.J.S.18A:7-8 is amended to read as follows:

General powers and duties.

18A:7-8. Each executive county superintendent shall:

a. Visit and examine from time to time all of the schools under his general supervision and exercise general supervision over them in accordance with the rules prescribed from time to time by the State board;

b. Keep himself informed as to the management, methods of instruction and discipline and the courses of study and textbooks in use, the condition of the school libraries, and the condition of the real and personal property, particularly in respect to the construction, heating, ventilation and lighting of school buildings, in the local districts under his general supervision, and make recommendations in connection therewith;

c. Advise with and counsel the boards of education of the local districts under his general supervision and of any other district of the county when so requested, in relation to the performance of their duties;

d. Promote administrative and operational efficiencies and cost savings within the school districts in the county while ensuring that the districts provide a thorough and efficient system of education;

e. Based on standards adopted by the commissioner, recommend to the commissioner, who is hereby granted the authority to effectuate those recommendations, that certain school districts be required to enter arrangements with one or more other school districts or educational services commissions for the consolidation of the district's administrative services;

f. Recommend to the commissioner the elimination of laws the executive county superintendent determines to be unnecessary State education mandates, other than the categories of laws set forth in section 3 of P.L.1996, c.24 (C.52:13H-3);

g. Eliminate districts located in the county that are not operating schools on the effective date of P.L.2009, c.78 (C.18A:8-43 et al.), in accordance with a plan and schedule included in the plan submitted to and approved by the commissioner;

h. No later than three years following the effective date of sections 42 to 58 of P.L.2007, c.63 (C.18A:7-11 et al.), recommend to the commissioner a school district consolidation plan

to eliminate all districts, other than county-based districts and other than preschool or kindergarten through grade 12 districts in the county, through the establishment or enlargement of regional school districts. After the approval of the plan by the commissioner, the executive county superintendent shall require each board of education covered by a proposal in the plan to conduct a special school election, at a time to be determined by the executive county superintendent, and submit thereat the question whether or not the executive county superintendent's proposal for the regionalization of the school district shall be adopted. The question shall be deemed adopted if it receives a vote in accordance with the provisions of N.J.S.18A:13-5. If the question is adopted by the voters, then the regional district shall be established or enlarged in accordance with chapter 13 of Title 18A of the New Jersey Statutes;

i. Promote coordination and regionalization of pupil transportation services through means such as reviewing bus routes and schedules of school districts and nonpublic schools within the county;

j. Review and approve, according to standards adopted by the commissioner, all employment contracts for superintendents of schools, assistant superintendents of schools, and school business administrators in school districts within the county, prior to the execution of those contracts;

k. Request the commissioner to order a forensic audit and to select an auditor for any school district in the county upon the determination by the executive county superintendent, according to standards adopted by the commissioner, that the accounting practices in the district necessitate such an audit;

l. Review all school budgets of the school districts within the county, and may, pursuant to section 5 of P.L.1996, c.138 (C.18A:7F-5), disapprove a portion of a school district's proposed budget if he determines that the district has not implemented all potential efficiencies in the administrative operations of the district or if he determines that the budget includes excessive non-instructional expenses. If the executive county superintendent disapproves a portion of the school district's budget pursuant to this paragraph, the school district shall deduct the disapproved amounts from the budget prior to publication of the budget, and during the budget year the school district shall not transfer funds back into those accounts;

m. Permit a district to submit to the voters a separate proposal or proposals for additional funds pursuant to paragraph (9) of subsection d. of section 5 of P.L.1996, c.138 (C.18A:7F-5), only if: (1) the district provides the executive county superintendent with written documentation that the district has made efforts to enter into shared arrangements with other districts, municipalities, counties, and other units of local government for the provision of administrative, business, purchasing, public and nonpublic transportation, and other required school district services; (2) the district certifies and provides written documentation that the district participates in on-going shared arrangements; or (3) the district certifies and provides written documentation that entering such shared arrangements would not result in cost savings or would result in additional expenses for the district;

n. Promote cooperative purchasing within the county of textbooks and other instructional materials;

o. Coordinate with the Department of Education to maintain a real time Statewide and district-wide database that tracks the types and capacity of special education programs being implemented by each district and the number of students enrolled in each program to identify program availability and needs;

p. Coordinate with the Department of Education to maintain a Statewide and district-wide list of all special education students served in out-of-district programs and a list of all public and private entities approved to receive special education students that includes pertinent information such as audit results and tuition charges;

q. Serve as a referral source for districts that do not have appropriate in-district programs for special education students and provide those districts with information on placement options in other school districts;

r. Conduct regional planning and identification of program needs for the development of in-district special education programs;

s. Serve as a liaison to facilitate shared special education services within the county including, but not limited to direct services, personnel development, and technical assistance;

t. Work with districts to develop in-district special education programs and services including providing training in inclusive education, positive behavior supports, transition to adult life, and parent-professional collaboration;

u. Provide assistance to districts in budgetary planning for resource realignment and reallocation to direct special education resources into the classroom;

v. Report on a regular basis to the commissioner on progress in achieving the goal of increasing the number of special education students educated in appropriate programs with non-disabled students;

w. Render a report to the commissioner annually on or before September 1, in the manner and form prescribed by him, of such matters relating to the schools under his jurisdiction as the commissioner shall require; and

x. Perform such other duties as shall be prescribed by law.

Any budgetary action of the executive county superintendent under this section may be appealed directly to the commissioner, who shall render a decision within 15 days of the receipt of the appeal. If the commissioner fails to issue a decision within 15 days of the filing of an appeal, the budgetary action of the executive county superintendent shall be deemed approved. The commissioner shall by regulation establish a procedure for such appeals.

Nothing in this section shall be construed or interpreted to contravene or modify the provisions of the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), or to limit or restrict the scope of negotiations as provided pursuant to law, or to require an employer to enter into a subcontracting agreement which affects the employment of any employee in a collective bargaining unit represented by a majority representative during the time that an existing collective bargaining agreement with the majority representative is in effect.

Nothing in this section is intended to interfere with a school district's ability to provide a thorough and efficient education.

11. This act shall take effect immediately.

Approved June 30, 2009.