

2010 -- H 7661

LC00406

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO EDUCATION -- SCHOOL COMMITTEES AND SUPERINTENDENTS

Introduced By: Representatives Kilmartin, and Serpa

Date Introduced: February 25, 2010

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 16-2-21.4 of the General Laws in Chapter 16-2 entitled "School
2 Committees and Superintendents" is hereby amended to read as follows:

3 **16-2-21.4. School budgets -- Compliance with certain requirements. --** (a)

4 Notwithstanding any provision of the general or public laws to the contrary, whenever a city,
5 town, or regional school committee determines that its budget is insufficient to comply with the
6 provisions of section 16-2-21, 16-7-23, or 16-7-24, the city, town, or regional school committee
7 shall adhere to the appropriated budget or the provisions of section 16-2-23 in the absence of an
8 appropriated budget. The chairperson of the city, town, or regional school committee, in
9 accordance with the provisions of section 16-2-9, shall be required to petition the commissioner,
10 in writing, to seek alternatives for the district to comply with state regulations and/or provide
11 waivers to state regulations and, in particular, those which are more restrictive than federal
12 regulations that allow the school committee to operate with a balanced budget. Waivers which
13 affect the health and safety of students and staff or which violate the provisions of chapter 24 of
14 this title shall not be granted. The commissioner must consider alternatives for districts to comply
15 with regulations, [specific chapters and sections of this title except to the extent that these chapters](#)
16 [and sections are enumerated in section 16-77-1](#) and/or provide waivers to regulations in order that
17 the school committee may operate with a balanced budget within the previously authorized
18 appropriation. In the petition to the commissioner, the school committee shall be required to
19 identify the alternatives to meet regulations ~~and/or identify the waivers it seeks~~ in order to

1 provide the commissioner with the revised budget which allows it to have a balanced budget
2 within the previously authorized appropriation. The commissioner shall respond within fifteen
3 (15) calendar days from the date of the written petition from the school committee. If the
4 commissioner does not approve of the alternatives to meet regulations or the waivers from
5 regulations which are sought by the school committee, or if the commissioner does not approve of
6 the modified expenditure plan submitted by the school committee, then: (1) within ten (10) days
7 of receiving the commissioner's response, the school committee may submit a written request to
8 the city or town council for the council of the municipality to decide whether to increase the
9 appropriation for schools to meet expenditures. The decision to increase any appropriations shall
10 be conducted pursuant to the local charter or the public law controlling the approval of
11 appropriations within the municipality; or (2) in a regional school district, the chairperson of the
12 school committee may, within ten (10) days of receiving the commissioner's response, submit a
13 written request to the chief elected official of each of the municipalities to request that the city or
14 town council in each of their respective towns meet to decide whether or not to increase the
15 appropriation for schools to meet expenditures. The decision to increase any appropriations shall
16 be conducted pursuant to the local charter or the public law controlling the approval of
17 appropriations within the municipality.

18 (b) In the event of a negative vote by the appropriating authority, the school committee
19 may, within five (5) business days of said negative vote, request non-binding fact-finding and
20 mediation, whereupon:

21 (1) The presiding justice of the superior court shall appoint a special master, who shall
22 cause to have a financial and program audit, in compliance with the generally acceptable
23 governmental auditing standards, of the school department budget, and/or the municipality's or
24 municipalities', tax assessment, appraisal, exemption, classification and incremental financing
25 procedures and tax collection practices.

26 (2) The special master shall meet with members of the school committee and
27 representatives of the municipality or municipalities in the case of a regional school district in an
28 effort to mediate a resolution to the pending budget dispute. The master's meetings with said
29 representatives shall not be subject to the provisions of chapter 42-46. The master may also hold
30 hearings and take written testimony. Expenses related to the duties and responsibilities of the
31 master shall be borne equally by the school committee and municipality/municipalities. The
32 master shall issue a report and recommendations to the parties and to the presiding justice of
33 superior court that shall be based on the following factors:

34 (i) The city or town's ability to support the proposed school budget;

1 (ii) Financial data showing actual expenses for the prior three (3) fiscal years, the amount
2 budgeted for the current year-to-date financial condition, and the requested budget;
3 (iii) Comparative data, including, but not limited to, the uniform chart of accounts,
4 showing the percent budgeted for personnel, operating expenses and capital over three (3) years;
5 (iv) Per-pupil growth compared to the state average for peer communities and enrollment
6 and staff data;
7 (v) Projected school spending trends;
8 (vi) Least cost options;
9 (vii) A review of educational programs mandated or defined in state and federal statutes,
10 and regulations promulgated by the board of regents for elementary and secondary education,
11 including the basic education plan, and any and all other regulations promulgated by any and all
12 state agencies that may impact the school district;
13 (viii) Reports published by state and federal agencies on school district and municipal
14 operations, including funding, consolidation and collaboration;
15 (ix) Projected revenue and the municipality's/municipalities' ability to pay, consistent
16 with state laws;
17 (x) Municipal tax assessment practices, collection rates and tax classifications,
18 exemptions and incremental financing agreements and procedures, practices and frequency of
19 property appraisals;
20 (xi) Impact of pending school and municipal contracts for goods and services, including
21 any and all collective bargaining agreements; and
22 (xii) Impact of financial liabilities arising out of any pending or possible future litigation,
23 awards or judgments.
24 (c) In the event that a budget dispute remains unresolved the school committee shall have
25 the right to seek additional appropriations by bringing an action in the superior court for the
26 county of Providence and shall be required to demonstrate that the school committee lacks the
27 ability to adequately run the schools for that school year with a balanced budget within the
28 previously authorized appropriation or in accordance with sections 16-2-21, 16-2-23, 16-7-23,
29 and 16-7-24. ~~In no event shall any court order obtained by the school committee have force and~~
30 ~~effect for any period longer than the fiscal year for which the litigation is brought.~~ The superior
31 court may take judicial notice of the special master's report and recommendation and the data
32 upon which it is based. A court order obtained by the school committee, with respect to existing
33 programs and funding shall have force and effect for a period of three (3) fiscal years from the
34 year for which the litigation was brought. In the event that subsequent disputed matters arise,

1 unrelated to issues addressed in the original court order, either party may bring an action in
2 superior court. Any action filed pursuant to this section shall be set down for a hearing at the
3 earliest possible time and shall be given precedence over all matters except older matters of the
4 same character. The court shall render its decision within thirty (30) days of the close of the
5 hearings. ~~Upon the bringing of an action in the superior court by the school committee to increase~~
6 ~~appropriations, the chief executive officer of the municipality, or in the case of a regional school~~
7 ~~district the chief elected officials from each of the member municipalities, shall cause to have a~~
8 ~~financial and performance audit in compliance with the generally acceptable governmental~~
9 ~~auditing standards of the school department conducted by the auditor general, the bureau of~~
10 ~~audits, or a certified public accounting firm qualified in performance audits. The results of the~~
11 ~~audit shall be made public upon completion and paid for by the school committee to the state or~~
12 ~~private certified public accounting firm.~~

13 ~~(e) The auditor general shall select the auditor if the audit is not directly performed by his~~
14 ~~or her office.~~

15 SECTION 2. This act shall take effect upon passage.

=====
LC00406
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO EDUCATION -- SCHOOL COMMITTEES AND SUPERINTENDENTS

1 This act would establish standards and procedures whereby a school committee may,
2 within five (5) days of a negative vote by an appropriating authority (i.e. municipality or
3 municipalities in the case of a regional school district), request non-binding, fact-finding
4 mediation to be conducted by a special master appointed by the superior court.

5 This act would take effect upon passage.

=====
LC00406
=====