

STATE OF NEW YORK

9080

IN ASSEMBLY

January 16, 2020

Introduced by M. of A. JEAN-PIERRE -- read once and referred to the
Committee on Education

AN ACT to repeal a chapter of the laws of 2019, authorizing the commissioner of education, in consultation with the comptroller to appoint a monitor to oversee the Wyandanch union free school district and establishing the powers and duties of the monitor, as proposed in legislative bills numbers S.6588-A and A.8422-A; authorizing the commissioner of education to appoint a monitor to oversee the Wyandanch union free school district and establishing the powers and duties of such monitor; authorizing deficit financing and an advance of aid payments for the Wyandanch union free school district; and providing for the repeal of certain provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. A chapter of the laws of 2019, authorizing the commissioner
2 of education, in consultation with the comptroller to appoint a monitor
3 to oversee the Wyandanch union free school district and establishing the
4 powers and duties of the monitor, as proposed in legislative bills
5 numbers S.6588-A and A.8422-A is REPEALED.
- 6 § 2. Definitions. As used in this act:
- 7 (a) "Commissioner" shall mean the commissioner of education;
- 8 (b) "Department" shall mean the state education department;
- 9 (c) "Board of education" or "board" shall mean the board of education
10 of the Wyandanch union free school district;
- 11 (d) "School district" or "district" shall mean the Wyandanch union
12 free school district;
- 13 (e) "Superintendent" shall mean the superintendent of the Wyandanch
14 union free school district; and
- 15 (f) "Relatives" shall mean a Wyandanch union free school district
16 board member's spouse, domestic partner, child, stepchild, stepparent,
17 or any person who is a direct descendant of the grandparents of a
18 current board member or a board member's spouse or domestic partner.
- 19 § 3. Appointment of a monitor. The commissioner shall appoint one
20 monitor to provide oversight, guidance and technical assistance related

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 to the fiscal policies, practices, programs and decisions of the school
2 district, the board of education and the superintendent.

3 1. The monitor, to the extent practicable, shall have experience in
4 school district finances and one or more of the following areas:

- 5 (a) elementary and secondary education;
- 6 (b) the operation of school districts in New York;
- 7 (c) educating students with disabilities; and
- 8 (d) educating English language learners.

9 2. The monitor shall be a non-voting ex-officio member of the board of
10 education. The monitor shall be an individual who is not a resident,
11 employee of the school district or relative of a board member of the
12 school district at the time of his or her appointment.

13 3. The reasonable and necessary expenses incurred by the monitor while
14 performing his or her official duties shall be paid by the school
15 district. Notwithstanding any other provision of law, the monitor shall
16 be entitled to defense and indemnification by the school district to the
17 same extent as a school district employee.

18 § 4. Meetings. 1. The monitor shall be entitled to attend all meetings
19 of the board, including executive sessions; provided however, such moni-
20 tor shall not be considered for purposes of establishing a quorum of the
21 board. The school district shall fully cooperate with the monitor
22 including, but not limited to, providing such monitor with access to any
23 necessary documents and records of the district including access to
24 electronic information systems, databases and planning documents,
25 consistent with all applicable state and federal statutes including, but
26 not limited to, Family Education Rights and Privacy Act (FERPA) (20
27 U.S.C. §1232g) and section 2-d of the education law.

28 2. The board, in consultation with the monitor, shall adopt a conflict
29 of interest policy that complies with all existing applicable laws,
30 rules and regulations that ensures its board members and administration
31 act in the school district's best interest and comply with applicable
32 legal requirements. The conflict of interest policy shall include, but
33 not be limited to:

34 (a) a definition of the circumstances that constitute a conflict of
35 interest;

36 (b) procedures for disclosing a conflict of interest to the board;

37 (c) a requirement that the person with the conflict of interest not be
38 present at or participate in board deliberations or votes on the matter
39 giving rise to such conflict, provided that nothing in this subdivision
40 shall prohibit the board from requesting that the person with the
41 conflict of interest present information as background or answer ques-
42 tions at a board meeting prior to the commencement of deliberations or
43 voting relating thereto;

44 (d) a prohibition against any attempt by the person with the conflict
45 to influence improperly the deliberation or voting on the matter giving
46 rise to such conflict; and

47 (e) a requirement that the existence and resolution of the conflict be
48 documented in the board's records, including in the minutes of any meet-
49 ing at which the conflict was discussed or voted upon.

50 § 5. Public hearings. 1. The monitor shall schedule two public hear-
51 ings to be held within sixty days of his or her appointment, which shall
52 allow public comment from the district's residents, students, employees,
53 parents, board members and administration.

54 (a) The first hearing shall take public comment on existing statutory
55 and regulatory authority of the commissioner, the department and the
56 board of regents regarding school district governance and intervention

1 under applicable state law and regulations, including but not limited
2 to, section 306 of the education law.

3 (b) The second hearing shall take public comment on the fiscal
4 performance of the district.

5 2. The board of education and the monitor shall consider these public
6 comments when developing the financial plan under this act.

7 § 6. Financial plan. 1. No later than November first, two thousand
8 twenty, the board of education and the monitor shall develop a proposed
9 financial plan for the two thousand twenty-two thousand twenty-one
10 school year and the four subsequent school years. The financial plan
11 shall ensure that annual aggregate operating expenses shall not exceed
12 annual aggregate operating revenues for such school year and that the
13 major operating funds of the district be balanced in accordance with
14 generally accepted accounting principles. The financial plan shall
15 include statements of all estimated revenues, expenditures, and cash
16 flow projections of the district.

17 2. If the board of education and the monitor agree on all the elements
18 of the proposed financial plan, the board of education shall conduct a
19 public hearing on the plan and consider the input of the community. The
20 proposed financial plan shall be made public on the district's website
21 at least three business days before such public hearing. Once the
22 proposed financial plan has been approved by the board of education,
23 such plan shall be submitted by the monitor to the commissioner for
24 approval and shall be deemed approved for the purposes of this act.

25 3. If the board of education and the monitor do not agree on all the
26 elements of the proposed financial plan, the board of education shall
27 conduct a public hearing on the proposed plan that details the elements
28 of disagreement between the monitor and the board, including documented
29 justification for such disagreements and any requested amendments from
30 the monitor. The proposed financial plan, elements of disagreement, and
31 requested amendments shall be made public on the district's website at
32 least three business days before such public hearing. After considering
33 the input of the community, the board may alter the proposed financial
34 plan and the monitor may alter his or her requested amendments, and the
35 monitor shall submit the proposed financial plan, his or her amendments
36 to the plan, and documentation providing justification for such disa-
37 greements and amendments to the commissioner no later than December
38 first, two thousand twenty. By January fifteenth, two thousand twenty-
39 one, the commissioner shall approve the proposed plan with any of the
40 monitor's proposed amendments, or make other modifications, he or she
41 deems appropriate. The board of education shall provide the commissioner
42 with any information he or she requests to approve such plan within
43 three business days of such request. Upon the approval of the commis-
44 sioner, the financial plan shall be deemed approved for purposes of this
45 act.

46 § 7. Fiscal and operational oversight. 1. The board of education shall
47 annually submit the school district's proposed budget for the next
48 succeeding school year to the monitor no later than March first prior to
49 the school district's annual budget vote. The monitor shall review the
50 proposed budget to ensure that it is balanced within the context of
51 revenue and expenditure estimates and mandated programs. The monitor
52 shall also review the proposed budget to ensure that it, to the greatest
53 extent possible, is consistent with the district financial plan devel-
54 oped and approved pursuant to this act. The monitor shall present his or
55 her findings to the board of education and the commissioner no later
56 than forty-five days prior to the date scheduled for the school

1 district's annual budget vote. The commissioner shall require the board
2 of education to make amendments to the proposed budget consistent with
3 any recommendations made by the monitor if the commissioner determines
4 such amendments are necessary to comply with the financial plan under
5 this act. The school district shall make available on the district's
6 website: the initial proposed budget, the monitor's findings, and the
7 final proposed budget at least seven days prior to the date of the
8 school district's budget hearing. In the event of a revote, the board of
9 education, in conjunction with the monitor, shall develop and submit the
10 school district's proposed budget for the next succeeding school year to
11 the commissioner no later than seven days prior to the budget hearing.
12 The board of education shall provide the commissioner with any informa-
13 tion he or she requests in order to make a determination pursuant to
14 this subdivision within three business days of such request.

15 2. The district shall provide quarterly reports to the monitor and
16 annual reports to the commissioner and board of regents on the fiscal
17 and operational status of the school district. In addition, the monitor
18 shall provide semi-annual reports to the commissioner, board of regents,
19 the governor, the temporary president of the senate, and the speaker of
20 the assembly on the fiscal and operational status of the school
21 district. Such semi-annual report shall include all the contracts that
22 the district entered into throughout the year.

23 3. The monitor shall have the authority to disapprove travel outside
24 the state paid for by the district.

25 4. The monitor shall work with the district's shared decision-making
26 committee as defined in 8 NYCRR Part 100.11 in developing the financial
27 plan, district goals, implementation of district priorities and budget-
28 ary recommendations.

29 5. The monitor shall assist in resolving any disputes and conflicts,
30 including but not limited to, those between the superintendent and the
31 board of education and among the members of the board of education.

32 6. The monitor may recommend, and the board shall consider by vote of
33 a resolution at the next scheduled meeting of the board, cost saving
34 measures including, but not limited to, shared service agreements.

35 § 8. The commissioner may overrule any decision of the monitor, except
36 for collective bargaining agreements negotiated in accordance with arti-
37 cle 14 of the civil service law, if he or she deems that it is not
38 aligned with the financial plan or the school district's budget.

39 § 9. The monitor may notify the board and the commissioner in writing
40 when he or she deems the district is violating an element of the finan-
41 cial plan in this act. Within twenty days, the commissioner shall deter-
42 mine whether the district is in violation of any of the elements of the
43 plan highlighted by the monitor and shall order the district to comply
44 immediately with the plan and remedy any such violation. The school
45 district shall suspend all actions related to the potential violation of
46 the financial plan until the commissioner issues a determination.

47 § 10. Nothing herein shall be construed to abrogate the duties and
48 responsibilities of the school district consistent with applicable state
49 law and regulations.

50 § 11. Deficit financing. (a) The school district is hereby authorized
51 to issue serial bonds, subject to the provisions of section 10.10 of the
52 local finance law, on or before June thirtieth, two thousand twenty, in
53 an aggregate principal amount not to exceed three million one hundred
54 thousand dollars (\$3,100,000), for the specific object or purpose of
55 liquidating actual deficits in its general fund at the close of the
56 fiscal year ending June thirtieth, two thousand nineteen as certified by

1 the state comptroller. In anticipation of the issuance and sale of such
2 serial bonds, bond anticipation notes are hereby authorized to be
3 issued.

4 (b) The specific object or purpose of this issuance is hereby declared
5 to be a public purpose which the school district is hereby authorized to
6 accomplish and the period of probable usefulness thereof is hereby
7 authorized to be ten years.

8 (c) Notwithstanding the provisions of any other law, general, special
9 or local, the board of education is hereby authorized to levy a tax to
10 be collected in annual installments sufficient to pay the principal of
11 and interest on said bonds and bond anticipation notes and to adopt a
12 bond resolution authorizing the serial bonds authorized to be issued
13 pursuant to this section.

14 (d) Amounts provided from the proceeds of obligations issued pursuant
15 to this section in excess of the amount of the deficit as confirmed by
16 the state comptroller shall be accounted for in the same manner as
17 prescribed by the state comptroller pursuant to section 36 of the gener-
18 al municipal law for real property taxes levied for a planned balance
19 pursuant to subdivision 21 of section 2021 of the education law.

20 § 12. Lottery advance. (a) Notwithstanding any other provisions of
21 law, for aid payable in the school years two thousand nineteen--two
22 thousand twenty through two thousand forty-eight--two thousand forty-
23 nine upon application to the commissioner submitted not sooner than the
24 second Monday in June of the school year in which such aid is payable
25 and not later than the Friday following the third Monday in June of the
26 school year in which such aid is payable, or ten days after the effec-
27 tive date of this act, whichever shall be later, the school district
28 shall be eligible to receive an apportionment pursuant to this act in an
29 amount equal to the product of up to one million dollars (\$1,000,000)
30 and the quotient of the positive difference of thirty minus the number
31 of school years elapsed since the two thousand nineteen--two thousand
32 twenty school year divided by thirty. Funds apportioned pursuant to this
33 subdivision shall be used for services and expenses of the school
34 district and shall be applied to support of its educational programs and
35 any liability incurred by such school district in carrying out its func-
36 tions and responsibilities under the education law.

37 (b) The claim for an apportionment to be paid to the school district
38 pursuant to subdivision (a) of this section shall be submitted to the
39 commissioner on a form prescribed for such purpose, and shall be payable
40 upon determination by such commissioner that the form has been submitted
41 as prescribed and that the school district has complied with the report-
42 ing requirements of this act. For each school year in which application
43 is made pursuant to subdivision (a) of this section, such approved
44 amount shall be payable on or before June thirtieth of such school year
45 upon the audit and warrant of the state comptroller on vouchers certi-
46 fied or approved by the commissioner in the manner prescribed by law
47 from moneys in the state lottery fund appropriated for general support
48 of public schools and from the general fund to the extent that the
49 amount paid to the school district pursuant to this subdivision and
50 subdivision (a) of this section exceeds the amount of the lottery appor-
51 tionment, if any, due such school district pursuant to subparagraph (2)
52 of paragraph a of subdivision 1 of section 3609-a of the education law
53 on or before September first of such school year.

54 (c) Notwithstanding the provisions of section 3609-a of the education
55 law, an amount equal to the amount paid to the school district during
56 the base year pursuant to subdivisions (a) and (b) of this section shall

1 first be deducted from payments due during the current school year
2 pursuant to subparagraphs (1), (2), (3), (4) and (5) of paragraph a of
3 subdivision 1 of section 3609-a of the education law in the following
4 order: the lottery apportionment payable pursuant to subparagraph (2) of
5 such paragraph followed by the fixed fall payments payable pursuant to
6 subparagraph (4) of such paragraph, and any remainder to be deducted
7 from the individualized payments due to the district pursuant to para-
8 graph b of such subdivision shall be deducted on a chronological basis
9 starting with the earliest payment due to the district.

10 (d) Notwithstanding any other provisions of law, the sum of payments
11 made to the school district during the base year pursuant to subdivi-
12 sions (a) and (b) of this section plus payments made to such school
13 district during the current year pursuant to section 3609-a of the
14 education law shall be deemed to truly represent all aids paid to such
15 school district during the current school year pursuant to such section
16 3609-a for the purposes of computing any adjustments to such aids that
17 may occur in a subsequent school year.

18 § 13. This act shall take effect immediately, provided however:

19 Section one of this act shall take effect on the same date as a chap-
20 ter of the laws of 2019, authorizing the commissioner of education, in
21 consultation with the comptroller to appoint a monitor to oversee the
22 Wyandanch union free school district and establishing the powers and
23 duties of the monitor, as proposed in legislative bills numbers S.6588-A
24 and A.8422-A, takes effect.

25 Sections three through ten of this act shall expire and be deemed
26 repealed June 30, 2025.

27 Section eleven shall expire and be deemed repealed June 30 of the last
28 fiscal year during which serial bonds or bonds issued to refund such
29 serial bonds that are outstanding pursuant to such section of this act,
30 provided that the superintendent of the Wyandanch union free school
31 district shall notify the legislative bill drafting commission upon such
32 occurrence in order that the commission may maintain an accurate and
33 timely effective data base of the official text of the laws of the state
34 of New York in furtherance of effectuating the provisions of section 44
35 of the legislative law and section 70-b of the public officers law.

36 Sections two and twelve of this act shall expire and be deemed
37 repealed June 30, 2049.