



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Administration
BUDGET OFFICE

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Memorandum

To: The Honorable Helio Melo
Chairman, House Finance Committee

The Honorable Daniel DaPonte
Chairman, Senate Finance Committee

From: Thomas A. Mullaney *Thomas A. Mullaney*
Executive Director/State Budget Officer

Date: May 16, 2012

Subject: Amendments to Article 12 of the FY 2013 Appropriations
Act (12-H-7323)

The Governor requests that several amendments be made to Article 12 (Relating to Education Aid) of the FY 2013 Appropriations Act, which was submitted to the General Assembly on January 31, 2012. It has been determined by the Receiver's staff and the Department of Revenue that there may be a lack of resources in future years to allow the City of Central Falls to support its share of the core and non-core instruction costs. Under this proposed Amendment, funding for all costs under the education aid funding formula, along with any costs outside of the formula, will be reviewed annually to determine the appropriate split between the city and the state.

This amendment will also provide the Rhode Island Department of Education, under the authority of the Commissioner of Education, the opportunity to exercise control over the public schools of Central Falls whenever the Commissioner deems such intervention to be necessary and appropriate to do so. The revised language in the attached replacement article is indicated by shading.

If you have any questions regarding Article 12 please feel free to call Ryan Gardiner at 222-6421 or Carolyn Dias at 222-4645.

TAM:12-38

Attachments

cc: Sharon Reynolds Ferland, House Fiscal Advisor
Peter Marino, Senate Fiscal Advisor
Kelly Mahoney, Director of Policy
Richard Licht, Director of Administration
Gregory Stack

TDD#: 277-1227

REVISED ARTICLE 12 (5/16/12)

RELATING TO EDUCATION AID

SECTION 1. Section 16-2-9.4 ~~and 16-2-34~~ of the General Laws in Chapter 16-2 entitled "School Committees and Superintendents" is hereby amended to read as follows:

§ 16-2-9.4 School district accounting compliance. (a) The office of auditor general and the department of elementary and secondary education shall promulgate a uniform system of accounting, including a chart of accounts based on the recommendations of the advisory council on school finance, and require all accounts of the school districts, regional school districts, state schools and charter schools to be kept in accordance therewith; provided, that in any case in which the uniform system of accounting is not practicable, the office of auditor general in conjunction with the department of elementary and secondary education shall determine the manner in which the accounts shall be kept. The uniform system of accounting shall also include a standardized budget process to ensure districts can annually assess investment priorities and incorporate long range planning.

(b) For the purpose of securing a uniform system of accounting and a chart of accounts the advisory council on school finances, as defined in § 16-2-9.2 may make such surveys of the operation of any school districts, regional school district, state school or charter school as they shall deem necessary.

(c) Upon completion of the implementation of the uniform chart of accounts, all school districts, regional school districts, state schools and charter schools shall implement a Regents' approved budget model and shall utilize best practices established by the department of education for long range planning, budget development, and budget administration and reporting.

~~(e)~~(d) If any school district, regional school district, state school or charter school fails to install and maintain the uniform system of accounting, including a chart of accounts and approved budget model, or fails to keep its accounts and interdepartmental records, or refuses or neglects to make the reports and to furnish the information in accordance with the method

prescribed by the office of auditor general and the department of education or hinders or prevents the examination of accounts and financial records, the auditor general and the commissioner of education may make a report to the board of regents for elementary and secondary education in writing, specifying the nature and extent of the failure, refusal, neglect, hindrance, or prevention, and the board of regents is hereby authorized and directed to review the matter so reported. If the regents shall find that failure, refusal, neglect, hindrance, or prevention exists and that the school district, regional school district, state school or charter school should properly comply in the matter so reported, the regents shall direct the school district, regional school district, state school or charter school, in writing, to so comply. If the failure, refusal, neglect, hindrance, or prevention shall continue for a period of ten (10) days following the written direction, the regents may withhold distribution of state aid to said school district, regional school district, state school or charter school.

§ 16-2-34 Central Falls School District board of trustees. – (a) There is hereby established a seven (7) member board of trustees, which shall govern the Central Falls School District. With the exception of those powers and duties reserved by the commissioner of elementary and secondary education, and the board of regents for elementary and secondary education, the board of trustees shall have the powers and duties of school committees. Notwithstanding any provision of law to the contrary, the commissioner of education and secondary education, as the executive agent of the board of regents for elementary and secondary education, is authorized to exercise in whole or in part care, control, and management over the public schools of the Central Falls school district, whenever the commissioner deems such intervention to be necessary and appropriate.

(b) The board of regents for elementary and secondary education shall appoint the members of the board of trustees from nominations made by the commissioner of elementary and secondary education. The chairperson shall also be selected in this manner. The board of regents shall determine the number, qualifications, and terms of office of members of the board of

trustees, provided however, that at least four (4) of the members shall be residents of the city and parents of current or former Central Falls public school students. The remaining three (3) shall be appointed at large.

(c) The board of regents shall provide parameters for overall budget requests, approve the budget, and otherwise participate in budget development.

(d) The commissioner of elementary and secondary education shall recommend parameters for overall budget requests, recommend a budget, and otherwise participate in budget development.

(e) The commissioner shall approve the process for selection of the superintendent.

(f) The board of trustees shall meet monthly and serve without compensation. The board of trustees shall have broad policy making authority for the operation of the school, as well as the following powers and duties:

(1) To identify the educational needs of the district;

(2) To develop educational policies to meet the needs of students in the school district;

(3) To appoint a superintendent to serve as its chief executive officer and to approve assistant and associate superintendents from nominations made by the superintendent;

(4) To provide policy guidance and otherwise participate in budget development; and

(5) To develop staffing policies which ensure that all students are taught by educators of the highest possible quality.

(g) The superintendent shall serve at the pleasure of the board of trustees with the initial appointment to be for a period of not more than three (3) years; provided, however, that the terms and conditions of employment are subject to the approval of the board of regents for elementary and secondary education.

(h) It shall be the responsibility of the superintendent to manage and operate the school on a day-to-day basis. The superintendent's duties shall include the following:

(1) To be responsible for the care, supervision, and management of the schools;

(2) To recommend to the board of trustees educational policies to meet the needs of the district, and to implement policies established by the board of trustees;

(3) To present nominations to the board of trustees for assistant and associate superintendents and to appoint all other school personnel;

(4) To provide for the evaluation of all school district personnel;

(5) To establish a school based management approach for decision making for the operation of the school;

(6) To prepare a budget and otherwise participate in budget development as required, and to authorize purchases consistent with the adopted school district budget;

(7) To report to the board of trustees, on a regular basis, the financial condition and operation of the schools, and to report annually on the educational progress of the schools;

(8) To establish appropriate advisory committees as needed to provide guidance on new directions and feedback on the operation of the schools;

(9) With policy guidance from the board of trustees and extensive involvement of the administrators and faculty in the school, to annually prepare a budget. The board of trustees shall approve the budget and transmit it to the commissioner. The board of regents for elementary and secondary education, upon recommendation of the commissioner of elementary and secondary education, shall provide parameters for the overall budget request. Based on review and recommendation by the commissioner, the board of regents shall approve the total budget and incorporate it into its budget request to the governor and to the general assembly. Line item budgeting decisions shall be the responsibility of the superintendent; and

(10) To negotiate, along with the chairperson of the board of trustees and his or her appointed designee, all district employment contracts, which contracts shall be subject to the approval of the commissioner of elementary and secondary education with the concurrence of the board of regents.

(i) Nothing in this section shall be deemed to limit or otherwise interfere with the rights of teachers and other school employees to bargain collectively pursuant to chapters 9.3 and 9.4 of title 28 or to allow the board of trustees or the superintendent to abrogate any agreement by collective bargaining.

(j) The appointment of the special state administrator for the Central Falls School District and the Central Falls School District Advisory Group, created by chapter 312 of the Rhode Island Public Laws of 1991, will no longer be in effect upon the selection and appointment of the board of trustees created in this section. All powers and duties of the special state administrator and the Central Falls School District Advisory Group are hereby transferred and assigned to the board of trustees created in this section, upon the selection and appointment of that board.

SECTION 2. Section 16-7-39 of the General Laws in Chapter 16-7 entitled "Foundation Level School Support" is hereby amended to read as follows:

§ 16-7-39 Computation of school housing aid ratio. For each community, the percent of state aid for school housing costs shall be computed in the following manner:

(1) The adjusted equalized weighted assessed valuation for the district is divided by the resident average daily membership for the district (grades twelve (12) and below); (2) the adjusted equalized weighted assessed valuation for the state is divided by the resident average daily membership for the state (grades twelve (12) and below); (1) is then divided by (2) and the resultant ratio is multiplied by a factor currently set at sixty-two percent (62%) which represents the approximate average district share of school support; the resulting product is then subtracted from one hundred percent (100%) to yield the housing aid share ratio, provided that in no case shall the ratio be less than thirty percent (30%). Provided, that effective July 1, 2010, and annually at the start of each fiscal year thereafter, the thirty percent (30%) floor on said housing aid share shall be increased by five percent (5%) increments each year until said floor on the housing aid share ratio reaches a minimum of not less than forty percent (40%). This provision shall apply only to school housing projects completed after June 30, 2010. For the fiscal year

beginning July 1, 2012 and for subsequent fiscal years, the minimum housing aid share shall be frozen at thirty-five percent (35%). The resident average daily membership shall be determined in accordance with § 16-7-22(1).

SECTION 3. Section 16-7.2-6 of the General Laws in Chapter 35-4 entitled "The Education Equity and Property Tax Relief Act" is hereby amended to read as follows:

§ 16-7.2-6 Categorical programs, state funded expenses. In addition to the foundation education aid provided pursuant to § 16-7.2-3 the permanent foundation education aid program shall provide direct state funding for:

(a) *Excess costs associated with special education students.* Excess costs are defined when an individual special education student's cost shall be deemed to be "extraordinary." Extraordinary costs are those educational costs that exceed the state approved threshold based on an amount above five times the core foundation amount (total of core instruction amount plus student success amount). The department of elementary and secondary education shall prorate the funds available for distribution among those eligible school districts if the total approved costs for which school districts are seeking reimbursement exceed the amount of funding appropriated in any fiscal year;

(b) Career and technical education costs to help meet initial investment requirements needed to transform existing or create new comprehensive career and technical education programs and career pathways in critical and emerging industries and to help offset the higher than average costs associated with facilities, equipment maintenance and repair, and supplies necessary for maintaining the quality of highly specialized programs that are a priority for the state. The department shall recommend criteria for the purpose of allocating any and all career and technical education funds as may be determined by the general assembly on an annual basis. The department of elementary and secondary education shall prorate the funds available for distribution among those eligible school districts if the total approved costs for which school districts are seeking reimbursement exceed the amount of funding available in any fiscal year;

(c) Programs to increase access to voluntary, free, high-quality pre-kindergarten programs. The department shall recommend criteria for the purpose of allocating any and all early childhood program funds as may be determined by the general assembly;

(d) Central Falls Stabilization Fund is established to assure that appropriate funding is available to support the community, including students from the community that attend the charter schools, Davies, and the Met Center pursuant to § 16-7.2-5, due to concerns regarding the city's capacity to meet the local share of education costs. This fund requires that education aid calculated pursuant to § 16-7.2-3 and funding for costs outside the permanent foundation education aid formula, including but not limited to transportation, facility maintenance, and retiree health benefits, that the difference between education aid calculated pursuant to § 16-7.2-3 and education aid, as of the effective date of the formula, shall be shared between the state and the city of Central Falls. The fund shall be annually reviewed to determine the amount of the state and the city appropriation. The state's share of the fund will be paid directly to the Central Falls school district upon verification that the city has transferred its share of the local contribution for education. The state's share of this fund may be supported through a reallocation of current state appropriations to the Central Falls school district. At the end of the transition period defined in § 16-7.2-7, the municipality will continue its contribution pursuant to § 16-7-24; and

(e) Excess costs associated with transporting students to out of district non-public schools and within regional school districts. (1) This fund will provide state funding for the costs associated with transporting students to out of district non-public schools, pursuant to title 16, Chapter 21.1. The state will assume the costs of non-public out-of-district transportation for those districts participating in the statewide system; and (2) This fund will provide direct state funding for the excess costs associated with transporting students within regional school districts, established pursuant to title 16, chapter 3. This fund requires that the state and regional school district share equally the student transportation costs net any federal sources of revenue for these

expenditures. The department of elementary and secondary education shall prorate the funds available for distribution among those eligible school districts if the total approved costs for which school districts are seeking reimbursement exceed the amount of funding available in any fiscal year.

(f) Public school districts that are regionalized shall be eligible for a regionalization bonus as set forth below.

(1) As used herein, the term "regionalized" shall be deemed to refer to a regional school district established under the provisions of chapter 16-3 including the Chariho Regional School district.

(2) For those districts that are regionalized as of July 1, 2010, the regionalization bonus shall commence in FY 2012. For those districts that regionalize after July 1, 2010, the regionalization bonus shall commence in the first fiscal year following the establishment of a regionalized school district as set forth section 16-3, including the Chariho Regional School District.

(3) The regionalization bonus in the first fiscal year shall be two percent (2.0%) of the state's share of the foundation education aid for the regionalized district as calculated pursuant to §§ 16-7.2-3 and 16-7.2-4 in that fiscal year.

(4) The regionalization bonus in the second fiscal year shall be one percent (1.0%) of the state's share of the foundation education aid for the regionalized district as calculated pursuant to §§ 16-7.2-3 and 16-7.2-4 in that fiscal year.

(5) The regionalization bonus shall cease in the third fiscal year.

(6) The regionalization bonus for the Chariho regional school district shall be applied to the state share of the permanent foundation education aid for the member towns.

(7) The department of elementary and secondary education shall prorate the funds available for distribution among those eligible regionalized school districts if the total approve

costs for which regionalized school districts are seeking a regionalization bonus exceed the amount of funding appropriated in any fiscal year.

(g) Categorical programs defined in (a) through (f) shall be funded pursuant to the transition plan in § 16-7.2-7.

SECTION 4. Sections 16-8-10.1 and 16-8-15 of the General Laws in Chapter 16-8 entitled "Federal Aid" are hereby amended to read as follows:

§ 16-8-10.1 Mandatory school breakfast programs. (a) All public schools shall make a breakfast program available to students attending the school. The breakfast meal shall meet any rules and regulations that are adopted by the commissioner.

(b) The state of Rhode Island ~~shall~~ may provide school districts a per breakfast subsidy for each breakfast served to students. The general assembly ~~shall~~ may choose to annually appropriate some sum and distribute it based on each district's proportion of the number of breakfasts served in the prior school year relative to the statewide total in the same year. This subsidy, if appropriated, shall augment the nonprofit school food service account and be used for expenses incurred in providing nutritious breakfast meals to students.

§ 16-8-15 Education Jobs Fund. (a) For FY 2012 only, state general revenue appropriations to all local education agencies – including school districts, charter schools, and state schools – shall be reduced by the amount allocated to each local education agency in October 2011 under the original terms of the federal Education Jobs Fund program.

(b) For FY 2013 only, state general revenue appropriations to all local education agencies shall be reduced by the amount of any supplemental awards made under the federal Education Jobs Fund program.

SECTION 5. Section 16-23-3.1 of the General Laws in Chapter 16-23 entitled "Textbooks" is hereby repealed.

~~**§ 16-23-3.1 Reimbursements to municipalities for costs of English/language arts and history/social studies textbooks for students in grades K-12.**~~ There is hereby established a textbook reimbursement fund for which the general assembly shall make a specific appropriation. The department of elementary and secondary education shall administer the appropriation. School districts shall submit to the department of elementary and secondary education evidence of the cost of English/language arts and/or history/social studies textbooks that the district has provided to students in grades K-12 pursuant to § 16-23-2. The costs shall be reimbursed from the textbook reimbursement fund by the department of elementary and secondary education upon presentation by a school district of the evidence of cost.

SECTION 6. Chapter 16-25 of the General Laws entitled "Education of Children Who are Deaf or Blind" is hereby repealed in its entirety.

~~**§ 16-25-1 Appointment of state beneficiaries at special institutions.**~~ The governor, on recommendation of the department of elementary and secondary education and upon application of the parent or guardian, may appoint any child who is deaf, blind, or visually impaired being a legal resident of this state, who shall appear to the department to be a fit subject for education, as a state beneficiary at any suitable institution or school now established or that may be established either within or without the state, for the period that he or she may determine, within the limit of ten (10) years; provided, that he or she may, upon the special recommendation of the department, extend the period and that he or she shall have the power to revoke any appointment at any time for cause.

~~**§ 16-25-2 Supervision of beneficiaries — Reports to general assembly.**~~ The department of elementary and secondary education is invested with the duty and responsibility of supervising the education of all those beneficiaries, and no child appointed as provided in § 16-25-1 shall be withdrawn from any institution or school except with its consent, or the consent of the governor, and the department shall annually report its doings under this chapter to the general

assembly, with any further information in relation to the several institutions at which these beneficiaries have been placed that may be deemed desirable.

~~**§ 16-25-4 Care and instruction of children who are blind or visually impaired under school age.**~~ The department of elementary and secondary education shall have power to provide for the suitable care, maintenance, and instruction of babies and children under school age residing in this state who may be born blind or become blind or visually impaired, in any case where by reason of lack of means or other cause the parent or parents of the children may be unable to properly care for, maintain, and educate the children.

~~**§ 16-25-5 Contracts for care of children who are blind or visually impaired.**~~ For the purpose of providing care, maintenance, and education of children who are blind or visually impaired, the department of elementary and secondary education shall have power to contract with any institution having or furnishing special education and related services in this or any other state at a contract price within the amount appropriated.

~~**§ 16-25-6 Payment of expenses of chapter.**~~ Each community, as defined in chapter 7 of this title, shall contribute to the department of elementary and secondary education in accordance with regulations to be prescribed by the department.

SECTION 7. Section 16-77.1-5 of the General Laws in Chapter 16-77.1 entitled "Funding of Charter Public Schools" is hereby amended to read as follows:

~~**§ 16-77.1-5 Facilities support for charter public schools.**~~ A charter public school district or districts may access state aid for reimbursement of school housing costs for district sponsored charter public schools pursuant to §§ 16-7-35 through 16-7-47. Public charter schools not sponsored by a public school district or districts may apply for thirty percent (30%) reimbursement of school housing cost on the basis of demonstrated need. The Rhode Island department of elementary and secondary education shall promulgate regulations to implement this section consistent with the purposes and procedures of the existing school housing aid program pursuant to §§ 16-7-35 through 16-7-47. Effective July 1, 2012, the state share of

school housing costs for public charter schools shall be calculated annually by using a three year weighted average of the state share percentages calculated pursuant to §16-7-39 for the communities sending students to the charter school on the basis of the reference year as defined in § 16-7-36(4). This provision shall apply only to school housing projects completed after June 30, 2012. For purposes of this section only, "facilities support, the urban collaborative accelerated program" will be defined as a charter school.

SECTION 8. Section 39-1-61 of the General Laws in Chapter 39-1 entitled "Public Utilities Commission" is hereby amended to read as follows:

§ 39-1-61 Rhode Island telecommunications education access fund. – (a) *Preamble.*

For the past ten (10) years, the schools and libraries of Rhode Island have benefited from a regulatory agreement with Verizon and its predecessor companies that has provided up to two million dollars (\$2,000,000) annually for support of telecommunications lines for internet access. In addition, the funds provided for in the original regulatory agreement and every dollar generated hereunder leverages a ~~one dollar and twenty seven cents (\$1.27)~~ two dollars (\$2.00) federal E-Rate match. With the regulatory agreement approaching its termination and the advent of more advanced technologies, it is the intent of this section to provide a continued source of funding for internet access for eligible public and private schools and libraries.

(b) *Definitions.* As used in this section, the following terms have the following meanings:

(1) "Department" means the Rhode Island Department of Elementary and Secondary education.

(2) "Division" means the Division of Public Utilities and Carriers.

(3) "Telecommunications education access fund" means the programs and funding made available to qualified libraries and schools to assist in paying the costs of acquiring, installing and using telecommunications technologies to access the internet.

(c) *Purpose.* The purpose of the telecommunications education access fund shall be to fund a basic level of internet connectivity for all of the qualified schools (kindergarten through grade 12) and libraries in the state.

(d) *Authority.* The division shall establish, by rule or regulation, an appropriate funding mechanism to recover from the general body of ratepayers the costs of providing telecommunications technology to access the internet.

(1) The general assembly shall determine the amount of a monthly surcharge to be levied upon each residence and business telephone access line or trunk in the state, including PBX trunks and centrex equivalent trunks and each service line or trunk, and upon each user interface number or extension number or similarly identifiable line, trunk, or path to or from a digital network and upon each wireless instrument or device, including cellular, telephony, internet, voice over internet protocol (VoIP), satellite, computer, radio, communication, data, or any other wireless instrument. The department will provide the general assembly with information and recommendations regarding the necessary level of funding to effectuate the purposes of this article. The surcharge shall be billed by each telecommunications services provider and shall be payable to the telecommunications services provider by the subscriber of the telecommunications services. State, local and quasi-governmental agencies shall be exempt from the surcharge. The surcharge shall be deposited in a restricted receipt account, hereby created within the department of elementary and secondary education and known as the telecommunications education access fund, to pay any and all costs associated with subsection (b)(3). The amount of the surcharge shall not exceed thirty-five cents (\$.35) per access line or trunk.

(2) The monthly surcharge is hereby determined to be ~~twenty-six cents (\$.26)~~ fifteen cents (\$.15) per access line or trunk as specified in (d)(1) above.

(3) The amount of the surcharge shall not be subject to the sales and use tax imposed under chapter 18 of title 44 nor be included within the gross earnings of the telecommunications

corporation providing telecommunications service for the purpose of computing the tax under chapter 13 of title 44.

(e) Administration. The division, with input from the department, shall administer the telecommunications education access fund consistent with the requirements of the Universal Service (E-Rate) program. The division of taxation shall collect from the telecommunications service providers the amounts of the surcharge collected from their subscribers. The department, with the approval of the division, shall publish requests for proposals that do not favor any particular technology, evaluate competitive bids, and select products and services that best serve the internet access needs of schools and libraries. In doing so, the department shall endeavor to obtain all available E-Rate matching funds. The department is further authorized and encouraged to seek matching funds from all local, state, and federal public or private entities. The department shall approve disbursement [disbursement] of funds under this section in accordance with the division's directives. Unsuccessful bids may be appealed to the division. The division shall annually review the department's disbursements from this account to ensure that the department's decisions do not favor any competitor.

(f) Eligibility. All schools seeking support from the fund must be eligible for Universal Service (E-Rate) support and meet the definition of "elementary school" or "secondary school" in the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. § 8801). Schools operating as a for-profit business or with endowments exceeding fifty million dollars (\$50,000,000) are not eligible for support. All libraries seeking support from the fund must meet the definition of "library" or "library consortium" in the Library Services and Technology Act, P.L. 104-208, § 211 et seq., 110 Stat. 3009 (1996) and must be eligible for assistance from a state library administrative agency under that act. Only libraries that have budgets that are completely separate from any schools (including, but not limited to, elementary and secondary, colleges and universities) shall be eligible to receive support. Libraries operating as a for-profit business shall not be eligible for support.

(g) *Effective date.* The effective date of assessment for the telecommunications education access fund shall be January 1, 2004.

SECTION 9. This article shall take effect as of July 1, 2012.