

19:60-1.2 et al.
LEGISLATIVE HISTORY CHECKLIST
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LAWS OF: 2012 **CHAPTER:** 78

NJSA: 19:60-1.2 et al. (Permits Type II district with board of school estimate to opt to move school election to November; eliminates board of school estimate's approval of budgets for such districts, except for proposals to spend above cap)

BILL NO: S1328 (Substituted for A2310)

SPONSOR(S) Codey and others

DATE INTRODUCED: February 6, 2012

COMMITTEE: **ASSEMBLY:** ---

SENATE: Education

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** December 3, 2012

SENATE: June 21, 2012

DATE OF APPROVAL: December 7, 2012

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (First reprint enacted)

S1328

SPONSOR'S STATEMENT: (Begins on page 10 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

A2310

SPONSOR'S STATEMENT: (Begins on page 10 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

(continued)

VETO MESSAGE:

Yes

GOVERNOR'S PRESS RELEASE ON SIGNING:

No

FOLLOWING WERE PRINTED:

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HEARINGS:

No

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No

LAW/RWH

P.L.2012, CHAPTER 78, *approved December 7, 2012*
Senate, No. 1328 (*First Reprint*)

1 AN ACT concerning the operation of school districts, amending
2 various parts of the statutory law, and supplementing chapter 60
3 of Title 19 of the Revised Statutes.

4

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

7

8 1. (New section) a. Notwithstanding any other law or
9 regulation to the contrary, a Type II district with a board of school
10 estimate may move the date of the school district's annual school
11 election pursuant to the provisions of section 1 of P.L.2011, c.202
12 (C.).

13 b. Notwithstanding any other law or regulation to the contrary,
14 in the event that the date of the annual school election is moved to
15 the day of the general election in a Type II district with a board of
16 school estimate, the election shall be held for the purpose of
17 electing members of the board of education and for any other
18 purpose authorized by law. The board of school estimate shall not
19 determine the district's general fund tax levy for the budget year,
20 other than the general fund tax levy required to support a proposal
21 for additional funds pursuant to paragraph (9) of subsection d. of
22 section 5 of P.L.1996, c.138 (C.18A:7F-5).

23 c. Notwithstanding any other law or regulation to the contrary,
24 in a Type II district with a board of school estimate that has moved
25 the date of its annual school election to November and subsequently
26 moves the annual school election to the third Tuesday in April, a
27 vote shall be held for the purpose of electing members of the board
28 of education and for any other purpose authorized by law. The
29 board of school estimate shall determine the district's general fund
30 tax levy for the budget year, including any proposal for additional
31 funds pursuant to paragraph (9) of subsection d. of section 5 of
32 P.L.1996, c.138 (C.18A:7F-5).

33

34 2. Section 5 of P.L.1996, c.138 (C.18A:7F-5) is amended to
35 read as follows:

36 5. As used in this section, "cost of living" means the CPI as
37 defined in section 3 of P.L.2007, c.260 (C.18A:7F-45).

38 a. Within 30 days following the approval of the Educational
39 Adequacy Report, the commissioner shall notify each district of the
40 base per pupil amount, the per pupil amounts for full-day preschool,

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate amendments adopted in accordance with Governor's recommendations May 31, 2012.

1 the weights for grade level, county vocational school districts, at-
2 risk pupils, bilingual pupils, and combination pupils, the cost
3 coefficients for security aid and for transportation aid, the State
4 average classification rate and the excess cost for general special
5 education services pupils, the State average classification rate and
6 the excess cost for speech-only pupils, and the geographic cost
7 adjustment for each of the school years to which the report is
8 applicable.

9 Annually, within two days following the transmittal of the State
10 budget message to the Legislature by the Governor pursuant to
11 section 11 of P.L.1944, c.112 (C.52:27B-20), the commissioner
12 shall notify each district of the maximum amount of aid payable to
13 the district in the succeeding school year pursuant to the provisions
14 of P.L.2007, c.260 (C.18A:7F-43 et al.), and shall notify each
15 district of the district's adequacy budget for the succeeding school
16 year.

17 For the 2008-2009 school year and thereafter, unless otherwise
18 specified within P.L.2007, c.260 (C.18A:7F-43 et al.), aid amounts
19 payable for the budget year shall be based on budget year pupil
20 counts, which shall be projected by the commissioner using data
21 from prior years. Adjustments for the actual pupil counts of the
22 budget year shall be made to State aid amounts payable during the
23 school year succeeding the budget year. Additional amounts
24 payable shall be reflected as revenue and an account receivable for
25 the budget year.

26 Notwithstanding any other provision of this act to the contrary,
27 each district's State aid payable for the 2008-2009 school year, with
28 the exception of aid for school facilities projects, shall be based on
29 simulations employing the various formulas and State aid amounts
30 contained in P.L.2007, c.260 (C.18A:7F-43 et al.). The
31 commissioner shall prepare a report dated December 12, 2007
32 reflecting the State aid amounts payable by category for each
33 district and shall submit the report to the Legislature prior to the
34 adoption of P.L.2007, c.260 (C.18A:7F-43 et al.). Except as
35 otherwise provided pursuant to this subsection and paragraph (3) of
36 subsection d. of section 5 of P.L.2007, c.260 (C.18A:7F-47), the
37 amounts contained in the commissioner's report shall be the final
38 amounts payable and shall not be subsequently adjusted other than
39 to reflect the phase-in of the required general fund local levy
40 pursuant to paragraph (4) of subsection b. of section 16 of
41 P.L.2007, c.260 (C.18A:7F-58) and to reflect school choice aid to
42 which a district may be entitled pursuant to section 20 of that act.
43 The projected pupil counts and equalized valuations used for the
44 calculation of State aid shall also be used for the calculation of
45 adequacy budget, local share, and required local share. For 2008-
46 2009, extraordinary special education State aid shall be included as
47 a projected amount in the commissioner's report dated December
48 12, 2007 pending the final approval of applications for the aid. If

1 the actual award of extraordinary special education State aid is
2 greater than the projected amount, the district shall receive the
3 increase in the aid payable in the subsequent school year pursuant
4 to the provisions of subsection c. of section 13 of P.L.2007, c.260
5 (C.18A:7F-55). If the actual award of extraordinary special
6 education State aid is less than the projected amount, other State aid
7 categories shall be adjusted accordingly so that the district shall not
8 receive less State aid than as provided in accordance with the
9 provisions of sections 5 and 16 of P.L.2007, c.260 (C.18A:7F-47
10 and C.18A:7F-58).

11 In the event that the commissioner determines, following the
12 enactment of P.L.2007, c.260 (C.18A:7F-43 et al.) but prior to the
13 issuance of State aid notices for the 2008-2009 school year, that a
14 significant district-specific change in data warrants an increase in
15 State aid for that district, the commissioner may adjust the State aid
16 amount provided for the district in the December 12, 2007 report to
17 reflect the increase.

18 b. Each district shall have a required local share. For districts
19 that receive educational adequacy aid pursuant to subsection b. of
20 section 16 of P.L.2007, c.260 (C.18A:7F-58), the required local
21 share shall be calculated in accordance with the provisions of that
22 subsection.

23 For all other districts, the required local share shall equal the
24 lesser of the local share calculated at the district's adequacy budget
25 pursuant to section 9 of P.L.2007, c.260 (C.18A:7F-51), or the
26 district's budgeted local share for the prebudget year.

27 In order to meet this requirement, each district shall raise a
28 general fund tax levy which equals its required local share.

29 No municipal governing body or bodies or board of school
30 estimate, as appropriate, shall certify a general fund tax levy which
31 does not meet the required local share provisions of this section.

32 c. Annually, on or before March 4, each district board of
33 education shall adopt, and submit to the commissioner for approval,
34 together with such supporting documentation as the commissioner
35 may prescribe, a budget that provides for a thorough and efficient
36 education. Notwithstanding the provisions of this subsection to the
37 contrary, the commissioner may adjust the date for the submission
38 of district budgets if the commissioner determines that the
39 availability of preliminary aid numbers for the subsequent school
40 year warrants such adjustment.

41 Notwithstanding any provision of this section to the contrary, for
42 the 2005-2006 school year each district board of education shall
43 submit a proposed budget in which the advertised per pupil
44 administrative costs do not exceed the lower of the following:

45 (1) the district's advertised per pupil administrative costs for the
46 2004-2005 school year inflated by the cost of living or 2.5 percent,
47 whichever is greater; or

1 (2) the per pupil administrative cost limits for the district's
2 region as determined by the commissioner based on audited
3 expenditures for the 2003-2004 school year.

4 The executive county superintendent of schools may disapprove
5 the school district's 2005-2006 proposed budget if he determines
6 that the district has not implemented all potential efficiencies in the
7 administrative operations of the district. The executive county
8 superintendent shall work with each school district in the county
9 during the 2004-2005 school year to identify administrative
10 inefficiencies in the operations of the district that might cause the
11 superintendent to reject the district's proposed 2005-2006 school
12 year budget.

13 For the 2006-2007 school year and each school year thereafter,
14 each district board of education shall submit a proposed budget in
15 which the advertised per pupil administrative costs do not exceed
16 the lower of the following:

17 (1) the district's prior year per pupil administrative costs; except
18 that the district may submit a request to the commissioner for
19 approval to exceed the district's prior year per pupil administrative
20 costs due to increases in enrollment, administrative positions
21 necessary as a result of mandated programs, administrative
22 vacancies, nondiscretionary fixed costs, and such other items as
23 defined in accordance with regulations adopted pursuant to section
24 7 of P.L.2004, c.73. In the event that the commissioner approves a
25 district's request to exceed its prior year per pupil administrative
26 costs, the increase authorized by the commissioner shall not exceed
27 the cost of living or 2.5 percent, whichever is greater; or

28 (2) the prior year per pupil administrative cost limits for the
29 district's region inflated by the cost of living or 2.5 percent,
30 whichever is greater.

31 d. (1) A district's general fund tax levy shall not exceed the
32 district's adjusted tax levy as calculated pursuant to sections 3 and 4
33 of P.L.2007, c.62 (C.18A:7F-38 and 18A:7F-39).

34 (2) (Deleted by amendment, P.L.2007, c.260).

35 (3) (Deleted by amendment, P.L.2007, c.260).

36 (4) Any debt service payment made by a school district during
37 the budget year shall not be included in the calculation of the
38 district's adjusted tax levy.

39 (5) (Deleted by amendment, P.L.2007, c.260).

40 (6) (Deleted by amendment, P.L.2007, c.260).

41 (7) (Deleted by amendment, P.L.2004, c.73).

42 (8) (Deleted by amendment, P.L.2010, c.44)

43 (9) Any district may submit at the annual school budget
44 election, in accordance with subsection c. of section 4 of P.L.2007,
45 c.62 (C.18A:7F-39), a separate proposal or proposals for additional
46 funds, including interpretive statements, specifically identifying the
47 program purposes for which the proposed funds shall be used, to the
48 voters, who may, by voter approval, authorize the raising of an

1 additional general fund tax levy for such purposes. In the case of a
2 district with a board of school estimate, one proposal for the
3 additional spending shall be submitted to the board of school
4 estimate. Any proposal or proposals submitted to the voters or the
5 board of school estimate shall not: include any programs and
6 services that were included in the district's prebudget year net
7 budget unless the proposal is approved by the commissioner upon
8 submission by the district of sufficient reason for an exemption to
9 this requirement; or include any new programs and services
10 necessary for students to achieve the thoroughness standards
11 established pursuant to subsection a. of section 4 of P.L.2007, c.260
12 (C.18A:7F-46).

13 The executive county superintendent of schools may prohibit the
14 submission of a separate proposal or proposals to the voters or
15 board of school estimate if he determines that the district has not
16 implemented all potential efficiencies in the administrative
17 operations of the district, which efficiencies would eliminate the
18 need for the raising of an additional general fund tax levy.

19 (10) Notwithstanding any provision of law to the contrary, if a
20 district proposes a budget with a general fund tax levy and
21 equalization aid which exceed the adequacy budget, the following
22 statement shall be published in the legal notice of public hearing on
23 the budget pursuant to N.J.S.18A:22-28, posted at the public
24 hearing held on the budget pursuant to N.J.S.18A:22-29, and
25 printed on the sample ballot required pursuant to section 10 of
26 P.L.1995, c.278 (C.19:60-10):

27 "Your school district has proposed programs and services in
28 addition to the core curriculum content standards adopted by the
29 State Board of Education. Information on this budget and the
30 programs and services it provides is available from your local
31 school district."

32 (11) Any reduction that may be required to be made to programs
33 and services included in a district's prebudget year net budget in
34 order for the district to limit the growth in its budget between the
35 prebudget and budget years by its tax levy growth limitation as
36 calculated pursuant to sections 3 and 4 of P.L.2007, c.62
37 (C.18A:7F-38 and 18A:7F-39), shall only include reductions to
38 excessive administration or programs and services that are
39 inefficient or ineffective.

40 e. (1) Any general fund tax levy rejected by the voters for a
41 proposed budget that includes a general fund tax levy and
42 equalization aid in excess of the adequacy budget shall be submitted
43 to the governing body of each of the municipalities included within
44 the district for determination of the amount that should be expended
45 notwithstanding voter rejection. In the case of a district having a
46 board of school estimate, other than a Type II district with a board
47 of school estimate in which the annual election is in November, the
48 general fund tax levy shall be submitted to the board for

1 determination of the amount that should be expended. If the
2 governing body or bodies or board of school estimate, as
3 appropriate, reduce the district's proposed budget, the district may
4 appeal any of the reductions to the commissioner on the grounds
5 that the reductions will negatively impact on the stability of the
6 district given the need for long term planning and budgeting. In
7 considering the appeal, the commissioner shall consider enrollment
8 increases or decreases within the district; the history of voter
9 approval or rejection of district budgets; the impact on the local
10 levy; and whether the reductions will impact on the ability of the
11 district to fulfill its contractual obligations. A district may not
12 appeal any reductions on the grounds that the amount is necessary
13 for a thorough and efficient education.

14 (2) Any general fund tax levy rejected by the voters for a
15 proposed budget that includes a general fund tax levy and
16 equalization aid at or below the adequacy budget shall be submitted
17 to the governing body of each of the municipalities included within
18 the district for determination of the amount that should be expended
19 notwithstanding voter rejection. In the case of a district having a
20 board of school estimate, other than a Type II district with a board
21 of school estimate in which the annual election is in November, the
22 general fund tax levy shall be submitted to the board for
23 determination. Any reductions may be appealed to the
24 commissioner on the grounds that the amount is necessary for a
25 thorough and efficient education or that the reductions will
26 negatively impact on the stability of the district given the need for
27 long term planning and budgeting. In considering the appeal, the
28 commissioner shall also consider the factors outlined in paragraph
29 (1) of this subsection.

30 In addition, the municipal governing body or board of school
31 estimate shall be required to demonstrate clearly to the
32 commissioner that the proposed budget reductions shall not
33 adversely affect the ability of the school district to provide a
34 thorough and efficient education or the stability of the district given
35 the need for long term planning and budgeting.

36 (3) In lieu of any budget reduction appeal provided for pursuant
37 to paragraphs (1) and (2) of this subsection, the State board may
38 establish pursuant to the "Administrative Procedure Act," P.L.1968,
39 c.410 (C.52:14B-1 et seq.), an expedited budget review process
40 based on a district's application to the commissioner for an order to
41 restore a budget reduction.

42 (4) When the voters, municipal governing body or bodies, board
43 of education in the case of a school district in which the annual
44 school election has been moved to November pursuant to subsection
45 a. of section 1 of P.L.2011, c.202 (C.), or the board of school
46 estimate authorize the general fund tax levy, the district shall
47 submit the resulting budget to the commissioner within 15 days of
48 the authorization.

1 f. (Deleted by amendment, P.L.2007, c.260).

2 g. (Deleted by amendment, P.L.2007, c.260).

3 (cf: P.L.2011, c.202, s.2)

4

5 3. N.J.S.18A:22-12 is amended to read as follows:

6 18A:22-12. The notice shall also set forth that said budget will
7 be on file and open to the examination of the public between
8 reasonable hours to be fixed therein and at a place to be named
9 therein, from the date of said publication until the date of the
10 holding of the public hearing, that in any district having a board of
11 school estimate, except as otherwise provided in this section, the
12 public hearing will be held before the board of school estimate and
13 in other districts that the public hearing will be held before the
14 board of education and that at said public hearing said budget will
15 be on file and open to the examination of the public accordingly
16 and will be produced for the information of those attending the
17 same. In a Type II district having a board of school estimate in
18 which the annual school election is in November, the public hearing
19 shall be held before the board of education.

20 (cf: N.J.S.18A:22-12)

21

22 4. N.J.S.18A:22-26 is amended to read as follows:

23 18A:22-26. **[At]** a. Except as otherwise provided in subsection
24 b. of this section, at or after the public hearing but not later than
25 April 8, the board of school estimate of a type II district having a
26 board of school estimate shall fix and determine by a recorded roll
27 call majority vote of its full membership the amount of money
28 necessary to be appropriated for the use of the public schools in the
29 district for the ensuing school year, exclusive of the amount which
30 shall be apportioned to it by the commissioner for the year pursuant
31 to the provisions of section 5 of P.L.1996, c.138 (C.18A:7F-5) and
32 shall make a certificate of the amount signed by at least a majority
33 of all members of the board, which shall be delivered to the board
34 of education and a copy thereof, certified under oath to be correct
35 and true by the secretary of the board of school estimate, shall be
36 delivered to the county board of taxation on or before April 15 in
37 each year and a duplicate of the certificate shall be delivered to the
38 board or governing body of each of the municipalities within the
39 territorial limits of the district having the power to make
40 appropriations of money raised by taxation in the municipalities or
41 political subdivisions and to the executive county superintendent of
42 schools and the amount shall be assessed, levied and raised under
43 the procedure and in the manner provided by law for the levying
44 and raising of special school taxes in other type II districts and shall
45 be paid to the board secretary or treasurer of school moneys, as
46 appropriate, of the district for such purposes.

47 Within 15 days after receiving the certificate the board of
48 education shall notify the board of school estimate, the governing

1 body of each municipality within the territorial limits of the school
2 district, and the commissioner if it intends to appeal to the
3 commissioner the board of school estimate's determination as to the
4 amount of money requested pursuant to the provisions of section 5
5 of P.L.1996, c.138 (C.18A:7F-5), necessary to be appropriated for
6 the use of the public schools of the district for the ensuing school
7 year.

8 b. At or after the public hearing on the budget but not later than
9 April 8, the board of education of each type II district having a
10 board of school estimate in which the annual school election is in
11 November, shall fix and determine by a recorded roll call majority
12 vote of its full membership the amount of money necessary to be
13 raised for the use of the public schools in the district, exclusive of
14 the amount which shall be apportioned to it by the commissioner for
15 the year pursuant to the provisions of section 5 of P.L.1996, c.138
16 (C.18A:7F-5). By that same date the board of school estimate shall
17 fix and determine by a recorded roll call majority vote of its full
18 membership the amount of any additional funds pursuant to
19 paragraph (9) of subsection d. of section 5 of P.L.1996, c.138
20 (C.18A:7F-5) and shall make a certificate of that amount signed by
21 at least a majority of all members of the board, which shall be
22 delivered to the board of education. The secretary of the board of
23 education shall certify the amount so fixed and determined by the
24 board of education and the board of school estimate and shall
25 deliver a copy of the certificate to the county board of taxation of
26 the county on or before April 15 in each year and a duplicate of the
27 certificate shall be delivered to the board or governing body of each
28 of the municipalities within the territorial limits of the districts
29 having the power to make appropriations of money raised by
30 taxation in the municipalities or political subdivisions and to the
31 executive county superintendent of schools and the amount shall be
32 assessed, levied and raised under the procedure and in the manner
33 provided by law for the levying and raising of special school taxes
34 in other type II districts and shall be paid to the board secretary or
35 treasurer of school moneys, as appropriate, of the district for such
36 purposes.

37 (cf: P.L.2011, c.202, s.18)

38

39 5. Section 1 of P.L.1995, c.278 (C.19:60-1) is amended to read
40 as follows:

41 1. a. Except as otherwise provided in this section, an annual
42 school election shall be held in a type II district on the third
43 Tuesday in April. However, in any school year, the Commissioner
44 of Education shall make any adjustments to the school budget and
45 election calendar which may be necessary to change the annual
46 school election date or any other school budget and election
47 calendar date if that date coincides with a period of religious
48 observance that limits significantly the usual activities of the

1 followers of a particular religion or that would result in significant
2 religious consequences for such followers. The commissioner shall
3 inform local school boards, county clerks and boards of elections of
4 these adjustments no later than the first working day in January of
5 the year in which the adjustments are to occur.

6 As used in this subsection "a period of religious observance"
7 means any day or portion thereof on which a religious observance
8 imposes a substantial burden on an individual's ability to vote.

9 An annual school election shall be held simultaneously with the
10 general election on the first Tuesday after the first Monday in
11 November in school districts in which the annual school election
12 has been moved to that date pursuant to subsection a. of section 1 of
13 P.L.2011, c.202 (C.) or pursuant to section 1 of P.L. , c.
14 (C.) (pending before the Legislature as this bill). The annual
15 school election in November shall be for the purpose of submitting
16 a proposal to the voters for the approval of additional funds in a
17 type II district without a board of school estimate pursuant to
18 paragraph (9) of subsection d. of section 5 of P.L.1996, c.138
19 (C.18A:7F-5), for the purpose of electing members of the board of
20 education, and for any other purpose authorized by law.

21 b. All school elections shall be by ballot and, except as
22 otherwise provided by P.L.1995, c.278 (C.19:60-1 et al.), shall be
23 conducted in the manner provided for general elections pursuant to
24 Title 19 of the Revised Statutes. No grouping of candidates or
25 party designation shall appear on any ballot to be used in a school
26 election.

27 (cf: P.L.2011, c.202, s.33)

28

29 6. Section 45 of P.L.2011, c. 202 (C.18A:12-15.1) is amended
30 to read as follows:

31 45. In the case of a school district in which the annual school
32 election has been moved to November pursuant to subsection a. of
33 section 1 of P.L.2011, c.202 (C.) or section 1 of P.L. ,
34 c. (C.) (pending before the Legislature as this bill), ¹**["an**
35 **electe] the term of office of a** ¹ **member of a board of education** ¹ **[,**
36 **or a member of a board of education appointed to serve the**
37 **unexpired term of an elected member, or an appointed member of a**
38 **board of education other than a member in a district in a city of the**
39 **first class, [who is holding office on the effective date of P.L.2011,**
40 **c.202 (C.)] whose term is** ¹ **that is** ¹ **set to expire in** ¹ **[the first year**
41 **in which the annual school election occurs in November** shall
42 **continue in office** ¹ **April of a given year shall be extended**¹ until the
43 day in January next following the year in which ¹ **[his] the**¹ term
44 was originally set to expire when ¹ **[his] the member's**¹ successor
45 takes office.

46 (cf: P.L.2011, c.202, s.45)

1 ¹7. Section 8 of P.L.1995, c.278 (C.19:60-8) is amended to read
2 as follows:

3 8. **【Notwithstanding the provisions of R.S.19:14-12, the**
4 **position which the names of candidates shall have upon the annual**
5 **school election ballot in each school district shall be determined by**
6 **the secretary of the board of education by conducting a drawing in**
7 **the following manner】** The county clerk shall conduct the ballot
8 draw for candidates for school board member in those school
9 districts that hold November elections, in accordance with the
10 procedures set forth in R.S.19:14-12. In those school districts that
11 elect school board members at the annual April school election, the
12 ballot draw shall be conducted as follows:

13 a. The drawing shall be done by the secretary of the board of
14 education seven working days following the last day for filing a
15 petition for the nomination of such a candidate. The person making
16 the drawing shall make public announcement at the drawing of each
17 name, the order in which the name is drawn and the term of office
18 for which the drawing is made.

19 b. A separate drawing shall be made for each full term and for
20 each unexpired term, respectively. The names of the several
21 candidates for whom petitions have been filed for each of the terms
22 shall be written upon paper slips which shall be placed in capsules
23 of the same size, shape, color and substance and then placed in a
24 covered box with an aperture in the top large enough to admit a
25 person's hand and to allow the capsules to be drawn therefrom. The
26 box shall be turned and shaken thoroughly to mix the capsules and
27 the capsules shall be withdrawn one at a time.

28 c. Where there is more than one person to be elected for a
29 given term of office, the position of the names on the ballots for
30 each term of office shall be determined as above described. The
31 name of the candidate for each term of office first drawn from the
32 box shall be printed directly below the proper term for which the
33 person was nominated and the name of the candidate next drawn
34 shall be printed next in order, and so on, until the last name shall be
35 drawn from the box.

36 The secretary of the board of education shall, within two days
37 following the drawing, certify to the county clerk the results of the
38 drawing.¹

39 (cf: P.L.1995, c.278, s.8)

40

41 ¹8. Section 1 of P.L.2011, c.202 (C.19:60-1.1) is amended to
42 read as follows:

43 1. a. (1) The question of moving the date of a school district's
44 annual school election to the first Tuesday after the first Monday in
45 November, to be held simultaneously with the general election,
46 shall be submitted to the legal voters of a local or regional school
47 district , other than a Type II district with a board of school

1 estimate, whenever a petition signed by not less than 15% of the
2 number of legally qualified voters who voted in the district at the
3 last preceding general election held for the election of electors for
4 President and Vice-President of the United States is filed with the
5 board of education. The question shall be submitted to the voters of
6 the district at the next general election , provided that at least 60
7 days have lapsed since the date of the filing of the petition. In the
8 event that the question is not approved by the voters, no petition
9 may be filed to submit the question to the voters within one year
10 after an election shall have been held pursuant to any petition filed
11 pursuant to this subsection.

12 The date of the annual school election may be moved to the first
13 Tuesday after the first Monday in November without voter
14 approval, upon the adoption of a resolution by the board of
15 education of a local or regional school district, other than a Type II
16 district with a board of school estimate, or the governing body or
17 bodies of the municipality or municipalities constituting the district.

18 (2) In the event that the date of a school district's annual school
19 election is moved to the day of the general election, the annual
20 school election in November shall be held for the purpose of
21 submitting a proposal to the voters for approval of additional funds
22 pursuant to paragraph (9) of subsection d. of section 5 of P.L.1996,
23 c.138 (C.18A:7F-5), for the purpose of electing members of the
24 board of education, and for any other purpose authorized by law. A
25 vote shall not be required on the district's general fund tax levy for
26 the budget year, other than the general fund tax levy required to
27 support a proposal for additional funds.

28 (3) In addition to the process set forth in paragraph (1) of this
29 subsection, in the event that all the constituent districts of a limited
30 purpose regional school district approve moving the date of their
31 annual school elections to November, by any of the procedures
32 established pursuant to this subsection , then the annual school
33 election for the limited purpose regional school district shall also be
34 conducted simultaneously with the general election.

35 (4) In the event that the date of a school district's annual school
36 election is moved to the day of the general election pursuant to this
37 subsection, the board of education and the county board of elections
38 shall enter into an agreement, pursuant to guidelines established by
39 the Secretary of State, under which the board of education shall pay
40 any agreed upon increase in the costs, charges, and expenses that
41 may be associated with holding the school election simultaneously
42 with the general election.

43 b. (1) In the case of a school district that has moved the date of
44 its annual school election to November pursuant to subsection a. of
45 this section, the question of moving the date of the school district's
46 annual school election to the third Tuesday in April shall be
47 submitted to the legal voters of a local or regional school district ,
48 other than a Type II district with a board of school estimate,

1 whenever a petition signed by not less than 15% of the number of
2 legally qualified voters who voted in the district at the last
3 preceding general election held for the election of electors for
4 President and Vice-President of the United States is filed with the
5 board of education. The question shall be submitted to the voters of
6 the district at the next general election , provided that at least 60
7 days have lapsed since the date of the filing of the petition.

8 The date of the annual school election may be moved to the third
9 Tuesday in April without voter approval, upon the adoption of a
10 resolution by the board of education of a local or regional school
11 district, other than a Type II district with a board of school estimate,
12 or the governing body or bodies of the municipality or
13 municipalities constituting the district.

14 No resolution may be adopted and no petition may be filed
15 pursuant to this subsection until at least four annual school elections
16 have been held in November.

17 (2) In the event that the date of the annual school election is
18 moved to the third Tuesday in April, a vote shall be held on the
19 district's general fund tax levy for the budget year including any
20 proposal for additional funds pursuant to paragraph (9) of
21 subsection d. of section 5 of P.L.1996, c.138 (C.18A:7F-5), the
22 election of members of the board of education, and for any other
23 purpose authorized by law.

24 (3) In addition to the process set forth in paragraph (1) of this
25 subsection, in the event that all the constituent districts of a limited
26 purpose regional school district approve moving the date of their
27 annual school elections to the third Tuesday in April, by any of the
28 procedures established pursuant to this subsection, then the annual
29 school election for the limited purpose regional school district shall
30 also be conducted on the third Tuesday in April.

31 c. Notice, in writing, to change the date of a school election
32 from the third Tuesday in April to the first Tuesday in November
33 shall be given to the county clerk no less than 60 days prior to the
34 third Tuesday in April to take effect for that year's election. For a
35 change from the first Tuesday in November to the third Tuesday in
36 April, notice must be given to the county clerk no less than 85 days
37 prior to the third Tuesday in April to take effect for that year's
38 election. Timely notice shall also be given by the board of
39 education or municipal governing body adopting such resolution to
40 any other affected boards of education and municipal governing
41 bodies.¹

42 (cf: P.L.2011, c.202, s.1)

43

44 ¹[7.] 9.¹ This act shall take effect immediately.

S1328 [1R]

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6

Permits Type II district with board of school estimate to opt to move school election to November; eliminates board of school estimate's approval of budgets for such districts, except for proposals to spend above cap.

SENATE, No. 1328

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED FEBRUARY 6, 2012

Sponsored by:

Senator RICHARD J. CODEY

District 27 (Essex and Morris)

Assemblywoman MILA M. JASEY

District 27 (Essex and Morris)

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

Assemblyman RALPH R. CAPUTO

District 28 (Essex)

SYNOPSIS

Permits Type II district with board of school estimate to opt to move school election to November; eliminates board of school estimate's approval of budgets for such districts, except for proposals to spend above cap.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/17/2012)

S1328 CODEY

2

1 AN ACT concerning the operation of school districts, amending
2 various parts of the statutory law, and supplementing chapter 60
3 of Title 19 of the Revised Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. (New section) a. Notwithstanding any other law or
9 regulation to the contrary, a Type II district with a board of school
10 estimate may move the date of the school district's annual school
11 election pursuant to the provisions of section 1 of P.L.2011, c.202
12 (C.).

13 b. Notwithstanding any other law or regulation to the contrary,
14 in the event that the date of the annual school election is moved to
15 the day of the general election in a Type II district with a board of
16 school estimate, the election shall be held for the purpose of
17 electing members of the board of education and for any other
18 purpose authorized by law. The board of school estimate shall not
19 determine the district's general fund tax levy for the budget year,
20 other than the general fund tax levy required to support a proposal
21 for additional funds pursuant to paragraph (9) of subsection d. of
22 section 5 of P.L.1996, c.138 (C.18A:7F-5).

23 c. Notwithstanding any other law or regulation to the contrary,
24 in a Type II district with a board of school estimate that has moved
25 the date of its annual school election to November and subsequently
26 moves the annual school election to the third Tuesday in April, a
27 vote shall be held for the purpose of electing members of the board
28 of education and for any other purpose authorized by law. The
29 board of school estimate shall determine the district's general fund
30 tax levy for the budget year, including any proposal for additional
31 funds pursuant to paragraph (9) of subsection d. of section 5 of
32 P.L.1996, c.138 (C.18A:7F-5).

33
34 2. Section 5 of P.L.1996, c.138 (C.18A:7F-5) is amended to
35 read as follows:

36 5. As used in this section, "cost of living" means the CPI as
37 defined in section 3 of P.L.2007, c.260 (C.18A:7F-45).

38 a. Within 30 days following the approval of the Educational
39 Adequacy Report, the commissioner shall notify each district of the
40 base per pupil amount, the per pupil amounts for full-day preschool,
41 the weights for grade level, county vocational school districts, at-
42 risk pupils, bilingual pupils, and combination pupils, the cost
43 coefficients for security aid and for transportation aid, the State
44 average classification rate and the excess cost for general special
45 education services pupils, the State average classification rate and

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

S1328 CODEY

1 the excess cost for speech-only pupils, and the geographic cost
2 adjustment for each of the school years to which the report is
3 applicable.

4 Annually, within two days following the transmittal of the State
5 budget message to the Legislature by the Governor pursuant to
6 section 11 of P.L.1944, c.112 (C.52:27B-20), the commissioner
7 shall notify each district of the maximum amount of aid payable to
8 the district in the succeeding school year pursuant to the provisions
9 of P.L.2007, c.260 (C.18A:7F-43 et al.), and shall notify each
10 district of the district's adequacy budget for the succeeding school
11 year.

12 For the 2008-2009 school year and thereafter, unless otherwise
13 specified within P.L.2007, c.260 (C.18A:7F-43 et al.), aid amounts
14 payable for the budget year shall be based on budget year pupil
15 counts, which shall be projected by the commissioner using data
16 from prior years. Adjustments for the actual pupil counts of the
17 budget year shall be made to State aid amounts payable during the
18 school year succeeding the budget year. Additional amounts
19 payable shall be reflected as revenue and an account receivable for
20 the budget year.

21 Notwithstanding any other provision of this act to the contrary,
22 each district's State aid payable for the 2008-2009 school year, with
23 the exception of aid for school facilities projects, shall be based on
24 simulations employing the various formulas and State aid amounts
25 contained in P.L.2007, c.260 (C.18A:7F-43 et al.). The
26 commissioner shall prepare a report dated December 12, 2007
27 reflecting the State aid amounts payable by category for each
28 district and shall submit the report to the Legislature prior to the
29 adoption of P.L.2007, c.260 (C.18A:7F-43 et al.). Except as
30 otherwise provided pursuant to this subsection and paragraph (3) of
31 subsection d. of section 5 of P.L.2007, c.260 (C.18A:7F-47), the
32 amounts contained in the commissioner's report shall be the final
33 amounts payable and shall not be subsequently adjusted other than
34 to reflect the phase-in of the required general fund local levy
35 pursuant to paragraph (4) of subsection b. of section 16 of
36 P.L.2007, c.260 (C.18A:7F-58) and to reflect school choice aid to
37 which a district may be entitled pursuant to section 20 of that act.
38 The projected pupil counts and equalized valuations used for the
39 calculation of State aid shall also be used for the calculation of
40 adequacy budget, local share, and required local share. For 2008-
41 2009, extraordinary special education State aid shall be included as
42 a projected amount in the commissioner's report dated December
43 12, 2007 pending the final approval of applications for the aid. If
44 the actual award of extraordinary special education State aid is
45 greater than the projected amount, the district shall receive the
46 increase in the aid payable in the subsequent school year pursuant
47 to the provisions of subsection c. of section 13 of P.L.2007, c.260
48 (C.18A:7F-55). If the actual award of extraordinary special

S1328 CODEY

1 education State aid is less than the projected amount, other State aid
2 categories shall be adjusted accordingly so that the district shall not
3 receive less State aid than as provided in accordance with the
4 provisions of sections 5 and 16 of P.L.2007, c.260 (C.18A:7F-47
5 and C.18A:7F-58).

6 In the event that the commissioner determines, following the
7 enactment of P.L.2007, c.260 (C.18A:7F-43 et al.) but prior to the
8 issuance of State aid notices for the 2008-2009 school year, that a
9 significant district-specific change in data warrants an increase in
10 State aid for that district, the commissioner may adjust the State aid
11 amount provided for the district in the December 12, 2007 report to
12 reflect the increase.

13 b. Each district shall have a required local share. For districts
14 that receive educational adequacy aid pursuant to subsection b. of
15 section 16 of P.L.2007, c.260 (C.18A:7F-58), the required local
16 share shall be calculated in accordance with the provisions of that
17 subsection.

18 For all other districts, the required local share shall equal the
19 lesser of the local share calculated at the district's adequacy budget
20 pursuant to section 9 of P.L.2007, c.260 (C.18A:7F-51), or the
21 district's budgeted local share for the prebudget year.

22 In order to meet this requirement, each district shall raise a
23 general fund tax levy which equals its required local share.

24 No municipal governing body or bodies or board of school
25 estimate, as appropriate, shall certify a general fund tax levy which
26 does not meet the required local share provisions of this section.

27 c. Annually, on or before March 4, each district board of
28 education shall adopt, and submit to the commissioner for approval,
29 together with such supporting documentation as the commissioner
30 may prescribe, a budget that provides for a thorough and efficient
31 education. Notwithstanding the provisions of this subsection to the
32 contrary, the commissioner may adjust the date for the submission
33 of district budgets if the commissioner determines that the
34 availability of preliminary aid numbers for the subsequent school
35 year warrants such adjustment.

36 Notwithstanding any provision of this section to the contrary, for
37 the 2005-2006 school year each district board of education shall
38 submit a proposed budget in which the advertised per pupil
39 administrative costs do not exceed the lower of the following:

40 (1) the district's advertised per pupil administrative costs for the
41 2004-2005 school year inflated by the cost of living or 2.5 percent,
42 whichever is greater; or

43 (2) the per pupil administrative cost limits for the district's
44 region as determined by the commissioner based on audited
45 expenditures for the 2003-2004 school year.

46 The executive county superintendent of schools may disapprove
47 the school district's 2005-2006 proposed budget if he determines
48 that the district has not implemented all potential efficiencies in the

S1328 CODEY

1 administrative operations of the district. The executive county
2 superintendent shall work with each school district in the county
3 during the 2004-2005 school year to identify administrative
4 inefficiencies in the operations of the district that might cause the
5 superintendent to reject the district's proposed 2005-2006 school
6 year budget.

7 For the 2006-2007 school year and each school year thereafter,
8 each district board of education shall submit a proposed budget in
9 which the advertised per pupil administrative costs do not exceed
10 the lower of the following:

11 (1) the district's prior year per pupil administrative costs; except
12 that the district may submit a request to the commissioner for
13 approval to exceed the district's prior year per pupil administrative
14 costs due to increases in enrollment, administrative positions
15 necessary as a result of mandated programs, administrative
16 vacancies, nondiscretionary fixed costs, and such other items as
17 defined in accordance with regulations adopted pursuant to section
18 7 of P.L.2004, c.73. In the event that the commissioner approves a
19 district's request to exceed its prior year per pupil administrative
20 costs, the increase authorized by the commissioner shall not exceed
21 the cost of living or 2.5 percent, whichever is greater; or

22 (2) the prior year per pupil administrative cost limits for the
23 district's region inflated by the cost of living or 2.5 percent,
24 whichever is greater.

25 d. (1) A district's general fund tax levy shall not exceed the
26 district's adjusted tax levy as calculated pursuant to sections 3 and 4
27 of P.L.2007, c.62 (C.18A:7F-38 and 18A:7F-39).

28 (2) (Deleted by amendment, P.L.2007, c.260).

29 (3) (Deleted by amendment, P.L.2007, c.260).

30 (4) Any debt service payment made by a school district during
31 the budget year shall not be included in the calculation of the
32 district's adjusted tax levy.

33 (5) (Deleted by amendment, P.L.2007, c.260).

34 (6) (Deleted by amendment, P.L.2007, c.260).

35 (7) (Deleted by amendment, P.L.2004, c.73).

36 (8) (Deleted by amendment, P.L.2010, c.44)

37 (9) Any district may submit at the annual school budget
38 election, in accordance with subsection c. of section 4 of P.L.2007,
39 c.62 (C.18A:7F-39), a separate proposal or proposals for additional
40 funds, including interpretive statements, specifically identifying the
41 program purposes for which the proposed funds shall be used, to the
42 voters, who may, by voter approval, authorize the raising of an
43 additional general fund tax levy for such purposes. In the case of a
44 district with a board of school estimate, one proposal for the
45 additional spending shall be submitted to the board of school
46 estimate. Any proposal or proposals submitted to the voters or the
47 board of school estimate shall not: include any programs and
48 services that were included in the district's prebudget year net

S1328 CODEY

1 budget unless the proposal is approved by the commissioner upon
2 submission by the district of sufficient reason for an exemption to
3 this requirement; or include any new programs and services
4 necessary for students to achieve the thoroughness standards
5 established pursuant to subsection a. of section 4 of P.L.2007, c.260
6 (C.18A:7F-46).

7 The executive county superintendent of schools may prohibit the
8 submission of a separate proposal or proposals to the voters or
9 board of school estimate if he determines that the district has not
10 implemented all potential efficiencies in the administrative
11 operations of the district, which efficiencies would eliminate the
12 need for the raising of an additional general fund tax levy.

13 (10) Notwithstanding any provision of law to the contrary, if a
14 district proposes a budget with a general fund tax levy and
15 equalization aid which exceed the adequacy budget, the following
16 statement shall be published in the legal notice of public hearing on
17 the budget pursuant to N.J.S.18A:22-28, posted at the public
18 hearing held on the budget pursuant to N.J.S.18A:22-29, and
19 printed on the sample ballot required pursuant to section 10 of
20 P.L.1995, c.278 (C.19:60-10):

21 "Your school district has proposed programs and services in
22 addition to the core curriculum content standards adopted by the
23 State Board of Education. Information on this budget and the
24 programs and services it provides is available from your local
25 school district."

26 (11) Any reduction that may be required to be made to programs
27 and services included in a district's prebudget year net budget in
28 order for the district to limit the growth in its budget between the
29 prebudget and budget years by its tax levy growth limitation as
30 calculated pursuant to sections 3 and 4 of P.L.2007, c.62
31 (C.18A:7F-38 and 18A:7F-39), shall only include reductions to
32 excessive administration or programs and services that are
33 inefficient or ineffective.

34 e. (1) Any general fund tax levy rejected by the voters for a
35 proposed budget that includes a general fund tax levy and
36 equalization aid in excess of the adequacy budget shall be submitted
37 to the governing body of each of the municipalities included within
38 the district for determination of the amount that should be expended
39 notwithstanding voter rejection. In the case of a district having a
40 board of school estimate, other than a Type II district with a board
41 of school estimate in which the annual election is in November, the
42 general fund tax levy shall be submitted to the board for
43 determination of the amount that should be expended. If the
44 governing body or bodies or board of school estimate, as
45 appropriate, reduce the district's proposed budget, the district may
46 appeal any of the reductions to the commissioner on the grounds
47 that the reductions will negatively impact on the stability of the
48 district given the need for long term planning and budgeting. In

S1328 CODEY

7

1 considering the appeal, the commissioner shall consider enrollment
2 increases or decreases within the district; the history of voter
3 approval or rejection of district budgets; the impact on the local
4 levy; and whether the reductions will impact on the ability of the
5 district to fulfill its contractual obligations. A district may not
6 appeal any reductions on the grounds that the amount is necessary
7 for a thorough and efficient education.

8 (2) Any general fund tax levy rejected by the voters for a
9 proposed budget that includes a general fund tax levy and
10 equalization aid at or below the adequacy budget shall be submitted
11 to the governing body of each of the municipalities included within
12 the district for determination of the amount that should be expended
13 notwithstanding voter rejection. In the case of a district having a
14 board of school estimate, other than a Type II district with a board
15 of school estimate in which the annual election is in November, the
16 general fund tax levy shall be submitted to the board for
17 determination. Any reductions may be appealed to the
18 commissioner on the grounds that the amount is necessary for a
19 thorough and efficient education or that the reductions will
20 negatively impact on the stability of the district given the need for
21 long term planning and budgeting. In considering the appeal, the
22 commissioner shall also consider the factors outlined in paragraph
23 (1) of this subsection.

24 In addition, the municipal governing body or board of school
25 estimate shall be required to demonstrate clearly to the
26 commissioner that the proposed budget reductions shall not
27 adversely affect the ability of the school district to provide a
28 thorough and efficient education or the stability of the district given
29 the need for long term planning and budgeting.

30 (3) In lieu of any budget reduction appeal provided for pursuant
31 to paragraphs (1) and (2) of this subsection, the State board may
32 establish pursuant to the "Administrative Procedure Act," P.L.1968,
33 c.410 (C.52:14B-1 et seq.), an expedited budget review process
34 based on a district's application to the commissioner for an order to
35 restore a budget reduction.

36 (4) When the voters, municipal governing body or bodies, board
37 of education in the case of a school district in which the annual
38 school election has been moved to November pursuant to subsection
39 a. of section 1 of P.L.2011, c.202 (C.), or the board of school
40 estimate authorize the general fund tax levy, the district shall
41 submit the resulting budget to the commissioner within 15 days of
42 the authorization.

43 f. (Deleted by amendment, P.L.2007, c.260).

44 g. (Deleted by amendment, P.L.2007, c.260).

45 (cf: P.L.2011, c.202, s.2)

46

47 3. N.J.S.18A:22-12 is amended to read as follows:

S1328 CODEY

1 18A:22-12. The notice shall also set forth that said budget will
2 be on file and open to the examination of the public between
3 reasonable hours to be fixed therein and at a place to be named
4 therein, from the date of said publication until the date of the
5 holding of the public hearing, that in any district having a board of
6 school estimate, except as otherwise provided in this section, the
7 public hearing will be held before the board of school estimate and
8 in other districts that the public hearing will be held before the
9 board of education and that at said public hearing said budget will
10 be on file and open to the examination of the public accordingly
11 and will be produced for the information of those attending the
12 same. In a Type II district having a board of school estimate in
13 which the annual school election is in November, the public hearing
14 shall be held before the board of education.
15 (cf: N.J.S.18A:22-12)

16
17 4. N.J.S.18A:22-26 is amended to read as follows:

18 18A:22-26. **[At]** a. Except as otherwise provided in subsection
19 b. of this section, at or after the public hearing but not later than
20 April 8, the board of school estimate of a type II district having a
21 board of school estimate shall fix and determine by a recorded roll
22 call majority vote of its full membership the amount of money
23 necessary to be appropriated for the use of the public schools in the
24 district for the ensuing school year, exclusive of the amount which
25 shall be apportioned to it by the commissioner for the year pursuant
26 to the provisions of section 5 of P.L.1996, c.138 (C.18A:7F-5) and
27 shall make a certificate of the amount signed by at least a majority
28 of all members of the board, which shall be delivered to the board
29 of education and a copy thereof, certified under oath to be correct
30 and true by the secretary of the board of school estimate, shall be
31 delivered to the county board of taxation on or before April 15 in
32 each year and a duplicate of the certificate shall be delivered to the
33 board or governing body of each of the municipalities within the
34 territorial limits of the district having the power to make
35 appropriations of money raised by taxation in the municipalities or
36 political subdivisions and to the executive county superintendent of
37 schools and the amount shall be assessed, levied and raised under
38 the procedure and in the manner provided by law for the levying
39 and raising of special school taxes in other type II districts and shall
40 be paid to the board secretary or treasurer of school moneys, as
41 appropriate, of the district for such purposes.

42 Within 15 days after receiving the certificate the board of
43 education shall notify the board of school estimate, the governing
44 body of each municipality within the territorial limits of the school
45 district, and the commissioner if it intends to appeal to the
46 commissioner the board of school estimate's determination as to the
47 amount of money requested pursuant to the provisions of section 5
48 of P.L.1996, c.138 (C.18A:7F-5), necessary to be appropriated for

1 the use of the public schools of the district for the ensuing school
2 year.

3 b. At or after the public hearing on the budget but not later than
4 April 8, the board of education of each type II district having a
5 board of school estimate in which the annual school election is in
6 November, shall fix and determine by a recorded roll call majority
7 vote of its full membership the amount of money necessary to be
8 raised for the use of the public schools in the district, exclusive of
9 the amount which shall be apportioned to it by the commissioner for
10 the year pursuant to the provisions of section 5 of P.L.1996, c.138
11 (C.18A:7F-5). By that same date the board of school estimate shall
12 fix and determine by a recorded roll call majority vote of its full
13 membership the amount of any additional funds pursuant to
14 paragraph (9) of subsection d. of section 5 of P.L.1996, c.138
15 (C.18A:7F-5) and shall make a certificate of that amount signed by
16 at least a majority of all members of the board, which shall be
17 delivered to the board of education. The secretary of the board of
18 education shall certify the amount so fixed and determined by the
19 board of education and the board of school estimate and shall
20 deliver a copy of the certificate to the county board of taxation of
21 the county on or before April 15 in each year and a duplicate of the
22 certificate shall be delivered to the board or governing body of each
23 of the municipalities within the territorial limits of the districts
24 having the power to make appropriations of money raised by
25 taxation in the municipalities or political subdivisions and to the
26 executive county superintendent of schools and the amount shall be
27 assessed, levied and raised under the procedure and in the manner
28 provided by law for the levying and raising of special school taxes
29 in other type II districts and shall be paid to the board secretary or
30 treasurer of school moneys, as appropriate, of the district for such
31 purposes.

32 (cf: P.L.2011, c.202, s.18)

33

34 5. Section 1 of P.L.1995, c.278 (C.19:60-1) is amended to read
35 as follows:

36 1. a. Except as otherwise provided in this section, an annual
37 school election shall be held in a type II district on the third
38 Tuesday in April. However, in any school year, the Commissioner
39 of Education shall make any adjustments to the school budget and
40 election calendar which may be necessary to change the annual
41 school election date or any other school budget and election
42 calendar date if that date coincides with a period of religious
43 observance that limits significantly the usual activities of the
44 followers of a particular religion or that would result in significant
45 religious consequences for such followers. The commissioner shall
46 inform local school boards, county clerks and boards of elections of
47 these adjustments no later than the first working day in January of
48 the year in which the adjustments are to occur.

S1328 CODEY

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1 As used in this subsection "a period of religious observance"
2 means any day or portion thereof on which a religious observance
3 imposes a substantial burden on an individual's ability to vote.

4 An annual school election shall be held simultaneously with the
5 general election on the first Tuesday after the first Monday in
6 November in school districts in which the annual school election
7 has been moved to that date pursuant to subsection a. of section 1 of
8 P.L.2011, c.202 (C.) or pursuant to section 1 of P.L. , c.
9 (C.) (pending before the Legislature as this bill). The annual
10 school election in November shall be for the purpose of submitting
11 a proposal to the voters for the approval of additional funds in a
12 type II district without a board of school estimate pursuant to
13 paragraph (9) of subsection d. of section 5 of P.L.1996, c.138
14 (C.18A:7F-5), for the purpose of electing members of the board of
15 education, and for any other purpose authorized by law.

16 b. All school elections shall be by ballot and, except as
17 otherwise provided by P.L.1995, c.278 (C.19:60-1 et al.), shall be
18 conducted in the manner provided for general elections pursuant to
19 Title 19 of the Revised Statutes. No grouping of candidates or
20 party designation shall appear on any ballot to be used in a school
21 election.

22 (cf: P.L.2011, c.202, s.33)

23

24 6. Section 45 of P.L.2011, c. 202 (C.) is amended to read as
25 follows:

26 45. In the case of a school district in which the annual school
27 election has been moved to November pursuant to subsection a. of
28 section 1 of P.L.2011, c.202 (C.) or section 1 of P.L. ,
29 c. (C.) (pending before the Legislature as this bill), an elected
30 member of a board of education, or a member of a board of
31 education appointed to serve the unexpired term of an elected
32 member, or an appointed member of a board of education other than
33 a member in a district in a city of the first class, **【**who is holding
34 office on the effective date of P.L.2011, c.202 (C.) **】** whose term is
35 set to expire in the first year in which the annual school election
36 occurs in November shall continue in office until the day in January
37 next following the year in which his term was originally set to
38 expire when his successor takes office.

39 (cf: P.L.2011, c.202, c.45)

40

41 7. This act shall take effect immediately.

42

43

44

STATEMENT

45

46 This bill would permit the School District of South Orange and
47 Maplewood, the only Type II school district with a board of school
48 estimate, to choose to move the date of its annual school election to

S1328 CODEY

1 the day of the general election in November. The procedures for
2 moving the election would be identical to the procedures set forth in
3 P.L.2011, c.202, which applied to moving the election in a Type II
4 district without a board of school estimate. Under the first
5 procedure, the question would be presented to the voters for their
6 approval whenever a petition signed by not less than 15% of the
7 number of legally qualified voters who voted in the district at the
8 last preceding general election held for the election of electors for
9 President and Vice-President of the United States is filed with the
10 board of education. Under a second procedure, the date of the
11 annual school election may be moved to November without voter
12 approval, upon the adoption of a resolution by the board of
13 education or the governing body of the municipality.

14 Pursuant to this bill, if the election in a Type II district without a
15 board of school estimate is moved to November, then the district's
16 board members will be elected in November and take office at the
17 beginning of January. If a Type II district with a board of school
18 estimate moves its annual school election to November, the district
19 will no longer be required to get the approval of the board of school
20 estimate for its base budget; however, approval by the board of
21 school estimate will continue to be required for separate questions
22 for any additional funds above the district's tax levy cap. As in
23 provided in P.L.2011, c.202, if the date of the annual school
24 election is moved to November, then a district may not move the
25 school election back to the third Tuesday in April until at least four
26 annual school elections have been held in November.

SENATE EDUCATION COMMITTEE

STATEMENT TO

SENATE, No. 1328

STATE OF NEW JERSEY

DATED: FEBRUARY 6, 2012

The Senate Education Committee favorably reports Senate Bill No. 1328.

This bill would permit the School District of South Orange and Maplewood, the only Type II school district with a board of school estimate, to choose to move the date of its annual school election to the day of the general election in November. The procedures for moving the election would be identical to the procedures set forth in P.L.2011, c.202, which applied to moving the election in a Type II district without a board of school estimate. Under the first procedure, the question would be presented to the voters for their approval whenever a petition signed by not less than 15% of the number of legally qualified voters who voted in the district at the last preceding general election held for the election of electors for President and Vice-President of the United States is filed with the board of education. Under a second procedure, the date of the annual school election may be moved to November without voter approval, upon the adoption of a resolution by the board of education or the governing body of the municipality.

Pursuant to this bill, if the election in a Type II district without a board of school estimate is moved to November, then the district's board members will be elected in November and take office at the beginning of January. If a Type II district with a board of school estimate moves its annual school election to November, the district will no longer be required to get the approval of the board of school estimate for its base budget; however, approval by the board of school estimate will continue to be required for separate questions for any additional funds above the district's tax levy cap. As in provided in P.L.2011, c.202, if the date of the annual school election is moved to November, then a district may not move the school election back to the third Tuesday in April until at least four annual school elections have been held in November.

ASSEMBLY, No. 2310

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED FEBRUARY 2, 2012

Sponsored by:

Assemblywoman MILA M. JASEY

District 27 (Essex and Morris)

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

Assemblyman RALPH R. CAPUTO

District 28 (Essex)

SYNOPSIS

Permits Type II district with board of school estimate to opt to move school election to November; eliminates board of school estimate's approval of budgets for such districts, except for proposals to spend above cap.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/17/2012)

1 AN ACT concerning the operation of school districts, amending
2 various parts of the statutory law, and supplementing chapter 60
3 of Title 19 of the Revised Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. (New section) a. Notwithstanding any other law or regulation
9 to the contrary, a Type II district with a board of school estimate
10 may move the date of the school district's annual school election
11 pursuant to the provisions of section 1 of P.L.2011, c.202 (C.).

12 b. Notwithstanding any other law or regulation to the contrary,
13 in the event that the date of the annual school election is moved to
14 the day of the general election in a Type II district with a board of
15 school estimate, the election shall be held for the purpose of
16 electing members of the board of education and for any other
17 purpose authorized by law. The board of school estimate shall not
18 determine the district's general fund tax levy for the budget year,
19 other than the general fund tax levy required to support a proposal
20 for additional funds pursuant to paragraph (9) of subsection d. of
21 section 5 of P.L.1996, c.138 (C.18A:7F-5).

22 c. Notwithstanding any other law or regulation to the contrary,
23 in a Type II district with a board of school estimate that has moved
24 the date of its annual school election to November and subsequently
25 moves the annual school election to the third Tuesday in April, a
26 vote shall be held for the purpose of electing members of the board
27 of education and for any other purpose authorized by law. The
28 board of school estimate shall determine the district's general fund
29 tax levy for the budget year, including any proposal for additional
30 funds pursuant to paragraph (9) of subsection d. of section 5 of
31 P.L.1996, c.138 (C.18A:7F-5).

32
33 2. Section 5 of P.L.1996, c.138 (C.18A:7F-5) is amended to read
34 as follows:

35 5. As used in this section, "cost of living" means the CPI as
36 defined in section 3 of P.L.2007, c.260 (C.18A:7F-45).

37 a. Within 30 days following the approval of the Educational
38 Adequacy Report, the commissioner shall notify each district of the
39 base per pupil amount, the per pupil amounts for full-day preschool,
40 the weights for grade level, county vocational school districts, at-
41 risk pupils, bilingual pupils, and combination pupils, the cost
42 coefficients for security aid and for transportation aid, the State
43 average classification rate and the excess cost for general special
44 education services pupils, the State average classification rate and
45 the excess cost for speech-only pupils, and the geographic cost

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 adjustment for each of the school years to which the report is
2 applicable.

3 Annually, within two days following the transmittal of the State
4 budget message to the Legislature by the Governor pursuant to
5 section 11 of P.L.1944, c.112 (C.52:27B-20), the commissioner
6 shall notify each district of the maximum amount of aid payable to
7 the district in the succeeding school year pursuant to the provisions
8 of P.L.2007, c.260 (C.18A:7F-43 et al.), and shall notify each
9 district of the district's adequacy budget for the succeeding school
10 year.

11 For the 2008-2009 school year and thereafter, unless otherwise
12 specified within P.L.2007, c.260 (C.18A:7F-43 et al.), aid amounts
13 payable for the budget year shall be based on budget year pupil
14 counts, which shall be projected by the commissioner using data
15 from prior years. Adjustments for the actual pupil counts of the
16 budget year shall be made to State aid amounts payable during the
17 school year succeeding the budget year. Additional amounts
18 payable shall be reflected as revenue and an account receivable for
19 the budget year.

20 Notwithstanding any other provision of this act to the contrary,
21 each district's State aid payable for the 2008-2009 school year, with
22 the exception of aid for school facilities projects, shall be based on
23 simulations employing the various formulas and State aid amounts
24 contained in P.L.2007, c.260 (C.18A:7F-43 et al.). The
25 commissioner shall prepare a report dated December 12, 2007
26 reflecting the State aid amounts payable by category for each
27 district and shall submit the report to the Legislature prior to the
28 adoption of P.L.2007, c.260 (C.18A:7F-43 et al.). Except as
29 otherwise provided pursuant to this subsection and paragraph (3) of
30 subsection d. of section 5 of P.L.2007, c.260 (C.18A:7F-47), the
31 amounts contained in the commissioner's report shall be the final
32 amounts payable and shall not be subsequently adjusted other than
33 to reflect the phase-in of the required general fund local levy
34 pursuant to paragraph (4) of subsection b. of section 16 of
35 P.L.2007, c.260 (C.18A:7F-58) and to reflect school choice aid to
36 which a district may be entitled pursuant to section 20 of that act.
37 The projected pupil counts and equalized valuations used for the
38 calculation of State aid shall also be used for the calculation of
39 adequacy budget, local share, and required local share. For 2008-
40 2009, extraordinary special education State aid shall be included as
41 a projected amount in the commissioner's report dated December
42 12, 2007 pending the final approval of applications for the aid. If
43 the actual award of extraordinary special education State aid is
44 greater than the projected amount, the district shall receive the
45 increase in the aid payable in the subsequent school year pursuant
46 to the provisions of subsection c. of section 13 of P.L.2007, c.260
47 (C.18A:7F-55). If the actual award of extraordinary special
48 education State aid is less than the projected amount, other State aid

1 categories shall be adjusted accordingly so that the district shall not
2 receive less State aid than as provided in accordance with the
3 provisions of sections 5 and 16 of P.L.2007, c.260 (C.18A:7F-47
4 and C.18A:7F-58).

5 In the event that the commissioner determines, following the
6 enactment of P.L.2007, c.260 (C.18A:7F-43 et al.) but prior to the
7 issuance of State aid notices for the 2008-2009 school year, that a
8 significant district-specific change in data warrants an increase in
9 State aid for that district, the commissioner may adjust the State aid
10 amount provided for the district in the December 12, 2007 report to
11 reflect the increase.

12 b. Each district shall have a required local share. For districts
13 that receive educational adequacy aid pursuant to subsection b. of
14 section 16 of P.L.2007, c.260 (C.18A:7F-58), the required local
15 share shall be calculated in accordance with the provisions of that
16 subsection.

17 For all other districts, the required local share shall equal the
18 lesser of the local share calculated at the district's adequacy budget
19 pursuant to section 9 of P.L.2007, c.260 (C.18A:7F-51), or the
20 district's budgeted local share for the prebudget year.

21 In order to meet this requirement, each district shall raise a
22 general fund tax levy which equals its required local share.

23 No municipal governing body or bodies or board of school
24 estimate, as appropriate, shall certify a general fund tax levy which
25 does not meet the required local share provisions of this section.

26 c. Annually, on or before March 4, each district board of
27 education shall adopt, and submit to the commissioner for approval,
28 together with such supporting documentation as the commissioner
29 may prescribe, a budget that provides for a thorough and efficient
30 education. Notwithstanding the provisions of this subsection to the
31 contrary, the commissioner may adjust the date for the submission
32 of district budgets if the commissioner determines that the
33 availability of preliminary aid numbers for the subsequent school
34 year warrants such adjustment.

35 Notwithstanding any provision of this section to the contrary, for
36 the 2005-2006 school year each district board of education shall
37 submit a proposed budget in which the advertised per pupil
38 administrative costs do not exceed the lower of the following:

39 (1) the district's advertised per pupil administrative costs for the
40 2004-2005 school year inflated by the cost of living or 2.5 percent,
41 whichever is greater; or

42 (2) the per pupil administrative cost limits for the district's
43 region as determined by the commissioner based on audited
44 expenditures for the 2003-2004 school year.

45 The executive county superintendent of schools may disapprove
46 the school district's 2005-2006 proposed budget if he determines
47 that the district has not implemented all potential efficiencies in the
48 administrative operations of the district. The executive county

1 superintendent shall work with each school district in the county
2 during the 2004-2005 school year to identify administrative
3 inefficiencies in the operations of the district that might cause the
4 superintendent to reject the district's proposed 2005-2006 school
5 year budget.

6 For the 2006-2007 school year and each school year thereafter,
7 each district board of education shall submit a proposed budget in
8 which the advertised per pupil administrative costs do not exceed
9 the lower of the following:

10 (1) the district's prior year per pupil administrative costs; except
11 that the district may submit a request to the commissioner for
12 approval to exceed the district's prior year per pupil administrative
13 costs due to increases in enrollment, administrative positions
14 necessary as a result of mandated programs, administrative
15 vacancies, nondiscretionary fixed costs, and such other items as
16 defined in accordance with regulations adopted pursuant to section
17 7 of P.L.2004, c.73. In the event that the commissioner approves a
18 district's request to exceed its prior year per pupil administrative
19 costs, the increase authorized by the commissioner shall not exceed
20 the cost of living or 2.5 percent, whichever is greater; or

21 (2) the prior year per pupil administrative cost limits for the
22 district's region inflated by the cost of living or 2.5 percent,
23 whichever is greater.

24 d. (1) A district's general fund tax levy shall not exceed the
25 district's adjusted tax levy as calculated pursuant to sections 3 and 4
26 of P.L.2007, c.62 (C.18A:7F-38 and 18A:7F-39).

27 (2) (Deleted by amendment, P.L.2007, c.260).

28 (3) (Deleted by amendment, P.L.2007, c.260).

29 (4) Any debt service payment made by a school district during
30 the budget year shall not be included in the calculation of the
31 district's adjusted tax levy.

32 (5) (Deleted by amendment, P.L.2007, c.260).

33 (6) (Deleted by amendment, P.L.2007, c.260).

34 (7) (Deleted by amendment, P.L.2004, c.73).

35 (8) (Deleted by amendment, P.L.2010, c.44)

36 (9) Any district may submit at the annual school budget
37 election, in accordance with subsection c. of section 4 of P.L.2007,
38 c.62 (C.18A:7F-39), a separate proposal or proposals for additional
39 funds, including interpretive statements, specifically identifying the
40 program purposes for which the proposed funds shall be used, to the
41 voters, who may, by voter approval, authorize the raising of an
42 additional general fund tax levy for such purposes. In the case of a
43 district with a board of school estimate, one proposal for the
44 additional spending shall be submitted to the board of school
45 estimate. Any proposal or proposals submitted to the voters or the
46 board of school estimate shall not: include any programs and
47 services that were included in the district's prebudget year net
48 budget unless the proposal is approved by the commissioner upon

1 submission by the district of sufficient reason for an exemption to
2 this requirement; or include any new programs and services
3 necessary for students to achieve the thoroughness standards
4 established pursuant to subsection a. of section 4 of P.L.2007, c.260
5 (C.18A:7F-46).

6 The executive county superintendent of schools may prohibit the
7 submission of a separate proposal or proposals to the voters or
8 board of school estimate if he determines that the district has not
9 implemented all potential efficiencies in the administrative
10 operations of the district, which efficiencies would eliminate the
11 need for the raising of an additional general fund tax levy.

12 (10) Notwithstanding any provision of law to the contrary, if a
13 district proposes a budget with a general fund tax levy and
14 equalization aid which exceed the adequacy budget, the following
15 statement shall be published in the legal notice of public hearing on
16 the budget pursuant to N.J.S.18A:22-28, posted at the public
17 hearing held on the budget pursuant to N.J.S.18A:22-29, and
18 printed on the sample ballot required pursuant to section 10 of
19 P.L.1995, c.278 (C.19:60-10):

20 "Your school district has proposed programs and services in
21 addition to the core curriculum content standards adopted by the
22 State Board of Education. Information on this budget and the
23 programs and services it provides is available from your local
24 school district."

25 (11) Any reduction that may be required to be made to programs
26 and services included in a district's prebudget year net budget in
27 order for the district to limit the growth in its budget between the
28 prebudget and budget years by its tax levy growth limitation as
29 calculated pursuant to sections 3 and 4 of P.L.2007, c.62
30 (C.18A:7F-38 and 18A:7F-39), shall only include reductions to
31 excessive administration or programs and services that are
32 inefficient or ineffective.

33 e. (1) Any general fund tax levy rejected by the voters for a
34 proposed budget that includes a general fund tax levy and
35 equalization aid in excess of the adequacy budget shall be submitted
36 to the governing body of each of the municipalities included within
37 the district for determination of the amount that should be expended
38 notwithstanding voter rejection. In the case of a district having a
39 board of school estimate, other than a Type II district with a board
40 of school estimate in which the annual election is in November, the
41 general fund tax levy shall be submitted to the board for
42 determination of the amount that should be expended. If the
43 governing body or bodies or board of school estimate, as
44 appropriate, reduce the district's proposed budget, the district may
45 appeal any of the reductions to the commissioner on the grounds
46 that the reductions will negatively impact on the stability of the
47 district given the need for long term planning and budgeting. In
48 considering the appeal, the commissioner shall consider enrollment

1 increases or decreases within the district; the history of voter
2 approval or rejection of district budgets; the impact on the local
3 levy; and whether the reductions will impact on the ability of the
4 district to fulfill its contractual obligations. A district may not
5 appeal any reductions on the grounds that the amount is necessary
6 for a thorough and efficient education.

7 (2) Any general fund tax levy rejected by the voters for a
8 proposed budget that includes a general fund tax levy and
9 equalization aid at or below the adequacy budget shall be submitted
10 to the governing body of each of the municipalities included within
11 the district for determination of the amount that should be expended
12 notwithstanding voter rejection. In the case of a district having a
13 board of school estimate, other than a Type II district with a board
14 of school estimate in which the annual election is in November, the
15 general fund tax levy shall be submitted to the board for
16 determination. Any reductions may be appealed to the
17 commissioner on the grounds that the amount is necessary for a
18 thorough and efficient education or that the reductions will
19 negatively impact on the stability of the district given the need for
20 long term planning and budgeting. In considering the appeal, the
21 commissioner shall also consider the factors outlined in paragraph
22 (1) of this subsection.

23 In addition, the municipal governing body or board of school
24 estimate shall be required to demonstrate clearly to the
25 commissioner that the proposed budget reductions shall not
26 adversely affect the ability of the school district to provide a
27 thorough and efficient education or the stability of the district given
28 the need for long term planning and budgeting.

29 (3) In lieu of any budget reduction appeal provided for pursuant
30 to paragraphs (1) and (2) of this subsection, the State board may
31 establish pursuant to the "Administrative Procedure Act," P.L.1968,
32 c.410 (C.52:14B-1 et seq.), an expedited budget review process
33 based on a district's application to the commissioner for an order to
34 restore a budget reduction.

35 (4) When the voters, municipal governing body or bodies, board
36 of education in the case of a school district in which the annual
37 school election has been moved to November pursuant to subsection
38 a. of section 1 of P.L.2011, c.202 (C.), or the board of school
39 estimate authorize the general fund tax levy, the district shall
40 submit the resulting budget to the commissioner within 15 days of
41 the authorization.

42 f. (Deleted by amendment, P.L.2007, c.260).

43 g. (Deleted by amendment, P.L.2007, c.260).

44 (cf: P.L.2011, c.202, s.2)

45

46 3. N.J.S.18A:22-12 is amended to read as follows:

47 18A:22-12. The notice shall also set forth that said budget will
48 be on file and open to the examination of the public between

1 reasonable hours to be fixed therein and at a place to be named
2 therein, from the date of said publication until the date of the
3 holding of the public hearing, that in any district having a board of
4 school estimate, except as otherwise provided in this section, the
5 public hearing will be held before the board of school estimate and
6 in other districts that the public hearing will be held before the
7 board of education and that at said public hearing said budget will
8 be on file and open to the examination of the public accordingly
9 and will be produced for the information of those attending the
10 same. In a Type II district having a board of school estimate in
11 which the annual school election is in November, the public hearing
12 shall be held before the board of education.

13 (cf: N.J.S.18A:22-12)

14

15 4. N.J.S.18A:22-26 is amended to read as follows:

16 18A:22-26. **【At】** a. Except as otherwise provided in subsection
17 b. of this section, at or after the public hearing but not later than
18 April 8, the board of school estimate of a type II district having a
19 board of school estimate shall fix and determine by a recorded roll
20 call majority vote of its full membership the amount of money
21 necessary to be appropriated for the use of the public schools in the
22 district for the ensuing school year, exclusive of the amount which
23 shall be apportioned to it by the commissioner for the year pursuant
24 to the provisions of section 5 of P.L.1996, c.138 (C.18A:7F-5) and
25 shall make a certificate of the amount signed by at least a majority
26 of all members of the board, which shall be delivered to the board
27 of education and a copy thereof, certified under oath to be correct
28 and true by the secretary of the board of school estimate, shall be
29 delivered to the county board of taxation on or before April 15 in
30 each year and a duplicate of the certificate shall be delivered to the
31 board or governing body of each of the municipalities within the
32 territorial limits of the district having the power to make
33 appropriations of money raised by taxation in the municipalities or
34 political subdivisions and to the executive county superintendent of
35 schools and the amount shall be assessed, levied and raised under
36 the procedure and in the manner provided by law for the levying
37 and raising of special school taxes in other type II districts and shall
38 be paid to the board secretary or treasurer of school moneys, as
39 appropriate, of the district for such purposes.

40 Within 15 days after receiving the certificate the board of
41 education shall notify the board of school estimate, the governing
42 body of each municipality within the territorial limits of the school
43 district, and the commissioner if it intends to appeal to the
44 commissioner the board of school estimate's determination as to the
45 amount of money requested pursuant to the provisions of section 5
46 of P.L.1996, c.138 (C.18A:7F-5), necessary to be appropriated for
47 the use of the public schools of the district for the ensuing school
48 year.

1 b. At or after the public hearing on the budget but not later than
2 April 8, the board of education of each type II district having a
3 board of school estimate in which the annual school election is in
4 November, shall fix and determine by a recorded roll call majority
5 vote of its full membership the amount of money necessary to be
6 raised for the use of the public schools in the district, exclusive of
7 the amount which shall be apportioned to it by the commissioner for
8 the year pursuant to the provisions of section 5 of P.L.1996, c.138
9 (C.18A:7F-5). By that same date the board of school estimate shall
10 fix and determine by a recorded roll call majority vote of its full
11 membership the amount of any additional funds pursuant to
12 paragraph (9) of subsection d. of section 5 of P.L.1996, c.138
13 (C.18A:7F-5) and shall make a certificate of that amount signed by
14 at least a majority of all members of the board, which shall be
15 delivered to the board of education. The secretary of the board of
16 education shall certify the amount so fixed and determined by the
17 board of education and the board of school estimate and shall
18 deliver a copy of the certificate to the county board of taxation of
19 the county on or before April 15 in each year and a duplicate of the
20 certificate shall be delivered to the board or governing body of each
21 of the municipalities within the territorial limits of the districts
22 having the power to make appropriations of money raised by
23 taxation in the municipalities or political subdivisions and to the
24 executive county superintendent of schools and the amount shall be
25 assessed, levied and raised under the procedure and in the manner
26 provided by law for the levying and raising of special school taxes
27 in other type II districts and shall be paid to the board secretary or
28 treasurer of school moneys, as appropriate, of the district for such
29 purposes.

30 (cf: P.L.2011, c.202, s.18)

31
32 5. Section 1 of P.L.1995, c.278 (C.19:60-1) is amended to read
33 as follows:

34 1. a. Except as otherwise provided in this section, an annual
35 school election shall be held in a type II district on the third
36 Tuesday in April. However, in any school year, the Commissioner
37 of Education shall make any adjustments to the school budget and
38 election calendar which may be necessary to change the annual
39 school election date or any other school budget and election
40 calendar date if that date coincides with a period of religious
41 observance that limits significantly the usual activities of the
42 followers of a particular religion or that would result in significant
43 religious consequences for such followers. The commissioner shall
44 inform local school boards, county clerks and boards of elections of
45 these adjustments no later than the first working day in January of
46 the year in which the adjustments are to occur.

1 As used in this subsection "a period of religious observance"
2 means any day or portion thereof on which a religious observance
3 imposes a substantial burden on an individual's ability to vote.

4 An annual school election shall be held simultaneously with the
5 general election on the first Tuesday after the first Monday in
6 November in school districts in which the annual school election
7 has been moved to that date pursuant to subsection a. of section 1 of
8 P.L.2011, c.202 (C.) or pursuant to section 1 of P.L. , c. (C.
9) (pending before the Legislature as this bill). The annual school
10 election in November shall be for the purpose of submitting a
11 proposal to the voters for the approval of additional funds in a type
12 II district without a board of school estimate pursuant to paragraph
13 (9) of subsection d. of section 5 of P.L.1996, c.138 (C.18A:7F-5),
14 for the purpose of electing members of the board of education, and
15 for any other purpose authorized by law.

16 b. All school elections shall be by ballot and, except as
17 otherwise provided by P.L.1995, c.278 (C.19:60-1 et al.), shall be
18 conducted in the manner provided for general elections pursuant to
19 Title 19 of the Revised Statutes. No grouping of candidates or
20 party designation shall appear on any ballot to be used in a school
21 election.

22 (cf: P.L.2011, c.202, s.33)

23
24 6. Section 45 of P.L.2011, c. 202 (C.) is amended to read as
25 follows:

26 45. In the case of a school district in which the annual school
27 election has been moved to November pursuant to subsection a. of
28 section 1 of P.L.2011, c.202 (C.) or section 1 of P.L. ,
29 c. (C.) (pending before the Legislature as this bill), an elected
30 member of a board of education, or a member of a board of
31 education appointed to serve the unexpired term of an elected
32 member, or an appointed member of a board of education other than
33 a member in a district in a city of the first class, **【**who is holding
34 office on the effective date of P.L.2011, c.202 (C.)**】** whose term is
35 set to expire in the first year in which the annual school election
36 occurs in November shall continue in office until the day in January
37 next following the year in which his term was originally set to
38 expire when his successor takes office.

39 (cf: P.L.2011, c.202, c.45)

40
41 7. This act shall take effect immediately.
42
43

44 STATEMENT

45
46 This bill would permit the School District of South Orange and
47 Maplewood, the only Type II school district with a board of school
48 estimate, to choose to move the date of its annual school election to

1 the day of the general election in November. The procedures for
2 moving the election would be identical to the procedures set forth in
3 P.L.2011, c.202, which applied to moving the election in a Type II
4 district without a board of school estimate. Under the first
5 procedure, the question would be presented to the voters for their
6 approval whenever a petition signed by not less than 15% of the
7 number of legally qualified voters who voted in the district at the
8 last preceding general election held for the election of electors for
9 President and Vice-President of the United States is filed with the
10 board of education. Under a second procedure, the date of the
11 annual school election may be moved to November without voter
12 approval, upon the adoption of a resolution by the board of
13 education or the governing body of the municipality.

14 Pursuant to this bill, if the election in a Type II district without a
15 board of school estimate is moved to November, then the district's
16 board members will be elected in November and take office at the
17 beginning of January. If a Type II district with a board of school
18 estimate moves its annual school election to November, the district
19 will no longer be required to get the approval of the board of school
20 estimate for its base budget; however, approval by the board of
21 school estimate will continue to be required for separate questions
22 for any additional funds above the district's tax levy cap. As in
23 provided in P.L.2011, c.202, if the date of the annual school
24 election is moved to November, then a district may not move the
25 school election back to the third Tuesday in April until at least four
26 annual school elections have been held in November.

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2310

STATE OF NEW JERSEY

DATED: FEBRUARY 2, 2012

The Assembly Education Committee reports favorably Assembly Bill No. 2310.

This bill would permit the School District of South Orange and Maplewood, the only Type II school district with a board of school estimate, to choose to move the date of its annual school election to the day of the general election in November. The procedures for moving the election would be identical to the procedures set forth in P.L.2011, c.202, which applied to moving the election in a Type II district without a board of school estimate. Under the first procedure, the question would be presented to the voters for their approval whenever a petition signed by not less than 15% of the number of legally qualified voters who voted in the district at the last preceding general election held for the election of electors for President and Vice-President of the United States is filed with the board of education. Under a second procedure, the date of the annual school election may be moved to November without voter approval, upon the adoption of a resolution by the board of education or the governing body of the municipality.

Pursuant to this bill, if the election in a Type II district without a board of school estimate is moved to November, then the district's board members will be elected in November and take office at the beginning of January. If a Type II district with a board of school estimate moves its annual school election to November, the district will no longer be required to get the approval of the board of school estimate for its base budget; however, approval by the board of school estimate will continue to be required for separate questions for any additional funds above the district's tax levy cap. As in provided in P.L.2011, c.202, if the date of the annual school election is moved to November, then a district may not move the school election back to the third Tuesday in April until at least four annual school elections have been held in November.

SENATE BILL NO. 1328

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 1328 with my recommendations for reconsideration.

This legislation would supplement a proposal from my property tax reform toolkit and allow a "Type II" school district with a board of school estimate to move the date of its annual school election to the day of the general election in November. The procedures for moving these Type II school elections would be identical to the procedures set forth in P.L. 2011, c. 202, which I signed into law in January, that allow Type II districts without a board of school estimate to move their school election to November. Hundreds of New Jersey's school districts have already taken advantage of that new law, advancing my goals of saving taxpayer dollars and increasing voter participation in annual school board elections.

While I appreciate the sponsors' efforts to increase the number of school districts that can move their elections from April to November, I am concerned with the technical language used in this bill. First, the legislation attempts to amend existing law defining term limits for current members of boards of education whose terms expire in April, but whose replacements would not be elected until November. The language in the bill would properly extend the term of office for a school board member in the first year a school district's elections are held in November, eliminating the gap in service that would otherwise occur. However, the proposed language fails to extend the service for those terms expiring in the second and third years after a school district has moved its election to November,

leaving gaps in school board membership in hundreds of school districts across the State. As such, I recommend revising the bill so that all current school board members' terms of office would be extended from April of the year their terms were set to expire until their successors take office the following January. This change will help ensure that moving a school election to November does not inadvertently impact the ability of school boards to perform their responsibilities.

Second, I recommend clarifying that, for school elections conducted in November, the county clerk shall conduct drawings for ballot placement in the same manner as the county clerk does for all other elections conducted in November. Finally, to ensure that county clerks have sufficient notice when school board elections are moved, I recommend that an annual deadline of 60 days prior to the April election date be set for school districts to notify the county clerk to change the date of their election from April to November, and that an annual deadline of 85 days prior to the April election date be set for school districts to notify the county clerk to change the date of their election from November to April.

With these technical amendments, voters in Type II school districts with a board of school estimate will be able to join the hundreds of other districts across New Jersey in moving their school elections to a single, sensible voting date in November.

Accordingly, I herewith return Senate Bill No. 1328 and recommend that it be amended as follows:

Page 10, Section 6, Line 29: Delete "an elected" and insert "the term of office of a"

Page 10, Section 6, Line 30: Delete ", or a member of a board of"

- Page 10, Section 6, Lines 31-34: Delete in their entirety
- Page 10, Section 6, Line 35: Before "set" insert "that is"
- Page 10, Section 6, Line 35: Delete "the first year in which the annual school election"
- Page 10, Section 6, Line 36: Delete "occurs in November shall continue in office" and insert "April of a given year shall be extended"
- Page 10, Section 6, Line 37: Delete "his" and insert "the"
- Page 10, Section 6, Line 38: Delete "his" and insert "the member's"
- Page 10, Line 40: Insert new section "7. Section 8 of P.L.1995, c.278 (C.19:60-9) is amended to read as follows:
8. [Notwithstanding the provisions of R.S.19:14-12, the position which the names of candidates shall have upon the annual school election ballot in each school district shall be determined by the secretary of the board of education by conducting a drawing in the following manner]The county clerk shall conduct the ballot draw for candidates for school board member in those school districts that hold November elections, in accordance with the procedures set forth in R.S. 19:14-12. In those school districts that elect school board members at the annual April school election, the ballot draw shall be conducted as follows:
- a. The drawing shall be done by the secretary of the board of education seven working days following the last day for filing a petition for the nomination of such a candidate. The person making the drawing shall make public announcement at the drawing of each name, the order in which the name is drawn and the term of office for which the drawing is made.

b. A separate drawing shall be made for each full term and for each unexpired term, respectively. The names of the several candidates for whom petitions have been filed for each of the terms shall be written upon paper slips which shall be placed in capsules of the same size, shape, color and substance and then placed in a covered box with an aperture in the top large enough to admit a person's hand and to allow the capsules to be drawn therefrom. The box shall be turned and shaken thoroughly to mix the capsules and the capsules shall be withdrawn one at a time.

c. Where there is more than one person to be elected for a given term of office, the position of the names on the ballots for each term of office shall be determined as above described. The name of the candidate for each term of office first drawn from the box shall be printed directly below the proper term for which the person was nominated and the name of the candidate next drawn shall be printed next in order, and so on, until the last name shall be drawn from the box.

The secretary of the board of education shall, within two days following the drawing, certify to the county clerk the results of the drawing.

8. Section 1 of P.L.2011, c.202 (C.19:60-1.1) is amended to read as follows:

1. a. (1) The question of moving the date of a school district's annual school election to the first Tuesday after the first Monday in November, to be held simultaneously with the general election, shall be submitted to the legal voters of a local or regional school district, other than a Type II district with a board of

school estimate, whenever a petition signed by not less than 15% of the number of legally qualified voters who voted in the district at the last preceding general election held for the election of electors for President and Vice-President of the United States is filed with the board of education. The question shall be submitted to the voters of the district at the next general election, provided that at least 60 days have lapsed since the date of the filing of the petition. In the event that the question is not approved by the voters, no petition may be filed to submit the question to the voters within one year after an election shall have been held pursuant to any petition filed pursuant to this subsection.

The date of the annual school election may be moved to the first Tuesday after the first Monday in November without voter approval, upon the adoption of a resolution by the board of education of a local or regional school district, other than a Type II district with a board of school estimate, or the governing body or bodies of the municipality or municipalities constituting the district.

(2) In the event that the date of a school district's annual school election is moved to the day of the general election, the annual school election in November shall be held for the purpose of submitting a proposal to the voters for approval of additional funds pursuant to paragraph (9) of subsection d. of section 5 of P.L.1996, c.138 (C.18A:7F-5), for the purpose of electing members of the board of education, and for any other purpose authorized by law. A vote shall not be required on the district's general fund tax levy for the budget year, other than the

general fund tax levy required to support a proposal for additional funds.

(3) In addition to the process set forth in paragraph (1) of this subsection, in the event that all the constituent districts of a limited purpose regional school district approve moving the date of their annual school elections to November, by any of the procedures established pursuant to this subsection, then the annual school election for the limited purpose regional school district shall also be conducted simultaneously with the general election.

(4) In the event that the date of a school district's annual school election is moved to the day of the general election pursuant to this subsection, the board of education and the county board of elections shall enter into an agreement, pursuant to guidelines established by the Secretary of State, under which the board of education shall pay any agreed upon increase in the costs, charges, and expenses that may be associated with holding the school election simultaneously with the general election.

b. (1) In the case of a school district that has moved the date of its annual school election to November pursuant to subsection a. of this section, the question of moving the date of the school district's annual school election to the third Tuesday in April shall be submitted to the legal voters of a local or regional school district, other than a Type II district with a board of school estimate, whenever a petition signed by not less than 15% of the number of legally qualified voters who voted in the district at the last preceding

general election held for the election of electors for President and Vice-President of the United States is filed with the board of education. The question shall be submitted to the voters of the district at the next general election, provided that at least 60 days have lapsed since the date of the filing of the petition.

The date of the annual school election may be moved to the third Tuesday in April without voter approval, upon the adoption of a resolution by the board of education of a local or regional school district, other than a Type II district with a board of school estimate, or the governing body or bodies of the municipality or municipalities constituting the district.

No resolution may be adopted and no petition may be filed pursuant to this subsection until at least four annual school elections have been held in November.

(2) In the event that the date of the annual school election is moved to the third Tuesday in April, a vote shall be held on the district's general fund tax levy for the budget year including any proposal for additional funds pursuant to paragraph (9) of subsection d. of section 5 of P.L.1996, c.138 (C.18A:7F-5), the election of members of the board of education, and for any other purpose authorized by law.

(3) In addition to the process set forth in paragraph (1) of this subsection, in the event that all the constituent districts of a limited purpose regional school district approve moving the date of their annual school elections to the third Tuesday in April, by any of the procedures established pursuant to this

subsection, then the annual school election for the limited purpose regional school district shall also be conducted on the third Tuesday in April.

c. Notice, in writing, to change the date of a school election from the third Tuesday in April to the first Tuesday in November shall be given to the county clerk no less than 60 days prior to the third Tuesday in April to take effect for that year's election. For a change from the first Tuesday in November to the third Tuesday in April, notice must be given to the county clerk no less than 85 days prior to the third Tuesday in April to take effect for that year's election. Timely notice shall also be given by the board of education or municipal governing body adopting such resolution to any other affected boards of education and municipal governing bodies."

Page 10, Section 7, Line 41:

Delete "7" and insert "9"

Respectfully,

/s/Chris Christie

Governor

[seal]

Attest:

/s/Charles B. McKenna

Chief Counsel to the Governor