

Court requires state to spend more on New York City schools

A state appeals court in Manhattan on Thursday directed the governor and the Legislature to spend up to \$5.63 billion a year on New York City public schools' operating budget to remedy "deprivations" that the pupils have suffered.

The Appellate Division of state Supreme Court voted 3-2 to require state officials to spend between \$4.7 billion and \$5.63 billion. The judges said the money was to be phased into the budget within the next four years.

The court also voted to require additional spending for capital improvements — buildings and other facilities — of at least \$9.179 billion, to be phased into the budget over the next five years.

"Defendants are directed to act as expeditiously as possible to implement a budget that allows the city students the education to which they are entitled," the appeals court said, noting that this was a decision in the third appeal to this court.

The divided Appellate Division said in its 53-page

opinion that the state must include the increased operating and capital funds for the city schools in the state budget for the fiscal year that begins April 1, 2006.

"The record establishes a range of between \$4.7 billion and \$5.63 billion, a difference of \$930 million, in additional operating funds, that would satisfy the state's constitutional educational funding obligations," the appellate judges wrote.

Republican Gov. George Pataki had resisted court rulings that ordered the state to spend money, saying the judiciary could not tell the executive branch what budget decisions to make. Pataki said such rulings violated the separation of powers doctrine.

Pataki said New York City schools "now receive a higher proportion of state aid than their statewide share of student enrollment."

"By working together in the coming days," the governor said, "I am confident that we can enact an on-time, fiscally responsible budget that continues to make sound

investments in the future of New York's children."


Joseph Wayland, lead lawyer for the Campaign for Fiscal Equity, the public school advocacy group that led the fight for more funding, said, "This is terrific. The court said the state has to increase funding by at least \$4.7 billion in operating funds and over \$9 billion in capital funds."

"This comes from a court that has been hostile to our claims in the past," Wayland said. "They tried to throw the case out without any money at all for the schools."

In previous decisions, the Appellate Division, a mid-level appeals court, reversed a ruling by Justice Leland DeGrasse, the Manhattan judge who first ruled that the state's funding levels for the city's public schools denied students a "sound basic education" as required by the state's constitution. The New York City public school system is the nation's largest, with 1.1 million pupils.



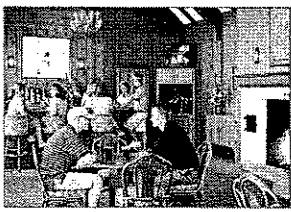
Wayland said he believes the Appellate Division's

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Small city schools awaiting word on their own lawsuit

By WILLIAM ENG
Gazette staff writer

The New York State Association of Small City School Districts said it would consider dropping its lawsuit against the state, for not providing a sound basic education to students, if the Legislature allocates more funds to needy and poor districts.

Inspired by the *CFE v State* case in which the courts ordered the state to provide funding for New York City schools in order to meet a sound basic education, 18 of the 57 members of NYSASCSD filed their own lawsuit against the state.

The 18 school districts that filed the claim are: Albany, Beacon, Binghamton, Cohoes, Corning, Dunkirk, Glens Falls, Jamestown, Kingston, Middletown, Mt. Vernon, Newburgh, Niagara Falls, North Tonawanda, Tonawanda, Poughkeepsie, Salamanca, and Schenectady.

On March 18, 2005 NYSASCSD filed a suit against the state of New York, Gov. George E. Pataki and Andrew S. Eristoff, commissioner of the Department of Taxation and Finance.

Robert E. Biggerstaff, executive director of NYSASCSD, said the case could last one to three years, but based upon the Legislature's school budget decisions, they may drop the suit. The *CFE v State* case only applied to New York City but the Senate and Assembly want to apply a new

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Charter school advocates angry over Saland bill

By WILLIAM ENG
Gazette staff writer

New charter schools may be subjected to even more scrutiny if a bill sponsored by the Senate's education committee chair is passed. It would give local school boards authority over charter schools in their district.

The bill, sponsored by Stephen Saland, R-C-Poughkeepsie, would require charter school applications to be approved by a local school board before its submission to the SUNY Charter School Institute, which approves the application again before the Board of Regents decides whether or not a charter is issued.

Also, if the city has a population of one million or more, the chancellor of that school district would be required to approve the application before its submission.

The bill would only affect charters issued after April 1, 2006.

The local school board, or chancellor where necessary, would also be involved in the renewal of charters. The

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nist" and "anti-government" agenda, and Christians did not oppose them in an organized fashion until recently.

"The 90s marked the first decade that Christians organized and went to court,"

Staver said. "The good news is that when Christians show up you begin to see a huge difference."

He championed South Dakota's new law banning all abortions with an exception to when the mother's life is in danger.

He said that in case of rape and incest, "the tragedy is temporary, but life

endures." Staver used his family as an example in which incest occurred. His father raped his sister and impregnated her.

"You don't relieve a tragedy by taking an unborn human life," said Staver. "Abortions kills children, abortions hurt women, abortions destroy the family."

He said Americans should look back

on this time, from 1970 to now and be ashamed.

"This culture of abortions must and I think will stop in America," said Staver. "I believe in the next two years at the earliest, and the next 10 at the latest, abortions will be struck down at the Supreme Court."

Preservation

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ernment can make their own policy

and won't need to take the second step to acquire funds from the state legislature.

"Farm land is being lost at a rapid pace due to commercial development,"

he said.

Daniel Mackay, director of public policy at the Preservation League, expressed delight for an act that would do more for historic preservation, which

he said has been under-promoted in the past.

"The sky's the limit as to how they might choose to focus [the funding]," he said.

Schools

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change was because this time it followed the direction of the Court of Appeals in Albany, the state's highest tribunal.

Frank Mauro, executive director of the nonprofit Fiscal Policy Institute, said the decision would just about double the state's funding for New York City schools.

Mauro, whose institute researches state tax and budget issues, said current operating budget spending levels for city schools hover around \$5 billion, depending on what expenditures are counted.

Other fiscal experts say annual school

aid increases have resulted in the highest average per-pupil spending in the nation. But the poorest schools — including those in New York City — receive far less in state and local aid than that average. The average is lifted by amounts spent in wealthier suburban districts.

Pataki has proposed adding \$634 million to school aid for the 2006-07 school year. The Senate and Assembly proposals exceed \$1 billion. School aid is always a matter of contention as Pataki and legislative leaders try to negotiate state budgets by the start of the fiscal year on April 1.

Geri D. Palast, the CFE's executive director, said, "Today is a great victory for the children of New York City."

"All the pieces are now in place, and no more excuses are possible" for delaying the funding, Palast said.

"We expect the Legislature to adopt a full CFE remedy by April 1, as the court has mandated," Palast said, "and we hope the governor will play a statesman's role and support the final resolution of this long-running case."

Senate Majority Leader Joseph Bruno said his view of the decision is that the court's range of payment was only to be "considered" by the Legislature.

"It's a clear victory that the legislative process is what dictates school aid in this state," Bruno said. "They did not dictate any sum of money."

"They said we should consider it. So,

we're considering it," Bruno said.

He added that the CFE will not be a factor in the state aid proposals that are now on the table. He said the current proposals are adequate and will be historic in their size.

Assembly Speaker Sheldon Silver, a Manhattan Democrat, countered that the decision requires the state to spend within that range.

"I think this decision gives the Legislature direction that it better address this thing this year. That's directly in the decision," Silver said. "It specifically talks about the numbers."

Republican Mayor Michael Bloomberg's office was reviewing the decision, a spokesman said.

Lawsuit

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funding formula for all of New York.

The Senate has proposed a \$1.1 billion increase for the 2006-2007 fiscal year and phase in \$5.2 billion over five years. The Assembly has proposed a \$1.29 billion increase and to phase in \$6.8 billion over six years. The Campaign for Fiscal Equity and Alliance for Quality education believe there should be a \$2 billion

increase this year and phase in \$8.6 billion over four years.

Biggerstaff said, "It's not a question of how much money but where the money is targeted," and said the Assembly's district-by-district funding plan does provide an increase, but does not provide enough to high-need areas.

In the lawsuit, the small city school districts say their students are not getting a sound basic education for reasons that include overcrowded classrooms, deteriorating buildings, outdated textbooks and

library books, and a lack of teachers.

They say these factors have contributed to, for the claimants schools, low English language arts test score performance; more than 50 percent of fourth grade students tested in the first two of the four grade levels. They must also deal with high drop out rates; two or three times the drop out rates in neighboring suburban districts.

The case is currently before Thomas J. Mcnamara of the State Supreme Court. Attorney General Eliot Spitzer filed a

motion to dismiss the case on February 17 and NYSASSD requested the opportunity to submit a letter to counter the attorney general's motion.

Mcnamara granted the association's request and has received both arguments as of March 17. Biggerstaff says Spitzer's motion was based upon procedural reasons, such as the governor's sovereign immunity to being sued, and did not address the underlying complaint. He said they expect a decision on the motion in one to two months.

Saland

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bill outlines four areas that would have been included in the renewal application:

- A progress report based on achieving the educational objectives outlined in their charter;
- A detailed financial statement in a form prescribed by the Board of Regents;
- Copies of annual reports, such as, certified financial statements; and
- Indications of parent and student satisfaction.

The bill proposes that if a public school were to be converted to a charter school,

the application would also need a majority of the parents or guardians of the students enrolled in the school to vote in favor of conversion. But, the bill also proposes that no private school be allowed conversion to a charter school.

If the total enrollment in all charter schools in a district exceeds local public schools by five percent, the proposed bill states that the charter school must receive approval from the local school board.

Local school boards would also be able to oversee, examine and inspect charter schools under their jurisdiction; through visitations and access to school records.

David Ernst, spokesman for the New York State School Boards Association, said, "We endorse Saland's bill," and

the association is "supportive of charter schools if the local community requests them. Clearly the local communities should get that authority."

Last week, Saland, at the Fort Orange Club, in Albany, New York, said both houses rejected the language used in Gov. George E. Pataki's charter proposal, but "I'm not troubled by the concept [of charter schools]." He said he supports the competition because the country was founded upon it.

The bill proposes to raise the cap on the number of charters by 100, which would bring the total to 200 charter schools statewide.

"How can you favor competition if the competitor decides if you exist," said

Peter Murphy, spokesman for the New York Charter Schools Association, and said, "[the bill is] out to stop charter school progress." Murphy also called the proposed enrollment cap "the metaphorical equivalent of a 'Berlin Wall,'" and said the cap prevents students from "voluntarily exiting a district that is failing them."

Murphy calls the increase in the cap a "phantom increase," saying, "because of the veto power, it's not a serious proposal," and it is "pure spin." He also calls the bill "perverse because it is anti child," and said thousands of children are benefiting from charter schools that are outperforming local public schools and "this bill is seeking to put a stop to it."

Dance

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than his, Pataki admitted, "We will obviously be spending somewhat above what I proposed in the budget." But instead of sharp criticism of the Legislature's budget, as he voiced in recent years, the governor simply advised legislators to "limit the growth of spending."

"We are not overspending ... I don't believe," said Senate Majority Leader Joseph L. Bruno, R-Brunswick. "We are spending within the limits that we have here ... the dollars that are available."

Bruno criticized Pataki's Division of Budget for estimating an \$8 billion budget deficit over the next two years, saying, "last year we were supposed to have a multi-billion dollar deficit ... I think

they need to go back to kindergarten to learn how to count down at the budget division."

"The fact of the matter is the \$8 million he pulled from somewhere, and I'm not going to ask where," said Bruno to the chuckling of surrounding reporters. Later, Silver said, "We're going to push a pre-K program, so they'll be prepared for the Senate's kindergarten."

The Division of Budget's projected deficit is "all rhetoric," Bruno added. "I've got one here that knows how to count. If you go back over the years, who's been right? The Senate — we will be right again."

In response, Pataki called Bruno's comments "wrong and inappropriate," saying, "People say things they don't mean at the time. Their blood should get heated ... people should care." He

assured that his numbers are reliable and that he is proud of the "true professionals" at his budget division and the "excellent" job they've done.

The need to be flexible, reasonable and realistic is of utmost importance on all sides of the budget negotiations. "I'm prepared to be flexible," Pataki said, "but [the Legislature] knows this has to be a budget acceptable to me or I will say 'no.'"

"We don't draw lines in the sand," said Bruno of the budget negotiations. Without flexibility, we will not get a budget done on time, he said. But, Bruno added, "if it doesn't get done, it's not going to be the Senate's fault."

Silver spokesman Bryan Franke said, "The Assembly is working to bring in an on-time budget," as well.

In regard to the those negotiations,

Bruno confessed, "There is a hold up." The Senate, Assembly and governor still have different numbers on the amount they can spend, and they don't have the language needed to pass a budget although "the governor is not holding up anything," he admitted.

Pataki said he is willing to change the language of his proposed budget, but he needs more information on how much the Legislature is going to spend on education, health care and tax cuts — information the Legislature has been waiting to disclose, presumably because they do not yet know themselves.

Pataki's "main focus" at this time is passing another on-time budget and having a successful end to the legislative session, he said. "There's no reason why we should not have another on-time budget. There's every reason we can."