

Memorandum of SUPPORT

S.7730 (Murphy) / A.9825 (Galef)

An act to amend the education law, in relation to exempting BOCES capital expenditures from limitations upon local school district tax levies

The New York State School Boards Association *strongly supports* the above referenced legislation and urges its immediate enactment.

This bill would make a targeted adjustment to the property tax cap law originally enacted in 2011 by incorporating a school district's BOCES capital expenditures as part of its capital exclusion.

Under current law, a school district is required to exclude the local share of expenses related to construction (debt service and capital outlay) from the tax levy limit portion of their tax cap calculation. This exclusion recognizes the necessity to provide facilities and the fact that voters have already approved these expenses. However, the state's interpretation of the capital exclusion was that it does not include a school district's capital costs related to BOCES facilities. Because BOCES do not generate their own state aid or levy their own taxes, they are wholly dependent upon their respective component districts to fund the construction of facilities.

BOCES encourage efficiencies in program delivery and administrative operations through the use of shared services, reaching nearly 100,000 students statewide each day. By not allowing such BOCES capital expenses to be part of a school district's capital exclusion, it has acted as a disincentive to school districts from investing and participating in these shared services.

To address this issue, language was adopted at the end of 2015 (Chapter 20) that would make this adjustment to the capital exclusion calculation. This change was designed to support our school districts and BOCES and the critical role they play in our communities, while continuing to ensure that property taxpayers remained protected against large growth in their property tax bills. The language stated that the Commissioner of Taxation and Finance shall, "as appropriate," issue rules and regulations which "may" exclude the local portion of a school district's BOCES capital costs from the tax cap calculation. Since then, we have learned that the Department has not issued any such regulations and does not anticipate doing so in the near future, if at all. This bill removes the Department of Taxation and Finance language added under Chapter 20 and makes clear that the BOCES capital exclusion shall be counted as part of a school district's capital exclusion.

A similar version of this bill was vetoed in 2017 (Veto No. 209). This new bill addresses the concerns expressed in the veto message by specifically requiring any eligible BOCES capital project be directly approved by voters.

Therefore, NYSSBA *strongly supports* the above referenced legislation and urges your approval. For additional information, please contact NYSSBA Governmental Relations at 518-783-0200.