

July 24, 2018

The Honorable Andrew M. Cuomo  
Governor of New York State  
NYS State Capitol Building  
Albany, NY 12244

Re: S.7730, Murphy /A.9825, Galef

An act to amend the education law, in relation to the component school districts' share of the capital expenditures of a board of cooperative educational services

Dear Governor Cuomo,

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

This bill would make a targeted adjustment to the property tax cap law originally enacted in 2011 by incorporating a school district's BOCES capital expenditures as part of its capital exclusion.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. This interpretation made little sense at the time because BOCES do not receive state aid or levy taxes. It is almost a misnomer to refer to BOCES capital as all funding received by BOCES is from their component districts to fund the construction of facilities.

This inconsistency prompted immediate concern from the education community, and as a result, language intended to address this issue was adopted at the end of 2015. Governor's program bill 12 (Chapter 20 of 2015) was advanced, approved and signed on June 26 of 2015. As enacted, this law empowered the Commissioner of Taxation and Finance, "as appropriate," to issue rules and regulations which "may" exclude the local portion of a school district's BOCES capital costs from the tax cap calculation. However, three years, and many stalled projects later, the Department has failed to release any rules or regulations. Absent this administrative action, similar legislation was advanced and approved by both houses of the legislature in 2017. That bill, had it been enacted, would have eliminated the permissive nature of the 2015 legislation, and instead required the equitable treatment of BOCES capital (and therefore BOCES facilities and students). Unfortunately, this legislation was vetoed (Veto No. 209).

This year, the legislature approved for the third time legislation that would give BOCES and their students equitable access to facilities. To address concerns raised in the 2017 veto message, the new bill limits the exclusion eligibility of BOCES capital project to those directly approved by voters in component districts, establishing further uniformity in the exclusion for district and BOCES capital projects exempted from the calculation of the tax cap.

BOCES encourage efficiencies in program delivery and administrative operations through the use of shared services. BOCES also provide direct serves and programs to nearly 100,000 students statewide each day. Not allowing such BOCES capital expenses to be part of a school district's capital exclusion, has at best been a disincentive, and at worst financially prohibitive, from investing and participating in these offerings. All students should be able to access their education in safe and modern facilities, regardless of whether those programs and services are delivered in a district or BOCES building.

For these reasons, NYSSBA ***strongly supports*** this legislation and urges your immediate approval. If you require additional information, please do not hesitate to contact me at (518) 783-0200.

Sincerely,



Julie M. Marlette  
Director of Governmental Relations

Cc: Senator Terrence Murphy  
Assemblymember Sandy Galef  
Alphonso David  
Terry Pratt  
Dan Fuller  
Jamie Frank  
Michael Smingler