

Long Island Business NEWS

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New bill aims to stop school districts from hoarding cash

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ABC COMPANY	150
DEF COMPANY	200
GHI COMPANY	120
JKL COMPANY	180
MNO COMPANY	110
PQR COMPANY	160
STU COMPANY	140
VWX COMPANY	190
YZA COMPANY	130
BCD COMPANY	170
EFG COMPANY	100
HIJ COMPANY	220
KLM COMPANY	160
NOP COMPANY	140
QRS COMPANY	180
TUV COMPANY	110
WXY COMPANY	150
ZAB COMPANY	130
ACD COMPANY	170
EFG COMPANY	100
HIJ COMPANY	220
KLM COMPANY	160
NOP COMPANY	140
QRS COMPANY	180
TUV COMPANY	110
WXY COMPANY	150
ZAB COMPANY	130
ACD COMPANY	170

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COVERSTORY



RAINY DAYS AND MONEY

New bill aims to stop school districts from hoarding more cash than the law allows

By **DAVID WINZELBERG**

A New York State lawmaker plans to introduce legislation aimed at keeping school districts from over-taxing residents and discourage districts from holding onto more money than they're entitled to.

Assemblyman Michael Fitzpatrick, R-Smithtown, says he is currently drafting a bill that will allow the state comptroller to deduct a portion of a school district's state aid if the district attempts to keep illegal budget surpluses, sometimes called "rainy day funds."

Current state law restricts school districts from holding more than 4 percent of any surplus funds so that taxpayers are not unnecessarily required to pay taxes that are higher than what is needed to run the district.

However, there is no specific method for enforcing the law. Instead, it is left up to the commissioner of education to deal with violators and there is little recourse to claw back surplus funds, which on Long Island are quite substantial.

In fact, cash reserves held by school districts in Nassau and Suffolk counties now exceed \$2.44 billion and have increased by more than 80 percent in the last decade, according to Newsday. The amount of surplus money currently held by Long Island districts comes to about 20 percent of overall school spending.

Former Suffolk County Executive Steve Levy, president of government watchdog group Common Sense Strategies, says schools are ignoring the law.

"We understand there's a need for a rainy day fund, but taxpayers are scratching their heads as to why taxes and spending continue to rise while en-

rollments are declining," Levy told LIBN.

Levy, who heads the Center for Cost Effective Governance, has been lobbying for legislation that will persuade school districts to abide by the law and keep from stockpiling reserve funds.

"Without teeth in this law, the limit on accumulating escrows is worthless," he said.

Between April 1, 2010 and March 31, 2017, the state comptroller's office completed 862 school audits focusing on the state's 691 school districts, 36 BOCES and 49 charter schools, excluding New York City, and found that 289 districts retained extra money.

The auditors reported that many school districts were inflating the amount of required revenue in several ways, including appropriating their fund balance down to the statutory level, which was not likely to be used in the next year's budget; overestimating necessary expenditures; keeping excess amounts in various reserves; or underestimating anticipated revenues.

"In most cases where excess money was retained, districts used two or more of these practices simultaneously," Brian Butry, a spokesman for Comptroller Tom DiNapoli's office, said via email. "For example, a district that was overestimating expenditures would then appropriate fund balance that was not needed and subsequently use some money left over at the end of the fiscal year to overfund reserves. These practices, especially when done over several years, result in officials effectively maintaining a fund balance that is larger than allowed by law."



Photo by Judy Walker

STEVE LEVY: 'We're just asking that the law be enforced.'

Fitzpatrick's bill would enforce the surplus cap by allowing the comptroller to intercept a school district's state aid to cover the amount of money they are holding in their account over and above the 4 percent limit.

"I understand why they're doing it, but they either have to adhere to the cap or return that money to the taxpayers," Fitzpatrick said. "Why are they squirreling this money away? They say it's for unanticipated expenses. They've been overestimated expenses and not giving this money back. I don't believe there's an excuse for overestimating this money. They know what their pension contributions are going to be."

However, school officials defend their practice of maintaining rainy-day funds and would like to hold onto even more. The New York State School Boards Association is supporting a bill introduced by state lawmakers last year that would increase the allowable reserves to 10 percent, two-and-a-half times the current limit.

In a memo of support, NYSSBA argued that a school district's fund balance helps school districts deal with unexpected costs, including special education expenses and emergency facility needs.

'WE UNDERSTAND THERE'S A NEED FOR A RAINY DAY FUND, BUT TAXPAYERS ARE SCRATCHING THEIR HEADS AS TO WHY TAXES AND SPENDING CONTINUE TO RISE WHILE ENROLLMENTS ARE DECLINING.'

"For example, in some districts, the unplanned enrollment of just one or two high-cost special education students can have a significant negative impact on the budget," the NYSSBA memo said. "A healthy fund balance also allows districts to address revenue shortfalls, mid-year funding reductions and other cash flow issues. But at just 4 percent, the current limit equates to less than three weeks of a full school year."

Both Fitzpatrick and Levy said they would be open to raising the surplus limit slightly, as long as the comptroller could claw back reserves over that amount. But 10 percent, they said, is excessive.

"We would be willing to compromise, perhaps if the schools wanted to increase their reserves from 4 percent to 5 percent, if all of the extras were returned to the public, but we're not crazy," Levy said. "We're not going to go for a reserve at the 10-percent level, because that defeats the purpose of the law."

The Association for a Better Long Island has also been advocating for stiffening enforcement of the school surplus limit. Attorney Lauren Harris, ABLI president and a partner in the Uniondale-based Cronin, Cronin, Harris & O'Brien law firm, filed a lawsuit last year against the East Meadow School District, Commissioner of Education Marie Ellen Elia and the state Department of Education after East Meadow schools piled up a reserve fund of nearly \$30 million in three years, essentially over-taxing property owners. The suit was filed on behalf of an East Meadow taxpayer after the district and the commissioner dismissed the claim, arguing that the comptroller's audit that uncovered the money was unreliable because it was done more than 12 months prior.

"This is about stealing and how to get them to stop," Harris said. "Something has to be done."



Photo by Judy Walker

MICHAEL FITZPATRICK: 'They either have to adhere to the cap or return that money to taxpayers.'

The state attorney general's office asked for a change of venue and the judge in the case moved it to Albany. Harris plans to challenge the venue change and bring the case back to Long Island.

"We want them to look the taxpayer in the eye and tell them how they're ripping them off," Harris said.

Meanwhile, Fitzpatrick, if re-elected in November, plans to introduce his bill when the next assembly session begins in January and he's hoping to recruit some co-sponsors from across the aisle. He also hopes the bill will help kick start a conversation on dealing with "structural cost drivers" like pension benefits and healthcare.

The assemblyman acknowledged that school districts are often treated as sacred cows and politicians have historically been hesitant to rein them in because the teachers' union and other labor organizations are "very significant" political forces in the state.

"Quite frankly, I think that Democrats and unfortunately too many Republicans are just willing to look the other way and not challenge them," Fitzpatrick said. "There's no need to be argumentative or antagonistic, but we have a new federal tax law, we have declining enrollment, we have rising costs and we have a need to address structural cost drivers."

A spokesman for New York State Union Teachers, Carl Korn, said Fitzpatrick's effort is misguided.

"Superintendents, school business officials and school boards are experts in budgeting and know how much their districts need to hold in reserve to meet projected expenses," Korn told LIBN. "In an election year, why would Assemblyman Fitzpatrick want to take money away from Long Island schools? Because that's what would happen if his bill becomes law."

Levy, however, lauded Fitzpatrick, calling him a champion of taxpayers. He added that his bill will help keep school district slush funds in check.

"This is not asking to push a boulder over a mountain," Levy said. "This is already the law. We're just asking that the law be enforced."