S T A T E O F N E W Y O R K

S. 1768--A A. 1213--A

2013-2014 Regular Sessions

S E N A T E - A S S E M B L Y

(PREFILED)

January 9, 2013

IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. ENGLEBRIGHT -- read once and referred to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to establish the Suffolk School of Math, Science & Engineering Regional Technology Institute to provide instruction to students in the Eastern Suffolk BOCES and the Western Suffolk BOCES in a technology based learning process of core academic areas

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Legislative intent. The purpose of this act is to establish the Suffolk School of Math, Science & Engineering Regional Technology Institute. The Suffolk School of Math, Science & Engineering Regional Technology Institute shall provide a high school course of instruction for grades nine through twelve, dedicated to providing expanded learning opportunities to students residing in the Eastern Suffolk BOCES, the Western Suffolk BOCES, and in the school districts of such adjoining BOCES districts as who request to participate through agreement between the BOCES superintendent and the board hereinafter established, the areas of technology as well as the core academic areas required for the issuance of high school diplomas in accordance with the rules and regulations promulgated by the board of regents. The legislature hereby finds and declares that the establishment of the Suffolk School of Math, Science & Engineering Regional Technology Institute is a necessary

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD06125-04-3

component to the development of the Long Island region of New York state and a necessary link to fostering the development and advancement of emerging technologies. This school will advance the interests of the Suffolk area and New York state by engaging students in rigorous and enriching educational experiences focused on emerging technologies, project-based learning and collaboration and by providing that experience within the context of a business and learning community for the purpose of directly connecting student learning with real world experience in advanced technical facilities. It is expressly found that the establishment and operation of such school pursuant to this act is a public purpose. The legislature further finds that the establishment of a school business leaders alliance that shall serve as a forum in which regional businesses can work together with the board and school to create opportunities for students consistent with this act shall be deemed as a necessary feature to the successful operation of the Suffolk School of Math, Science & Engineering Regional Technology Institute. The board is directed to establish and facilitate the ongoing operation of a school business leaders alliance for the specific benefit of the students attending the Suffolk School of Math, Science & Engineering Regional Technology Institute.

S 2. Definitions. 1. "Eastern Suffolk BOCES" shall mean the Eastern Suffolk board of cooperative educational services, and any successor entity.

2. "Western Suffolk BOCES" shall mean the Western Suffolk board of cooperative educational services and any successor entity.

3. "Suffolk School of Math, Science & Engineering Regional Technology Institute" or "Institute" shall mean a new regional educational program operated jointly by the Eastern Suffolk BOCES and Western Suffolk BOCES, but not a part, or subsidiary of either corporation which may be located at more than one location within the corporate boundaries of Eastern Suffolk BOCES or Western Suffolk BOCES as established by this act.

4. "The board" shall mean, except where the context indicates otherwise, the governing board established pursuant to section three of this act.

S 3. Organization and governance. 1. Notwithstanding any other provision of law to the contrary, the Eastern Suffolk BOCES and Western Suffolk BOCES shall be authorized to jointly operate an educational program in accordance with this act, to be known as the Suffolk School of Math, Science & Engineering Regional Technology Institute. Such institute is not a part of either corporation and is a new corporate entity that will provide a high school course of instruction for grades not lower than nine and including through grade twelve designed to afford expanded learning opportunities to students residing in the areas served by the Eastern Suffolk BOCES and the Western Suffolk BOCES in the areas of technology as well as the core academic areas required for issuance of a high school diploma.

2. The institute shall be subject to all laws, rules and regulations which are applicable to a board of cooperative educational services unless otherwise provided for in this act. The institute shall comply with the rules and regulations of the board of regents and the commissioner of education applicable to a high school program leading to a diploma, including but not limited to course of study, academic content and achievement standards.

3. The institute shall be subject to the oversight of the board of regents and shall obtain financial audits in a manner consistent with

provisions of law and regulations that are applicable to other programs of a board of cooperative educational services.

4. The Suffolk School of Math, Science & Engineering Regional Technology Institute shall be jointly operated by the Eastern Suffolk BOCES and Western Suffolk BOCES pursuant to an inter-municipal sharing agreement entered into pursuant to section 119-o of the general municipal law. The governing boards of the Eastern Suffolk BOCES and Western Suffolk BOCES shall be combined to form a joint board that will operate the institute in accordance with the provisions of such sharing agreement and this act. Persons newly hired to provide services in the institute shall be deemed joint employees of such joint board, and not employees of either corporation or board.

Provided however, that the Eastern Suffolk BOCES and Western Suffolk BOCES may establish as part of the inter-municipal sharing agreement an operational board to operate the Suffolk School of Math, Science & Engineering Regional Technology Institute on behalf of the two BOCES in accordance with this act and such sharing agreement. This operational board shall be provided powers and duties consistent with the governing board provided for in this act and in such inter-municipal sharing agreement. Provided that if an operational board is established it shall be organized as follows. The operational board shall consist of seven members appointed on the following basis: three members shall be members of the governing board of the Eastern Suffolk BOCES and shall be appointed by the governing board of the Eastern Suffolk BOCES; three members shall be members of the governing board of Western Suffolk BOCES and shall be appointed by the governing board of Western Suffolk BOCES; one at large member shall be appointed by those members appointed to the operational board by the Eastern Suffolk BOCES and the Western Suffolk BOCES; all appointments to the governing board of the Suffolk School of Math, Science & Engineering Regional Technology Institute shall be for three years with a term which shall commence on July first next succeeding the appointment, provided that vacancies on the board shall be filled by an appointment made by the original appointing authority, and such appointment shall be deemed effective immediately and shall be for a period of the remaining unexpired term.

5. The board shall appoint an advisory council consisting of representatives of the greater Long Island business community who have expertise in the training needs of high-tech and emerging industries and representatives of institutions of higher education located within the area served by Eastern Suffolk BOCES and the Western Suffolk BOCES and any adjoining BOCES district who have a working knowledge of the science and technology curricula offerings in the region. The advisory council shall advise the board on the course of study of the institute; means of providing students with educational experiences focused on emerging technologies, project-based learning and collaboration within the context of the business and learning community that directly connect student learning with real world experience in advanced technical facilities; and other matters relating to operation of the institute.

S 4. Powers and duties of the board. The board shall have the following powers and duties:

1. To prescribe and operate a full-time course of study by which students attending the institute shall become eligible to receive a high school diploma to be awarded by their school district of residence. This course of study shall be supplemented by such innovative technological and related programs as may be deemed suitable by the board to implement the purposes of this act;

2. Based upon a joint recommendation of the district superintendents of Eastern Suffolk BOCES and Western Suffolk BOCES and upon a majority vote of the board, to contract with and employ administrative officers and joint employees as the board deems prudent;

3. To contract with and enter into cooperative arrangements with private for profit and not-for-profit entities as the board may deem prudent in furtherance of the institute's supplemental innovative technological activities and related educational programs to implement the purposes of this act, provided that all components of the curriculum shall be taught or supervised by a certified teacher or certified teaching assistant under the supervision of a certified teacher; and

4. To determine the school calendar and school day schedule, which at a minimum, shall be equal to the instruction time required to be provided by public high schools.

S 5. General requirements. The annual budget of the institute shall be subject to the approval of the governing board of the Eastern Suffolk BOCES and Western Suffolk BOCES. The proposed budget shall be submitted to the boards of education of Eastern Suffolk BOCES and Western Suffolk BOCES by May first of the year preceding the year for which the budget shall apply. The proposed budget shall not take effect unless a majority of members of each BOCES board shall approve the annual budget of the institute. If a majority of either BOCES board fails to adopt resolutions approving such tentative budget, the administrators of the institute shall prepare a contingency budget which shall not exceed the amount of the budget of the Suffolk School of Math, Science & Engineering Regional Technology Institute for the previous school year except to accommodate expenditure increases attributable to supplemental retirement allowances payable pursuant to section 532 of the education law and section 78 of the retirement and social security law. The BOCES boards shall vote on approval of the proposed budget by a date determined by the commissioner of education. For purposes of development of a budget for the first year of operation, the BOCES board shall present the proposed budget to the commissioner of education by a date the commissioner of education shall determine and shall submit it to the commissioner of education for approval. Upon approval of the commissioner of education, the proposed budget shall be deemed the budget of the Suffolk School of Math, Science & Engineering Regional Technology Institute for that school year. Upon adoption of a budget for the institute for a school year, costs shall be allocated between the Eastern Suffolk BOCES and Western Suffolk BOCES in the manner provided in the municipal sharing agreement and shall be included in the budgets of the two BOCES.

S 6. Employees of the institute. 1. The joint instructional employees shall be subject to Part 30 of the Rules of the Board of Regents.

2. Persons employed in connection with the educational program of the institute shall be certified in accordance with the requirements applicable to other programs of a board of cooperative educational services.

3. Any teacher employed in the public schools of New York may make written application for a leave of absence to teach at the institute. If such approval is granted, the teacher may return to teach in the school district during such period of leave without the loss of any right, seniority, salary status or any other benefit provided by law or by collective bargaining agreement.

4. All persons employed by the institute shall be considered public employees and shall receive all rights and privileges accorded thereto.

5. Section 3014 of the education law shall be applicable to all employees who would be governed by such section in a public school building.

S 7. Admission to the institute. 1. Any student eligible for enrollment in grades nine through twelve of the public schools, residing within a component school district of the Eastern Suffolk BOCES or Western Suffolk BOCES that elects to participate in the institute or a non-component school district located within the area served by the Eastern Suffolk BOCES, or Western Suffolk BOCES which enters into a memorandum of understanding with the board to enroll students in the Suffolk School of Math, Science & Engineering Regional Technology Institute shall be eligible to apply for admission to the institute.

2. The criteria for admission shall not be limited based on intellectual ability, measures of academic achievement or aptitude, athletic aptitudes, disability, race, creed, gender, national origin, religion, ancestry, or location of residence.

3. To the extent that the number of qualified applicants may exceed the number of available spaces, the institute shall grant admission on a random selection basis, provided that an enrollment preference shall be provided to pupils returning to the institute in the second or any subsequent year. The institute shall determine the tentative enrollment roster, notify the parents, or those in parental relation to those students, and the resident school district by April first of the school year preceding the school year for which the admission is granted. To determine the enrollment roster for the first year of operation, the institute shall notify the parents, or those in parental relation to those students, and the resident school district by June thirtieth of the school year preceding the school year for which the admission is granted.

4. Students attending the institute shall continue to be enrolled in their school district of residence, and each school district of residence shall be responsible for issuance of a high school diploma to their resident students who attended the institute based on such students' successful completion of the institute's educational program, as certified by the institute, provided that such diploma shall contain an annotation indicating the student's successful completion of the institute's program. The commissioner of education may establish special procedures for program review and accountability of the institute.

S 8. Financing of the institute. 1. The board shall establish in its municipal sharing agreement a methodology for the apportionment of operational and administrative costs including capital costs between the Eastern Suffolk BOCES and the Western Suffolk BOCES and the allocation of costs to non-component school districts located within the area served by either BOCES or located in a BOCES district which adjoins the area served by the Eastern Suffolk BOCES or the Western Suffolk BOCES which have entered into a memorandum of understanding with the board to enroll students in the Suffolk School of Math, Science & Engineering Regional Technology Institute. The board is hereby authorized to provide in the municipal sharing agreement that Eastern Suffolk BOCES or Western Suffolk BOCES, or both entities act as a fiscal agent for the institute.

2. Notwithstanding any other provision of law, rule or regulation to the contrary, the commissioner of education shall be authorized to approve the educational services and programs deemed necessary to carry out the institute as aidable shared services pursuant to section 1950 of the education law, and to approve cooperative services agreements ("CO-SERS") limited in scope to the institute. Program and administra-

tive costs, including capital costs, allocated to component school districts in accordance with this act and section 1950 of the education law shall be eligible for BOCES aid as an aidable shared service pursuant to section 1950 of the education law and costs allocated to a participating non-component school district pursuant to a memorandum of understanding shall be aidable pursuant to subdivision 5 of section 1950 of the education law to the same extent and on the same basis as costs allocated to a component school district.

3. The trustees or board of education of a non-component school district located within the area served by the two boards of cooperative educational services or in an area served by an adjoining BOCES, may enter into a memorandum of agreement with the board to participate in the institute for a period not to exceed 5 years upon such terms as such trustees or board of education and the board may mutually agree, provided that such agreement may provide for a charge for administration of the institute including capital costs, but participating non-component school districts shall not be liable for payment of administrative expenses as defined in paragraph b of subdivision 4 of section 1950 of the education law, unless otherwise agreed upon by the board and the non-component school district.

4. If educational programs operated by the institute result in the creation of revenue for the institute the receipt and expenditure for such funds shall be deemed lawful, subject only to the requirement that any revenues so created shall be used for the educational betterment of the students through the advancement of the institution's educational and career development activities. The board is authorized to accept gifts, donations or grants of any kind made to the institute and to expend or use such gifts, donations or grants in accordance with the conditions prescribed by the donor; provided, however, that no gift, donation or grant may be accepted if subject to a condition that is contrary to any provision of law or the educational charter. Notwithstanding any inconsistent provisions of paragraph p of subdivision 4 of section 1950 of the education law or any other provision of law to the contrary, the board of the Suffolk School of Math, Science & Engineering Regional Technology Institute may enter into a lease under the conditions specified in this act with respect to suitable land, classrooms, offices or buildings upon or in which to maintain and conduct such regional educational program and administrative offices for a period not to exceed thirty years.

S 9. Any lease entered into pursuant to this act in excess of ten years shall be subject to the approval of the qualified voters of the component districts within the area served by the Eastern Suffolk BOCES and Western Suffolk BOCES, and the qualified voters of non-component districts that enter into a memorandum of understanding with the board to enroll students in the institute, through a referendum conducted pursuant to the provisions of section 1951 of the education law, provided that the Eastern Suffolk BOCES, the Western Suffolk BOCES and the non-component districts that have entered into a memorandum of understanding with the board and enroll students in the institute, shall be deemed to be a single supervisory district for such purpose, within one year of the effective date of this act. The approved costs of such lease and the plans and specification of the leased facility shall be subject to review and approval by the commissioner of education in order to be eligible for aid pursuant to paragraph g of subdivision 5 of section 1950 of the education law as if it were a construction project with the payments amortized over thirty years, but not to exceed the

cost allowance established pursuant to subdivision 6 of section 3602 of the education law, provided that as a condition of receipt of aid, the lease agreement shall provide that upon expiration of the term of the lease, title to the facility shall be conveyed to the BOCES in which the institute is located or successor thereto, for use for elementary/secondary educational purposes.

S 10. Service of students who reside in adjoining BOCES districts. It is the intent of the legislature to allow students whose geographic proximity to the Suffolk School of Math, Science & Engineering Regional Technology Institute make it possible to attend the institute notwithstanding the fact that it may be geographically impractical for other students at such BOCES to attend. Such agreements as shall be necessary as to effectuate that intent shall be made as provided for in this act. Further, if there is a demonstrated interest by students at neighboring BOCES districts, the board may elect to formally expand its service area and board by not more than ten new members upon such terms as it shall deem appropriate, provided, however, that such terms must rationally relate to the equitable distribution of costs to such BOCES districts and the component school districts thereof.

S 11. 1. All component school districts of Eastern Suffolk BOCES and Western Suffolk BOCES shall be deemed to participate in the institute and shall be eligible to have students enroll in the institute (following the enrollment processes set forth in this act) and shall share in the costs of the institute as set forth in this act unless any component school district, not later than one year after this act becomes a law shall pass a resolution, which shall be filed with the superintendent of the board of cooperative educational services which the school district is a component of, indicating that such district chooses not to participate in the institute. No student who resides in a school district that chooses not to participate in the institute may attend the institute nor shall such school district have any liability to the institute nor shall any resident of such school district be a board member of any operational board of the institute.

2. In the event any component school district passes the resolution described in subdivision 1 of this section, such school district may later choose to participate in the institute upon the request, via resolution, of the board of such component school district and upon such terms and conditions as may be approved by the operational board of the institute if created and also approved by a majority of the Eastern Suffolk BOCES board and a majority of the Western Suffolk BOCES board.

S 12. This act shall take effect on the one hundred eightieth day after it shall have become a law.