

7227--B

Cal. No. 1034

I N S E N A T E

May 6, 2014

Introduced by Sen. FLANAGAN -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- again amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the education law, in relation to the leasing of real property by boards of cooperative educational services; and providing for the repeal of such provisions upon expiration thereof

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

1 Section 1. Subparagraph (a) of paragraph p of subdivision 4 of section
2 1950 of the education law, as amended by chapter 602 of the laws of
3 1994, is amended to read as follows:
4 (a) To rent suitable land, classrooms, offices or buildings upon or in
5 which to maintain and conduct such cooperative educational services and
6 administrative offices for a period not to exceed ten years FOR LEASES
7 ENTERED INTO WITH PUBLIC ENTITIES AND TWENTY YEARS FOR LEASES ENTERED
8 INTO WITH NON-PUBLIC ENTITIES and to improve, alter, equip and furnish
9 such land, classrooms, offices or buildings in a suitable manner for
10 such purposes, PROVIDED THAT: (1) before executing any lease, the board
11 shall adopt a resolution determining that such agreement is in the best
12 financial interests of the supervisory district and stating the basis of
13 that determination; (2) the rental payment shall not be more than the
14 fair market value as determined by the board AND PROVIDED TO THE COMMIS-
15 SIONER; (3) THE BOARD DISCLOSES ANY CONFLICT OF INTEREST PURSUANT TO
16 SUBPARAGRAPH (C) OF THIS PARAGRAPH, OR ANY OTHER POTENTIAL OR PERCEIVED
17 CONFLICT OF INTEREST, TO THE COMMISSIONER, AND IN THE EVENT OF A
18 CONFLICT OF INTEREST OR A POTENTIAL OR PERCEIVED CONFLICT OF INTEREST,
19 PROVIDES DETAILED DOCUMENTATION TO THE COMMISSIONER DEMONSTRATING THAT
20 THE COST OF THE LEASE IS NOT MORE THAN FAIR MARKET VALUE; and [(3)] (4)
21 upon the consent of the commissioner, renewal of such lease may be made
22 for a period of up to ten years. Nothing contained herein shall prevent
23 the board from entering into a lease agreement which provides for the

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

LBD05665-17-4

1 cancellation of the same by such board upon: (i) a substantial increase
2 or decrease in pupil enrollment; or (ii) a substantial change in the
3 needs and requirements of a board of cooperative educational services
4 with respect to facilities; or (iii) any other change which substantial-
5 ly affects the needs or requirements of a board of cooperative educa-
6 tional services or the community in which it is located. No lease or
7 other contract for the occupancy of such land, classrooms, offices or
8 buildings shall be enforceable against the board of cooperative educa-
9 tional services unless and until the same shall have been approved in
10 writing by the commissioner. IN THE CASE OF A LEASE LONGER THAN TEN
11 YEARS, THE COMMISSIONER'S WRITTEN APPROVAL MUST INCLUDE A FINDING THAT
12 THE PROPOSED LEASE COMPLIES WITH ALL REQUIREMENTS OF THIS PARAGRAPH AND
13 WOULD BE MORE COST-EFFECTIVE THAN A LEASE OF TEN YEARS OR FEWER.

14 S 2. Paragraph p of subdivision 4 of section 1950 of the education law
15 is amended by adding a new subparagraph (c) to read as follows:

16 (C) IF ANY MEMBER OF THE BOARD OF EDUCATION OF THE BOARD OF COOPER-
17 ATIVE EDUCATIONAL SERVICES, OFFICER OR EMPLOYEE OF THE BOARD OF COOPER-
18 ATIVE EDUCATIONAL SERVICES HAS A FINANCIAL INTEREST, EITHER DIRECT OR
19 INDIRECT, IN ANY LEASE TO WHICH THE BOARD OF COOPERATIVE EDUCATIONAL
20 SERVICES IS, OR IS TO BE, A PARTY, SUCH INTEREST SHALL BE DISCLOSED TO
21 THE BOARD OF EDUCATION OF SUCH BOARD OF COOPERATIVE EDUCATIONAL SERVICES
22 IN WRITING AND SHALL BE SET FORTH IN THE MINUTES OF THE BOARD OF EDUCA-
23 TION OF THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES. THE MEMBER, OFFI-
24 CER OR EMPLOYEE HAVING SUCH INTEREST SHALL NOT PARTICIPATE IN ANY ACTION
25 BY THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES WITH RESPECT TO SUCH
26 LEASE.

27 S 3. The commissioner of education, in consultation with participating
28 boards of cooperative educational services, shall prepare a report
29 describing any leases in excess of ten years approved by such commis-
30 sioner pursuant to paragraph p of subdivision 4 of section 1950 of the
31 education law, including the number of leases in excess of ten years
32 entered into by boards of cooperative educational services, the term of
33 such leases, any modifications made to the property, a description of
34 the use or uses of such property, and any savings realized by entering
35 into a lease in excess of ten years. Such report shall be submitted to
36 the board of regents, the governor, the director of the division of the
37 budget, the majority leader of the senate, the speaker of the assembly,
38 and the chairs of the senate and assembly education committees, no later
39 than December 15, 2018, with recommendations on whether and under what
40 conditions leases longer than ten years should continue to be authorized
41 beyond the expiration date of this act.

42 S 4. This act shall take effect immediately, and shall expire and be
43 deemed repealed July 1, 2019, provided, however, that any contracts
44 entered pursuant to this act shall not be impaired or modified by such
45 expiration and repeal; provided further that the provisions of this act
46 shall only apply to contracts entered into after the effective date of
47 this act.