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

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I N A S S E M B L Y

January 15, 2009

Introduced by M. of A. GANTT, HOYT -- Multi-Sponsored by -- M. of A. JOHN, KOON, MORELLE, PEOPLES -- read once and referred to the Committee on Education

AN ACT to amend the education law and the public health law, in relation to the powers of the boards of education for the city school districts of Rochester and Buffalo to arrange and provide integrated health services to the school community directly and/or through contractors

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

Section 1. Legislative intent. The legislature finds:

1. Two trends, one sociological and one political, underpin a need for the fiscally dependent school districts of the cities of Rochester and Buffalo to obtain express authority to develop and operate programs for integrated health services within the districts, in a manner which embraces the best and most economic available technologies, and which harnesses the health care resources of their respective communities in the most effective possible manner. It is found, further, that the public interest is served by permitting those districts to provide such services directly, and/or by the use of contractors, including the boards of cooperative educational services, which shall be expressly authorized to contract to provide some or all of such services; and that the costs of assuming such services be ameliorated by authorizing subsidy and/or reimbursement for such services on the same basis and in the same manner as a county health department would be eligible for such subsidy or reimbursement for similar school health services.

2. During the first two decades of the twentieth century, exercising police powers, city health departments in the cities of New York, Rochester and Buffalo as an element of municipal health and sanitation efforts began providing health services within city schools. Starting with vaccinations and milk stations to provide pasteurized milk, the programs evolved into providing school physicians and nurses and medical

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

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inspections. When "medical inspection" was codified under State law in 1913, in what is now section nine hundred one of the education law, the city school districts in the cities of New York, Rochester and Buffalo, in which the city health departments were actively engaged in school health services, were excepted from the legislation. The term "medical inspection" in that statute has been replaced with the term "school health services," under chapter 477 of the laws of 2004. Over time, the school health function for the city school districts of Rochester and Buffalo devolved from city health departments to the county health departments in the counties of Monroe and Erie, by resolution and charter, as authorized by section one thousand seventeen-a of the optional county government law. The county of Monroe and the county of Erie thereupon provided and funded school health services for decades. The counties have determined that even with available reimbursement, they are no longer able to provide school health services to the city school districts. The county of Monroe eliminated staffing and funding in its 2004 budget; and the county of Erie has eliminated staffing and funding in its 2005 budget. In December 2004, the Appellate Division, Fourth Department of the New York State Supreme Court affirmed that the county of Monroe had the authority to withdraw from providing and funding school health services to the city school district of Rochester.

3. Within the cities of Rochester and Buffalo, there exists a marked concentration of poverty, of racial concentration or isolation, and of limited English language capacity, which together increase the risk that school age children do not have access to any regular or adequate health services outside of school; and that unless the school districts have the authority to provide such services directly or through contractors, and to develop an integrated health services network with available community resources, the legislature finds that many children within those cities are likely to continue to have insufficient access to health care, with the inexorable result that their educational development will also be impaired, to the long term detriment of those children and to the state itself. Census data and other studies in Rochester, for example, demonstrate that the city school district of Rochester has the second highest per capita poverty rate among all school districts in the state of New York; and ranks twelfth in child poverty in the United States. In the 2001-2002 school year, eleven per cent of incoming kindergarteners in Rochester had health problems requiring ongoing medical supervision, while seven per cent of parents reported that their child starting kindergarten had no primacy care physician, and twenty per cent had never seen a dentist. Fifteen per cent of those parents reported that their child had been hospitalized in a neonatal intensive care unit at birth.

4. Particularly since the city school districts of Rochester and Buffalo are fiscally dependent, the legislature finds that it is in the public interest to provide that whenever integrated health services would be subject to reimbursement or subsidy if provided by a county health department then when such services are provided by a city school district (or by its contractors) which had received school health services from the county of Monroe or the county of Erie in the past, that such city school district shall be deemed to be eligible for such reimbursement or subsidy as if it were a county health department. In that manner, the economic impact of termination of county school health services will be limited to the local costs, and the districts will continue to benefit from state reimbursement to the same degree as when school health services were provided by the county health departments.

It is the intent of the legislature that school district eligibility for such reimbursement shall be retroactive to the first day of the school fiscal year in which the county government which had previously provided funding and staffing for school health services eliminated that aid from its budget. In the case of the city school district of Rochester, such eligibility shall be retroactive to July 1, 2004. The legislature further finds that it is in the public interest to permit the city school districts in the cities of Rochester and Buffalo to contract and pay for some part or all of its integrated health services programs with boards of cooperative educational services serving the counties of Monroe and Erie, and for such boards of cooperative educational services to provide such health services. This act shall be known as the Integrated Health Services for Fiscally Dependent School Districts Act.

S 2. Section 901 of the education law is amended by adding a new subdivision 3 to read as follows:

3. IN THE SCHOOL DISTRICTS EXCEPTED FROM THIS ARTICLE, WHERE SCHOOL HEALTH SERVICES ARE NOT BEING FUNDED OR STAFFED BY THE HEALTH DEPARTMENTS OF THE CITY OR COUNTY IN WHICH SUCH DISTRICT IS LOCATED; OR IF, IN THE DISCRETION OF THE BOARD OF EDUCATION, ADDITIONAL INTEGRATED HEALTH SERVICES ARE WARRANTED, THEN THE BOARD OF EDUCATION OF SUCH SCHOOL DISTRICT SHALL BE AUTHORIZED, BUT NOT REQUIRED TO PROVIDE, DIRECTLY OR BY ONE OR MORE CONTRACTS SUCH SCHOOL HEALTH SERVICES AS THE BOARD OF EDUCATION DETERMINES ARE USEFUL OR NECESSARY TO MEET THE CURRENT AND EVOLVING HEALTH NEEDS OF THEIR SCHOOL POPULATIONS, INCLUDING SCHOOL-BASED AND INTEGRATED SCHOOL-LINKED HEALTH SERVICES WHICH MAY BE LINKED TO COMMUNITY-BASED HEALTH CARE SYSTEMS, AND SERVICES WHICH EMPLOY TELEMEDICINE OR OTHER EMERGING TECHNOLOGIES. WHERE AN EXCEPTED SCHOOL DISTRICT PROVIDES SCHOOL HEALTH SERVICES WHICH WOULD BE SUBJECT TO REIMBURSEMENT OR SUBSIDY IF PROVIDED BY A COUNTY HEALTH DEPARTMENT, THEN NOTWITHSTANDING ANY PROVISION OF ANY OTHER STATE LAW, THE CITY SCHOOL DISTRICT SHALL BE ELIGIBLE FOR SUCH SUBSIDY OR REIMBURSEMENT AS WOULD A COUNTY HEALTH DEPARTMENT. THIS ELIGIBILITY SHALL APPLY NOT ONLY TO SERVICES PROVIDED BY SUCH CITY SCHOOL DISTRICT DIRECTLY, BUT ALSO TO SERVICES PROVIDED INDIRECTLY, THROUGH CONTRACTS WITH A BOARD OF COOPERATIVE EDUCATIONAL SERVICES, OR THROUGH ANY OTHER QUALIFIED PROVIDER OF HEALTH CARE SERVICES. SUCH ELIGIBILITY SHALL BE DEEMED TO APPLY TO DIRECT OR CONTRACT SERVICES PERFORMED BY OR FOR THE CITY SCHOOL DISTRICT ON OR AFTER THE FIRST DAY OF THE FIRST FISCAL YEAR IN WHICH THE COUNTY IN WHICH SUCH CITY SCHOOL DISTRICT IS LOCATED DID NOT PROVIDE FUNDING OR STAFFING FOR SCHOOL HEALTH SERVICES.

S 3. Section 2554 of the education law is amended by adding two new subdivisions 28 and 29 to read as follows:

28. TO PROVIDE, IN DISTRICTS EXCEPTED FROM THE PROVISIONS OF SUBDIVISION ONE OF SECTION NINE HUNDRED ONE OF THIS CHAPTER, SUCH SCHOOL-BASED OR SCHOOL-LINKED INTEGRATED SCHOOL HEALTH SERVICES AS THE BOARD OF EDUCATION MAY, IN ITS DISCRETION DEEM WARRANTED, EITHER DIRECTLY, OR BY ONE OR MORE CONTRACTS WITH A BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND/OR WITH HEALTH CARE PROVIDERS SERVING THE COMMUNITY IN WHICH THE DISTRICT IS SITUATED. BOARDS OF EDUCATION ARE AUTHORIZED AND ENCOURAGED TO DEVELOP MODELS FOR HEALTH CARE DELIVERY WHICH ARE TAILORED TO MEET THE SPECIFIC NEEDS OF THEIR POPULATIONS IN A MANNER WHICH IS AS ECONOMICAL AS POSSIBLE, BUT WHICH EMBODIES EMERGING TECHNOLOGIES AND ALSO UTILIZES NEW AND ADVANCED MODELS FOR HEALTH SERVICES, AS WELL AS TRADITIONAL SCHOOL HEALTH MODELS, AND TO ADD, AMEND, SUPPLEMENT, OR ELIMINATE SPECIFIC HEALTH CARE SERVICES BASED UPON EFFECTIVENESS, COST, EVOLVING NEEDS, OR THE AVAILABILITY OF NEW APPROACHES TO SCHOOL HEALTH SERVICES.

SERVICES MAY BE SCHOOL-BASED OR MAY BE LINKED IN COLLABORATION WITH LOCAL HOSPITALS, CLINICS, AND HEALTH CARE PROFESSIONALS AND AGENCIES AND MAY ALSO HAVE CHARACTERISTICS OF BOTH SCHOOL-BASED AND SCHOOL-LINKED MODELS, SUCH AS TELEMEDICINE COMPONENTS AND USE OF MOBILE MEDICAL SERVICE UNITS.

29. TO SEEK AND APPLY FOR AND RECEIVE, IN DISTRICTS EXCEPTED FROM THE PROVISIONS OF SUBDIVISION ONE OF SECTION NINE HUNDRED ONE OF THIS CHAPTER, STATE AID FUNDING WHICH IS OR MAY BECOME AVAILABLE TO MUNICIPALITIES UNDER ARTICLE SIX OF THE PUBLIC HEALTH LAW FOR THE SCHOOL-BASED OR SCHOOL-LINKED INTEGRATED SCHOOL HEALTH SERVICES PROVIDED BY SUCH DISTRICTS, AS DETAILED UNDER SUBDIVISION TWENTY-EIGHT OF THIS SECTION. ANY APPLICATION FOR SUCH STATE AID FUNDING UNDER ARTICLE SIX OF THE PUBLIC HEALTH LAW WOULD BE SUBMITTED IN ACCORDANCE WITH SUCH PROCEDURES AS MAY BE PROMULGATED BY THE COMMISSIONER.

S 4. Section 2566 of the education law is amended by adding a new subdivision 10 to read as follows:

10. TO HAVE SUPERVISION AND DIRECTION OF INTEGRATED SCHOOL HEALTH SERVICES AUTHORIZED BY THE BOARD OF EDUCATION UNDER SUBDIVISION TWENTY-EIGHT OF SECTION TWENTY-FIVE HUNDRED FIFTY-FOUR OF THIS CHAPTER.

S 5. Subdivision 4 of section 1950 of the education law is amended by adding a new paragraph oo to read as follows:

OO. TO ENTER INTO CONTRACTS WITH CITY SCHOOL DISTRICTS PROVIDING INTEGRATED SCHOOL HEALTH SERVICES UNDER SUBDIVISION THREE OF SECTION NINE HUNDRED ONE OF THIS CHAPTER, AND WHICH ARE LOCATED WITHIN OR ADJACENT TO THE SUPERVISORY DISTRICT OF A BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND/OR THE TERRITORY SERVED BY A BOARD OF COOPERATIVE EDUCATIONAL SERVICES, TO PROVIDE ALL OR PART OF THE SERVICES REQUESTED BY THE CITY SCHOOL DISTRICT UPON MUTUALLY AGREEABLE TERMS. BOARDS OF COOPERATIVE EDUCATIONAL SERVICES ARE HEREBY AUTHORIZED AND EMPOWERED TO DO AND PERFORM ANY AND ALL ACTS NECESSARY OR DESIRABLE IN RELATION TO THE PERFORMANCE OF ANY SUCH CONTRACTS.

S 6. Section 600 of the public health law, as added by chapter 901 of the laws of 1986, is amended to read as follows:

S 600. State aid; general requirements. 1. In order to be eligible for state aid under this title, a municipality shall be required to do the following in accordance with the provisions of this article:

[1.] A. submit an application to the department for state aid;

[2.] B. submit a municipal public health services plan to the department for approval;

[3.] C. implement and adhere to the municipal public health services plan, as approved;

[4.] D. submit a detailed report to the department of all expenditures on services funded by this title for the immediately preceding fiscal year of such municipality;

[5.] E. employ a person to supervise the provision of public health services in accordance with the provisions of section six hundred four of this chapter; and

[6.] F. appropriate or otherwise make funds available to finance a prescribed share of the cost of public health services.

2. A SCHOOL DISTRICT WHICH IS EXCEPTED FROM THE PROVISIONS OF SUBDIVISION ONE OF SECTION NINE HUNDRED ONE OF THE EDUCATION LAW SHALL ALSO BE ELIGIBLE FOR STATE AID FUNDING WHICH IS OR MAY BECOME AVAILABLE TO MUNICIPALITIES UNDER THIS TITLE FOR THE SAME OR SIMILAR SERVICES, AS PROVIDED FOR BY THE PROVISIONS OF SUBDIVISION TWENTY-NINE OF SECTION TWENTY-FIVE HUNDRED FIFTY-FOUR OF THE EDUCATION LAW. THE PROVISIONS OF THIS ARTICLE REGULATING THE DEVELOPMENT, APPROVAL, IMPLEMENTATION, AND

FEE ASSESSMENT OF MUNICIPAL PUBLIC HEALTH PLANS SHALL NOT APPLY TO SCHOOL DISTRICTS, WHICH SHALL SUBMIT APPLICATIONS IN ACCORDANCE WITH SUCH PROCEDURES AS MAY BE PROMULGATED BY THE COMMISSIONER OF EDUCATION.

S 7. This act shall take effect immediately and shall apply to all contracts entered into on or after such effective date; provided, however, that for purposes of a subsidy or reimbursement authorized by section two of this act, a school district in which county funding or staffing was not made available for the 2004-2005 school year, such school district shall be entitled to receive such reimbursement or subsidy for any health service rendered by the school district on or after (i) July 1, 2004, or (ii) the first day of the first school district fiscal year in which the county did not fund or staff such school district, whichever is earlier.