

8563

2009-2010 Regular Sessions

I N A S S E M B L Y

May 28, 2009

Introduced by M. of A. NOLAN -- (at request of the State Education Department) -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to providing school districts with flexibility in carrying out their claims auditing function

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

1 Section 1. Subdivision 35 of section 1604 of the education law, as
2 added by chapter 263 of the laws of 2005, is amended to read as follows:
3 35. a. In their discretion, to adopt a resolution establishing the
4 office of claims auditor and appoint a claims auditor who shall hold his
5 or her position subject to the pleasure of such trustees. IN ITS
6 DISCRETION, THE TRUSTEES MAY ADOPT A RESOLUTION ESTABLISHING THE OFFICE
7 OF DEPUTY CLAIMS AUDITOR WHO SHALL ACT AS CLAIMS AUDITOR IN THE ABSENCE
8 OF THE CLAIMS AUDITOR. Such claims auditor shall report directly to the
9 trustees. No person shall be eligible for appointment to the office of
10 claims auditor OR DEPUTY CLAIMS AUDITOR who shall also be:
11 (1) a trustee of the school district;
12 (2) the clerk or treasurer of the school district;
13 (3) the superintendent of schools or other official of the district
14 responsible for business management;
15 (4) the person designated as purchasing agent; or
16 (5) clerical or professional personnel directly involved in accounting
17 and purchasing functions of the school district.
18 b. Such claims auditor OR DEPUTY CLAIMS AUDITOR shall not be required
19 to be a resident of the district, and the [position] POSITIONS of claims
20 auditor AND DEPUTY CLAIMS AUDITOR shall be classified in the exempt
21 class of the civil service. The trustees, at any time after the estab-
22 lishment of the office of claims auditor OR DEPUTY CLAIMS AUDITOR, may
23 adopt a resolution abolishing such office, whereupon such office shall
24 be abolished. When the office of claims auditor shall have been estab-

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

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lished and a claims auditor shall have been appointed and shall have qualified, the powers and duties of the trustees with respect to claims auditing, and allowing or rejecting all accounts, charges, claims or demands against the school district, shall devolve upon and thereafter be exercised by such claims auditor during the continuance of such office. The trustees shall be permitted to delegate the claims audit function TO ONE OR MORE INDEPENDENT ENTITIES by using (1) inter-municipal cooperative agreements, (2) shared services to the extent authorized by section nineteen hundred fifty of this title, or (3) independent contractors, to fulfill this function.

C. WHEN THE TRUSTEES DELEGATE THE CLAIMS AUDIT FUNCTION USING AN INTER-MUNICIPAL COOPERATIVE AGREEMENT, SHARED SERVICE AUTHORIZED BY SECTION NINETEEN HUNDRED FIFTY OF THIS TITLE, OR AN INDEPENDENT CONTRACTOR, THE TRUSTEES SHALL BE RESPONSIBLE FOR AUDITING ALL CLAIMS FOR SERVICES FROM THE ENTITY PROVIDING THE DELEGATED CLAIMS AUDITOR, EITHER DIRECTLY OR THROUGH A DELEGATION TO A DIFFERENT INDEPENDENT ENTITY.

S 2. Subdivision 20-a of section 1709 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

20-a. a. In its discretion to adopt a resolution establishing the office of claims auditor and appoint a claims auditor who shall hold his or her position subject to the pleasure of such board of education. IN ITS DISCRETION, THE BOARD OF EDUCATION MAY ADOPT A RESOLUTION ESTABLISHING THE OFFICE OF DEPUTY CLAIMS AUDITOR WHO SHALL ACT AS CLAIMS AUDITOR IN THE ABSENCE OF THE CLAIMS AUDITOR. Such claims auditor shall report directly to the board of education. No person shall be eligible for appointment to the office of claims auditor OR DEPUTY CLAIMS AUDITOR who shall also be:

(1) a member of the board of education;

(2) the clerk or treasurer of the board of education;

(3) the superintendent of schools or other official of the district responsible for business management;

(4) the person designated as purchasing agent; or

(5) clerical or professional personnel directly involved in accounting and purchasing functions of the school district.

b. Such claims auditor OR DEPUTY CLAIMS AUDITOR shall not be required to be a resident of the district, and such position shall be classified in the exempt class of the civil service. Such board of education, at any time after the establishment of the office of claims auditor OR DEPUTY CLAIMS AUDITOR, may adopt a resolution abolishing such office, whereupon such office shall be abolished. When the office of claims auditor OR DEPUTY CLAIMS AUDITOR shall have been established and a claims auditor OR DEPUTY CLAIMS AUDITOR shall have been appointed and shall have qualified, the powers and duties of the board of education with respect to claims auditing, allowing or rejecting all accounts, charges, claims or demands against the school district shall devolve upon and thereafter be exercised by such claims auditor, during the continuance of such office. A board shall be permitted to delegate the claims audit function TO ONE OR MORE INDEPENDENT ENTITIES by using (1) inter-municipal cooperative agreements, (2) shared services to the extent authorized by section nineteen hundred fifty of this title, or (3) independent contractors, to fulfill this function.

C. WHEN THE BOARD OF EDUCATION DELEGATES THE CLAIMS AUDIT FUNCTION USING AN INTER-MUNICIPAL COOPERATIVE AGREEMENT, SHARED SERVICE AUTHORIZED BY SECTION NINETEEN HUNDRED FIFTY OF THIS TITLE, OR AN INDEPENDENT CONTRACTOR, THE BOARD SHALL BE RESPONSIBLE FOR AUDITING ALL CLAIMS FOR

SERVICES FROM THE ENTITY PROVIDING THE DELEGATED CLAIMS AUDITOR, EITHER DIRECTLY OR THROUGH A DELEGATION TO A DIFFERENT INDEPENDENT ENTITY.

S 3. Paragraph e of subdivision 2 of section 1711 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

e. To have supervision and direction of associate, assistant and other superintendents, directors, supervisors, principals, teachers, lecturers, medical inspectors, nurses, claims auditors, DEPUTY CLAIMS AUDITORS, attendance officers, janitors and other persons employed in the management of the schools or the other educational activities of the district authorized by this chapter and under the direction and management of the board of education; to transfer teachers from one school to another, or from one grade of the course of study to another grade in such course, and to report immediately such transfers to such board for its consideration and actions; to report to such board violations of regulations and cases of insubordination, and to suspend an associate, assistant or other superintendent, director, supervisor, expert, principal, teacher or other employee until the next regular meeting of such board, when all facts relating to the case shall be submitted to such board for its consideration and action.

S 4. Subdivision 5 of section 2503 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

5. Shall create, abolish, maintain and consolidate such positions, divisions, boards or bureaus as, in its judgment, may be necessary for the proper and efficient administration of its work; shall appoint properly qualified persons to fill such positions, including a superintendent of schools, such associate, assistant and other superintendents, directors, supervisors, principals, teachers, lecturers, special instructors, medical inspectors, nurses, claims auditors, DEPUTY CLAIMS AUDITORS, attendance officers, secretaries, clerks, custodians, janitors and other employees and other persons or experts in educational, social or recreational work or in the business management or direction of its affairs as said board shall determine necessary for the efficient management of the schools and other educational, social, recreational and business activities; and shall determine their duties except as otherwise provided herein.

S 5. Subdivision 5 of section 2508 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

5. To have supervision and direction of associate, assistant and other superintendents, directors, supervisors, principals, teachers, lecturers, medical inspectors, nurses, claims auditors, DEPUTY CLAIMS AUDITORS, attendance officers, janitors and other persons employed in the management of the schools or the other educational activities of the district authorized by this chapter and under the direction and management of the board of education; to transfer teachers from one school to another, or from one grade of the course of study to another grade in such course, and to report immediately such transfers to such board for its consideration and action; to report to such board violations of regulations and cases of insubordination, and to suspend an associate, assistant or other superintendent, director, supervisor, expert, principal, teacher or other employee until the next regular meeting of such board, when all facts relating to the case shall be submitted to such board for its consideration and action.

S 6. Subdivision 2 of section 2523 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

1 2. Such moneys shall be disbursed only on the signature of such treas-
2 urer by checks payable to the person or persons entitled thereto. The
3 board of education may in its discretion require that such checks-other
4 than checks for salary, be countersigned by another officer of such
5 district. When authorized by resolution of the board of education such
6 checks may be signed with the facsimile signature of the treasurer and
7 other district officer whose signature is required, as reproduced by a
8 machine or device commonly known as a check-signer. Each check drawn by
9 the treasurer shall state the fund against which it is drawn. No fund
10 shall be overdrawn nor shall any check be drawn upon one fund to pay a
11 claim chargeable to another. No money shall be paid out by the treasurer
12 except upon the warrant of the clerk of the board of education after
13 audit and allowance by such board, or if a claims auditor OR DEPUTY
14 CLAIMS AUDITOR shall have been appointed, except upon the warrant of
15 such claims auditor OR DEPUTY CLAIMS AUDITOR after audit and allowance
16 thereof; provided, however, when provision for payment has been made in
17 the annual budget the treasurer may pay, without such warrant or prior
18 audit and allowance, (a) the principal of and interest on bonds, notes
19 or other evidences of indebtedness of the district or for the payment of
20 which the district shall be liable, and (b) compensation for services of
21 officers or employees engaged at agreed wages by the hour, day, week,
22 month or year upon presentation of a duly certified payroll. By resol-
23 ution duly adopted, the board may determine to enter into a contract to
24 provide for the deposit of the periodic payroll of the school district
25 in a bank or trust company for disbursal by it in accordance with
26 provisions of section ninety-six-b of the banking law.

27 S 7. Subdivision 1 of section 2524 of the education law, as amended by
28 chapter 263 of the laws of 2005, is amended to read as follows:

29 1. No claim against a city school district, except for compensation
30 for services of an officer or employee engaged at agreed wages by the
31 hour, day, week, month or year or for the principal of or interest on
32 indebtedness of the district, shall be paid unless an itemized voucher
33 therefor approved by the officer whose action gave rise or origin to the
34 claim, shall have been presented to the board of education, or THE
35 claims auditor OR DEPUTY CLAIMS AUDITOR of the city school district and
36 shall have been audited and allowed. The board of education shall be
37 authorized, but not required, to prescribe the form of such voucher.

38 S 8. Section 2525 of the education law, as amended by chapter 263 of
39 the laws of 2005, is amended to read as follows:

40 S 2525. Audit of claims. 1. The board of education, in considering any
41 claim, may require any person presenting the same to be sworn before it
42 or before any member thereof and to give testimony relative to the just-
43 ness and accuracy of such claim, and may take evidence and examine
44 witnesses under oath in respect to the claim, and for that purpose may
45 issue subpoenas for the attendance of witnesses. When a claim has been
46 finally audited by the board of education the clerk of such board shall
47 endorse thereon or attach thereto a certificate of such audit and file
48 the same as a public record in his or her office. When any claim has
49 been so audited and a certificate thereof so filed, the clerk of the
50 board of education shall draw a warrant specifying the name of the
51 claimant, the amount allowed and the fund, function and object chargea-
52 ble therewith and such other information as may be deemed necessary and
53 essential, directed to the treasurer of the district, authorizing and
54 directing him or her to pay to the claimant the amount allowed upon his
55 or her claim. A copy of such warrant shall be filed in the office of the
56 clerk.

1 2. In a city school district in which the office of claims auditor OR
2 DEPUTY CLAIMS AUDITOR has been created, the claims auditor OR DEPUTY
3 CLAIMS AUDITOR in considering a claim, may require any person presenting
4 the same to be sworn before him or her and to give testimony relative to
5 the justness and accuracy of such claim, and may take evidence and exam-
6 ine witnesses under oath in respect to the claim, and for that purpose
7 may issue subpoenas for the attendance of witnesses. When a claim has
8 been finally audited by the claims auditor OR DEPUTY CLAIMS AUDITOR he
9 or she shall endorse thereon or attach thereto a certificate of such
10 audit and file the same as a public record in his or her office. When
11 any claim has been so audited and a certificate thereof so filed, the
12 claims auditor OR DEPUTY CLAIMS AUDITOR shall draw a warrant specifying
13 the number of the claim, the name of the claimant, the amount allowed
14 and the fund, function and object chargeable therewith and such other
15 information as may be deemed necessary or essential, directed to the
16 treasurer of the district, authorizing and directing him or her to pay
17 to the claimant the amount allowed upon his or her claim. A copy of such
18 warrant shall be filed in the office of the clerk.

19 S 9. Section 2526 of the education law, as amended by chapter 263 of
20 the laws of 2005, is amended to read as follows:

21 S 2526. Claims auditor. 1. The board of education of a city school
22 district may adopt a resolution establishing the office of claims audi-
23 tor and appoint a claims auditor who shall hold his or her position
24 subject to the pleasure of such board of education. IN ITS DISCRETION,
25 THE BOARD MAY ADOPT A RESOLUTION ESTABLISHING THE OFFICE OF DEPUTY
26 CLAIMS AUDITOR WHO SHALL ACT AS CLAIMS AUDITOR IN THE ABSENCE OF THE
27 CLAIMS AUDITOR. Such claims auditor shall report directly to the board
28 of education. No person shall be eligible for appointment to the office
29 of claims auditor OR DEPUTY CLAIMS AUDITOR who shall be:

- 30 (1) a member of the board of education;
31 (2) the clerk or treasurer of the board of education;
32 (3) the superintendent of schools or other official of the district
33 responsible for business management;
34 (4) the person designated as purchasing agent; or
35 (5) clerical or professional personnel directly involved in accounting
36 and purchasing functions of the school district.

37 1-a. The [position] POSITIONS of claims auditor AND DEPUTY CLAIMS
38 AUDITOR shall be classified in the exempt class of civil service. Such
39 board of education, at any time after the establishment of the office of
40 claims auditor OR DEPUTY CLAIMS AUDITOR, may adopt a resolution abolish-
41 ing such office, whereupon such office shall be abolished.

42 2. When the office of claims auditor OR DEPUTY CLAIMS AUDITOR shall
43 have been established and a claims auditor OR DEPUTY CLAIMS AUDITOR
44 shall have been appointed and shall have qualified, the powers and
45 duties of the board of education with respect to claims auditing, allow-
46 ing or rejecting all accounts, charges, claims or demands against the
47 city school district shall devolve upon and thereafter be exercised by
48 such claims auditor OR DEPUTY CLAIMS AUDITOR, during the continuance of
49 such office. The board of education shall be permitted to delegate the
50 claims audit function TO ONE OR MORE INDEPENDENT ENTITIES by using (1)
51 inter-municipal cooperative agreements, (2) shared services to the
52 extent authorized by section nineteen hundred fifty of this title, or
53 (3) independent contractors, to fulfill this function.

54 3. WHEN THE BOARD OF EDUCATION DELEGATES THE CLAIMS AUDIT FUNCTION
55 USING AN INTER-MUNICIPAL COOPERATIVE AGREEMENT, SHARED SERVICE AUTHOR-
56 IZED BY SECTION NINETEEN HUNDRED FIFTY OF THIS TITLE, OR AN INDEPENDENT

CONTRACTOR, THE BOARD SHALL BE RESPONSIBLE FOR AUDITING ALL CLAIMS FOR SERVICES FROM THE ENTITY PROVIDING THE DELEGATED CLAIMS AUDITOR, EITHER DIRECTLY OR THROUGH A DELEGATION TO A DIFFERENT INDEPENDENT ENTITY.

S 10. Section 2527 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

S 2527. Official undertakings. The clerk of the board of education or, where the office of claims auditor OR DEPUTY CLAIMS AUDITOR has been created, the claims auditor OR DEPUTY CLAIMS AUDITOR, and the treasurer, collector and such other officers and employees as the board of education shall designate, shall, before they enter upon the duties of their respective offices or positions, each execute to the school district and file with the school district clerk an official undertaking in such sum and with such corporate surety as the board of education shall direct and approve. The board of education may, at any time, require any such officer or employee to file a new official undertaking for such sum and with such corporate surety as the board shall approve. Such undertakings as shall have been approved by the board of education shall forthwith be filed with the school district clerk. The expense of any undertaking executed pursuant to this section shall be a school district charge.

S 11. Subdivision 2-a of section 2554 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

2-a. a. In its discretion to adopt a resolution establishing the office of claims auditor and appoint a claims auditor who shall hold his or her position subject to the pleasure of the board. IN ITS DISCRETION, THE BOARD MAY ADOPT A RESOLUTION ESTABLISHING ONE OR MORE OFFICES OF DEPUTY CLAIMS AUDITOR WHO SHALL ACT AS CLAIMS AUDITOR IN THE ABSENCE OF THE CLAIMS AUDITOR. Such claims auditor shall report directly to the board of education. No person shall be eligible for appointment to the office of claims auditor OR DEPUTY CLAIMS AUDITOR who shall be

(1) a member of the board of education;

(2) a clerk or treasurer of the board of education;

(3) the superintendent of schools or other official of the district responsible for business management;

(4) the person designated as purchasing agent; or

(5) clerical or professional personnel directly involved in accounting and purchasing functions of the school district.

b. The [position] POSITIONS of claims auditor OR DEPUTY CLAIMS AUDITOR shall be classified in the exempt class of civil service. The board of education, at any time after the establishment of the office of claims auditor OR DEPUTY CLAIMS AUDITOR, may adopt a resolution abolishing the office. When the office of claims auditor OR DEPUTY CLAIMS AUDITOR shall have been established and a claims auditor OR DEPUTY CLAIMS AUDITOR shall have been appointed and shall have qualified, the powers and duties of the board of education with respect to auditing accounts, charges, claims or demands against the city school district shall devolve upon and thereafter be exercised by such claims auditor OR DEPUTY CLAIMS AUDITOR, during the continuance of the office. The board of education shall be permitted to delegate the claims audit function TO ONE OR MORE INDEPENDENT ENTITIES by using (1) inter-municipal cooperative agreements, or (2) independent contractors, to fulfill this function.

C. WHEN THE BOARD OF EDUCATION DELEGATES THE CLAIMS AUDIT FUNCTION USING AN INTER-MUNICIPAL COOPERATIVE AGREEMENT, SHARED SERVICE AUTHORIZED BY SECTION NINETEEN HUNDRED FIFTY OF THIS TITLE, OR AN INDEPENDENT CONTRACTOR, THE BOARD SHALL BE RESPONSIBLE FOR AUDITING ALL CLAIMS FOR

SERVICES FROM THE ENTITY PROVIDING THE DELEGATED CLAIMS AUDITOR, EITHER DIRECTLY OR THROUGH A DELEGATION TO A DIFFERENT INDEPENDENT ENTITY.

S 12. Subdivision 2 of section 2562 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

2. The said board of education may require any person presenting for settlement an account or claim for any cause whatever against it to be sworn before it or a committee thereof, or before the claims auditor OR DEPUTY CLAIMS AUDITOR, or before any person designated by said board, touching such account or claim, and when so sworn, to answer orally as to any facts relative to the justness of such account or claim. A member of the board, the claims auditor OR DEPUTY CLAIMS AUDITOR, or any other person designated as hereinbefore stated, shall have the power to administer an oath to any person who shall give testimony to the justness of such account or claim, and for the purpose of securing such testimony may issue subpoenas for the attendance of witnesses. Wilful false swearing before the said board of education, a committee thereof, the claims auditor OR DEPUTY CLAIMS AUDITOR, or before any person designated as hereinbefore stated, is perjury and punishable as such.

S 13. Subdivision 6 of section 2566 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

6. To have supervision and direction of associate, assistant, district and other superintendents, directors, supervisors, principals, teachers, lecturers, medical inspectors, nurses, claims auditors, DEPUTY CLAIMS AUDITORS, attendance officers, janitors and other persons employed in the management of the schools or the other educational activities of the city authorized by this chapter and under the direction and management of the board of education, except that in the city school districts of the cities of Buffalo and Rochester to also appoint, within the amounts budgeted therefor, such associate, assistant and district superintendents and all other supervising staff who are excluded from the right to bargain collectively pursuant to article fourteen of the civil service law; to transfer teachers from one school to another, or from one grade of the course of study to another grade in such course, and to report immediately such transfers to said board for its consideration and action; to report to said board of education violations of regulations and cases of insubordination, and to suspend an associate, assistant, district or other superintendent, director, supervisor, expert, principal, teacher or other employee until the next regular meeting of the board, when all facts relating to the case shall be submitted to the board for its consideration and action.

S 14. Paragraph a of subdivision 1 of section 2576 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

a. The salary of the superintendent of schools, associate, district or assistant or other superintendents, examiners, directors, supervisors, principals, teachers, lecturers, special instructors, claims auditors, DEPUTY CLAIMS AUDITORS, medical inspectors, nurses, attendance officers, clerks, custodians and janitors and the salary, fees or compensation of all other employees appointed or employed by said board of education. In addition, the expenses of personnel utilized to fulfill the internal audit function pursuant to section twenty-one hundred sixteen-b of this chapter.

S 15. Subdivision 2 of section 2580 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

2. Such funds shall be disbursed by authority of the board of education upon written orders drawn on the city treasurer or other fiscal

1 officer of the city. Such orders shall be signed by the superintendent
2 of schools and the secretary of the board of education or such other
3 officers as the board may authorize. If a claims auditor OR DEPUTY
4 CLAIMS AUDITOR shall have been appointed, orders shall be signed by
5 [the] SUCH claims auditor; provided, however, that the board may
6 require, in addition, the signature of such other officer or officers as
7 it may by resolution direct. Orders shall be numbered consecutively and
8 shall specify the purpose for which they are drawn and the person or
9 corporation to whom they are payable.

10 S 16. The commissioner of education is authorized to promulgate any
11 regulations necessary to implement the provisions of this act.

12 S 17. This act shall take effect immediately.