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

8686

2009-2010 Regular Sessions

I N A S S E M B L Y

June 3, 2009

Introduced by M. of A. MAISEL -- Multi-Sponsored by -- M. of A. BRENNAN -- read once and referred to the Committee on Education

AN ACT to amend the education law and the public authorities law, in relation to the powers and duties of community school superintendents, to expand the membership of the board of education of the city school district of the city of New York, in relation to requiring community district education councils to hold a public hearing prior to the closure of a school, prior to procurement by the board of education of the city school district of the city of New York, and prior to procurement by the New York city school construction authority; and to amend the education law, in relation to the creation of an independent school performance data and budget office; to amend chapter 91 of the laws of 2002 amending the education law and other laws relating to the reorganization of the New York city school construction authority board of education and community boards, in relation to the effectiveness thereof; to amend chapter 123 of the laws of 2003 amending the education law relating to establishing the community district education council within the New York city community school district system, in relation to the effectiveness thereof; and to repeal certain provisions of the education law relating thereto; and providing for the repeal of certain provisions upon the expiration thereof

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

Section 1. Subdivision 1 of section 402-a of the education law, as added by chapter 196 of the laws of 1990, is amended to read as follows:

1. At least six months in advance of a proposed school closing, the trustees or board of education of a school district in which such building is located are hereby authorized and recommended to establish an advisory committee on school building utilization to investigate the educational impact of such a closing. In a city with a population of one million or more, when the city board is considering the closing of any

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

LBD14077-02-9

school building, such city board is hereby [authorized and recommended] REQUIRED to establish such advisory committee on school building utilization for schools within its jurisdiction and delegate to the appropriate community [school board] DISTRICT EDUCATION COUNCIL the responsibility for appointing such a committee for any school within the jurisdiction of such community [school board] DISTRICT EDUCATION COUNCIL. Each committee may be comprised of but not limited to school district authorities, teaching and nonteaching personnel, parents of pupils who attend public schools in the district, other residents of the district, and representatives from business, labor and local government. Such committee, if established, shall prepare in writing an educational impact statement which shall consider the criteria stated in subdivision two of this section.

S 2. Subdivision 7 of section 2590-a of the education law is renumbered subdivision 8 and a new subdivision 7 is added to read as follows:

7. INDEPENDENT SCHOOL PERFORMANCE DATA AND BUDGET OFFICE. THE TERM "INDEPENDENT SCHOOL PERFORMANCE DATA AND BUDGET OFFICE" SHALL MEAN THE INDEPENDENT SCHOOL PERFORMANCE DATA AND BUDGET OFFICE CREATED BY SECTION TWENTY-FIVE HUNDRED NINETY-T OF THIS ARTICLE.

S 3. Subdivision 1 of section 2590-b of the education law, as added by chapter 91 of the laws of 2002, is amended to read as follows:

1. (a) The board of education of the city school district of the city of New York is hereby continued. Such board of education shall consist of thirteen members: one member to be appointed by each borough president of the city of New York; seven members to be appointed by the mayor of the city of New York; and [the chancellor] ONE MEMBER APPOINTED BY THE SPEAKER OF THE NEW YORK CITY COUNCIL. The [chancellor shall serve as the] chairperson of the city board SHALL BE A DULY APPOINTED MEMBER ELECTED EACH YEAR BY A MAJORITY OF MEMBERS OF THE CITY BOARD. [All twelve appointed members shall serve at the pleasure of the appointing authority and shall not] NO MEMBER SHALL be employed in any capacity by the city of New York, or a subdivision thereof, or the city board. Each borough president's appointee shall be a resident of the borough for which the borough president appointing him or her was elected and shall be the parent of a child attending a public school within the city school district of the city of New York. Each mayoral appointee shall be a resident of the city. Any vacancy shall be filled by appointment by the appropriate appointing authority. Notwithstanding any provision of local law, the members of the board shall not have staff, offices, or vehicles assigned to them or receive compensation for their services, but shall be reimbursed for the actual and necessary expenses incurred by them in the performance of their duties.

(b) MEMBERS OF THE CITY BOARD SHALL SERVE FOR FIXED TERMS OF TWO YEARS AND MAY NOT BE REMOVED BY THEIR APPOINTING AUTHORITIES EXCEPT FOR MALFEASANCE OR MISFEASANCE, AND PROVIDED FURTHER THAT THE TERMS OF THE APPOINTEES OF THE MAYOR AND BOROUGH PRESIDENTS SHALL NOT EXTEND BEYOND THAT OF THE AUTHORITY APPOINTING THEM.

(C) The city board shall hold at least twelve meetings per year; any additional meetings may be called at the request of the [chancellor] CHAIRPERSON OF THE CITY BOARD.

S 4. Section 2590-e of the education law is amended by adding a new subdivision 20 to read as follows:

20. HOLD A PUBLIC HEARING ON THE PROPOSED CLOSURE OF ANY SCHOOL. SUCH HEARING SHALL BE HELD AT THE SCHOOL THAT IS THE SUBJECT OF THE HEARING. SUCH HEARING SHALL BE HELD AT LEAST SIX MONTHS AND NO MORE THAN ONE YEAR PRIOR TO SUCH ANTICIPATED CLOSURE DATE. THE COUNCIL SHALL ENSURE THAT

NOTICE OF THE HEARING IS POSTED IN SUCH A MANNER TO MAXIMIZE THE NUMBER OF AFFECTED INDIVIDUALS THAT RECEIVE NOTICE, INCLUDING PROVIDING NOTICE TO STUDENTS AND PARENTS OF THE STUDENTS. UPON THE CONCLUSION OF THE PUBLIC HEARING, THE COUNCIL SHALL ISSUE AN ADVISORY RECOMMENDATION REGARDING THE PROPOSED ACTION TO THE CHANCELLOR.

S 5. Paragraph (b) of subdivision 1 of section 2590-f of the education law, as added by chapter 720 of the laws of 1996, is amended to read as follows:

(b) to delegate any of her or his powers and duties to such subordinate officers or employees of her or his community district as she or he deems appropriate and to modify or rescind any power and duty so delegated, PROVIDED HOWEVER THAT A SUPERINTENDENT MAY NOT DELEGATE THEIR POWER AND DUTY TO APPOINT OR REJECT PRINCIPAL CANDIDATES SCREENED PURSUANT TO PARAGRAPH (E) OF THIS SUBDIVISION.

S 6. Paragraph (l) of subdivision 1 of section 2590-f of the education law, as added by chapter 720 of the laws of 1996, is amended to read as follows:

(l) to operate administrative offices and similar facilities, including social centers, and recreational and extracurricular programs, under the district's jurisdiction, and the duty to support the operation of school facilities, PROVIDED HOWEVER THE CHANCELLOR MAY NOT ASSIGN DUTIES TO COMMUNITY SUPERINTENDENTS OUTSIDE OF THE DISTRICT TO WHICH THEY ARE APPOINTED.

S 7. Subdivision 30 of section 2590-h of the education law, as added by chapter 91 of the laws of 2002, is amended to read as follows:

30. Select and appoint a community superintendent, in compliance with the qualifications required by subdivision twenty-nine of this section and subject to the provisions of subdivision two of section twenty-five hundred ninety-j of this article, at a salary to be fixed within the budgetary allocation therefor. COMMUNITY SUPERINTENDENTS SHALL BE EMPLOYED PURSUANT TO AND UPON EXECUTION OF A CONTRACT USING TERMS DERIVED FROM A MODEL CONTRACT DEVELOPED BY THE CHANCELLOR, WHICH SHALL INCLUDE PERFORMANCE TARGETS. THE CHANCELLOR SHALL PROVIDE SUFFICIENT FUNDING TO EACH COMMUNITY SCHOOL DISTRICT SO AS TO ENSURE THAT AN ADMINISTRATIVE OFFICE IN EACH DISTRICT SHALL BE OPEN AND ACCESSIBLE TO THE PUBLIC AND SUFFICIENTLY STAFFED TO SUPPORT SCHOOLS AND PARENTS AND PROVIDE RESOURCES SO THAT COMMUNITY SUPERINTENDENTS SHALL EXERCISE THEIR STATUTORY POWERS AND DUTIES WITHIN THE COMMUNITY SCHOOL DISTRICT.

S 8. Subdivision 31 of section 2590-h of the education law is REPEALED and a new subdivision 31 is added to read as follows:

31. INTERVENE IN ANY DISTRICT OR SCHOOL WHICH IS PERSISTENTLY FAILING TO ACHIEVE EDUCATIONAL RESULTS AND STANDARDS APPROVED BY THE CITY BOARD OR ESTABLISHED BY THE STATE BOARD OF REGENTS, OR HAS FAILED TO IMPROVE ITS EDUCATIONAL RESULTS AND STUDENT ACHIEVEMENT IN ACCORDANCE WITH SUCH STANDARDS OR STATE OR CITY BOARD REQUIREMENTS, OR IN ANY SCHOOL OR DISTRICT IN WHICH THERE EXISTS, IN THE CHANCELLOR'S JUDGMENT, A STATE OF UNCONTROLLED OR UNADDRESSED VIOLENCE. THE CHANCELLOR MAY, IN ADDITION TO EXERCISING ANY OTHER POWERS AUTHORIZED BY THIS ARTICLE, REQUIRE SUCH SCHOOL PRINCIPAL, OR DISTRICT AS THE CASE MAY BE, TO PREPARE A CORRECTIVE ACTION PLAN, WITH A TIMETABLE FOR IMPLEMENTATION OF STEPS ACCEPTABLE TO THE CHANCELLOR TO REACH IMPROVEMENT GOALS CONSISTENT WITH CITY BOARD STANDARDS AND EDUCATIONAL RESULTS. THE CHANCELLOR MAY REQUIRE THE SCHOOL OR DISTRICT TO ALTER OR IMPROVE THE CORRECTIVE ACTION PLAN, OR MAY DIRECTLY MODIFY THE PLAN. THE CHANCELLOR SHALL MONITOR IMPLEMENTATION OF THE PLAN, AND, IF THE SCHOOL OR DISTRICT FAILS TO IMPLEMENT IT, MAY SUPERSEDE ANY INCONSISTENT DECISION OF THE SCHOOL PRINCIPAL, COMMU-

NITY DISTRICT EDUCATION COUNCIL OR COMMUNITY SUPERINTENDENT; ASSUME JOINT OR DIRECT CONTROL OF THE OPERATION OF THE SCHOOL OR DISTRICT TO IMPLEMENT THE CORRECTIVE ACTION PLAN; OR TAKE ANY OTHER ACTION AUTHORIZED BY THIS ARTICLE. IN THE EVENT OF A DETERMINATION TO CLOSE A SCHOOL, THE CHANCELLOR SHALL BE REQUIRED TO PUBLICLY RESPOND TO THE RECOMMENDATIONS OF THE COMMUNITY DISTRICT EDUCATION COUNCIL SET FORTH IN SUBDIVISION TWENTY OF SECTION TWENTY-FIVE HUNDRED NINETY-E OF THIS ARTICLE, AND SUCH CLOSURE MUST BE DEFERRED UNTIL THE CONCLUSION OF THE SCHOOL YEAR IN WHICH THE FINAL DETERMINATION HAD BEEN MADE. ANY ACTION OF THE CHANCELLOR TO SUPERSEDE AN INCONSISTENT DECISION OF THE SCHOOL PRINCIPAL, COMMUNITY DISTRICT EDUCATION COUNCIL OR COMMUNITY SUPERINTENDENT, OR TO ASSUME JOINT OR DIRECT CONTROL OF THE OPERATION OF THE SCHOOL OR DISTRICT PURSUANT TO THIS SUBDIVISION MAY BE APPEALED TO THE CITY BOARD IN ACCORDANCE WITH SECTION TWENTY-FIVE HUNDRED NINETY-G OF THIS ARTICLE.

S 9. Subdivision 36 of section 2590-h of the education law is REPEALED and a new subdivision 36 is added to read as follows:

36. (A) NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW, ENSURE THAT ALL CONTRACTS OR AGREEMENTS INVOLVING THE PURCHASE OR DELIVERY OF MATERIAL GOODS, SUPPLIES, AND SERVICES BY OR TO THE CHANCELLOR, THE SUPERINTENDENTS OR THE SCHOOLS, INCLUDING ANY FRANCHISE OR CONCESSION AGREEMENTS, REGARDLESS OF THE SOURCE OF FUNDS, ARE ENTERED INTO IN ACCORDANCE WITH THE PROVISIONS OF CHAPTERS THIRTEEN AND FOURTEEN OF THE NEW YORK CITY CHARTER, THE RULES OF THE NEW YORK CITY PROCUREMENT POLICY BOARD AND OF THE NEW YORK CITY FRANCHISE CONCESSION AND REVIEW COMMITTEE. NO SUCH CONTRACT OR AGREEMENT SHALL BE IMPLEMENTED UNTIL IT HAS BEEN FILED AND REGISTERED BY THE COMPTROLLER PURSUANT TO CHAPTERS FIVE AND THIRTEEN OF THE NEW YORK CITY CHARTER. FOR THE PURPOSES OF THIS SUBDIVISION, THE TERMS "CONTRACT" OR "AGREEMENT" SHALL INCLUDE ANY CONTRACT THAT DIRECTLY OR INDIRECTLY BENEFITS THE CITY DISTRICT, INCLUDING ANY CONTRACT OR OTHER INSTRUMENT IN WHICH THE CITY, CITY BOARD, OR ANY OF ITS OFFICERS AGREES TO GIVE OR RECEIVE A CONSIDERATION OTHER THAN THE PAYMENT OF MONEY;

(B) ESTABLISH STANDARDS FOR QUALITY, FUNCTION, AND UTILITY OF ALL MATERIAL GOODS, SUPPLIES, AND SERVICES PURCHASED BY THE CHANCELLOR, SUPERINTENDENTS, OR SCHOOLS; AND

(C) PROMULGATE REGULATIONS WHICH ENABLE SUPERINTENDENTS AND SCHOOLS TO PURCHASE MATERIAL GOODS, SUPPLIES, AND SERVICES DIRECTLY FROM VENDORS OR SUPPLIERS WHEN SUCH PRODUCTS ARE AVAILABLE AT PRICES OR OTHER TERMS MORE ECONOMICALLY BENEFICIAL FOR THE PURPOSES OF THE ACQUIRING SUPERINTENDENT OR SCHOOL. SUCH REGULATIONS SHALL ALSO INCLUDE REPAIR SERVICES AND BUILDING SUPPLIES, AS DEFINED IN SUCH REGULATIONS, FOR EXPENDITURES FROM EACH DISTRICT'S MINOR REPAIR AND PURCHASING FUNDS PURSUANT TO SECTION TWENTY-FIVE HUNDRED NINETY-R OF THIS ARTICLE.

S 10. The education law is amended by adding a new section 2590-t to read as follows:

S 2590-T. INDEPENDENT SCHOOL PERFORMANCE DATA AND BUDGET OFFICE. 1. THERE IS HEREIN ESTABLISHED THE INDEPENDENT SCHOOL PERFORMANCE DATA AND BUDGET OFFICE TO GATHER, ANALYZE, AND PROVIDE COMPREHENSIVE AND TIMELY INFORMATION TO THE DISTRICT AND THE PUBLIC REGARDING ENROLLMENT, ATTENDANCE, TEST SCORES, GRADUATION RATES, DROPOUT RATES, PUPIL-TEACHER RATIOS, AND ALL BUDGETS OF THE CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK, INCLUDING CENTRAL, DISTRICT AND INDIVIDUAL SCHOOLS.

2. THE INFORMATION REQUIRED BY SUBDIVISION ONE OF THIS SECTION SHALL BE GATHERED, ANALYZED AND PROVIDED BY DISCREET CATEGORIES INCLUDING BUT NOT LIMITED TO CENTRAL OFFICES, SCHOOL ORGANIZATIONS UNDER THE JURISDIC-

TION OF THE CHANCELLOR, COMMUNITY SCHOOL DISTRICTS, CHARTER SCHOOLS, AND INDIVIDUAL SCHOOLS.

S 11. Paragraph b of subdivision 1 of section 1734 of the public authorities law, as added by chapter 738 of the laws of 1988, is amended to read as follows:

b. The authority shall be subject to the provisions of section one hundred one of the general municipal law AND TO THE PROVISIONS OF CHAPTERS THIRTEEN AND FOURTEEN OF THE NEW YORK CITY CHARTER, AND TO THE RULES OF THE NEW YORK CITY PROCUREMENT POLICY BOARD AND OF THE NEW YORK CITY FRANCHISE AND CONCESSION REVIEW COMMITTEE. NO CONTRACT OR AGREEMENT AWARDED PURSUANT TO THIS SECTION SHALL BE IMPLEMENTED UNTIL IT HAS BEEN FILED AND REGISTERED BY THE NEW YORK CITY COMPTROLLER PURSUANT TO CHAPTERS FIVE AND THIRTEEN OF THE NEW YORK CITY CHARTER.

S 12. Section 34 of chapter 91 of the laws of 2002, amending the education law and other laws relating to the reorganization of the New York city school construction authority, board of education and community boards, as amended by chapter 123 of the laws of 2003, is amended to read as follows:

S 34. This act shall take effect July 1, 2002; provided, that sections one through [twenty] FIVE, SEVEN THROUGH NINE, ELEVEN, THIRTEEN, SIXTEEN, SEVENTEEN, NINETEEN, twenty-four, [and] twenty-six through TWENTY-EIGHT, AND thirty of this act shall expire and be deemed repealed June 30, 2009; PROVIDED, FURTHER, THAT SECTIONS SIX AND TWENTY-NINE OF THIS ACT SHALL EXPIRE AND BE DEEMED REPEALED ON JUNE 20, 2015; provided, further, that notwithstanding any provision of article 5 of the general construction law, on June 30, 2009 the provisions of subdivisions 3, 5, and 8, paragraph b of subdivision 13, subdivision 14, paragraphs b, d, and e of subdivision 15, and subdivisions 17 and 21 of section 2554 of the education law as repealed by section three of this act, subdivision 1 of section 2590-b of the education law as repealed by section six of this act, paragraph (a) of subdivision 2 of section 2590-b of the education law as repealed by section seven of this act, section 2590-c of the education law as repealed by section eight of this act, paragraph c of subdivision 2 of section 2590-d of the education law as repealed by section twenty-six of this act, subdivision 1 of section 2590-e of the education law as repealed by section twenty-seven of this act, subdivision 28 of section 2590-h of the education law as repealed by section twenty-eight of this act, subdivision 30 of section 2590-h of the education law as repealed by section twenty-nine of this act, subdivision 30-a of section 2590-h of the education law as repealed by section thirty of this act shall be revived and be read as such provisions existed in law on the date immediately preceding the effective date of this act; provided, however, that sections seven and eight of this act shall take effect on November 30, 2003; provided further that the amendments to subdivision 25 of section 2554 of the education law made by section two of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 12 of chapter 147 of the laws of 2001, as amended, when upon such date the provisions of section four of this act shall take effect.

S 13. Section 17 of chapter 123 of the laws of 2003 amending the education law relating to establishing the community district education council within the New York city community school district system is amended to read as follows:

S 17. This act shall take effect immediately; provided, however, that [the provisions of this act shall be deemed repealed on the same date as

sections 1 through 20, 24 and 26 through 30 of chapter 91 of the laws of 2002]:

(A) SECTIONS ONE, TWO, THREE, FOUR, FIVE, SIX, TEN, ELEVEN, TWELVE, AND THIRTEEN OF THIS ACT SHALL EXPIRE AND BE DEEMED REPEALED ON JUNE 30, 2015; AND

(B) SECTIONS EIGHT AND NINE OF THIS ACT SHALL EXPIRE AND BE DEEMED REPEALED ON NOVEMBER 30, 2015.

S 14. Severability clause. If any clause, sentence, paragraph, subdivision, or section of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or section thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 15. This act shall take effect immediately; provided, however, that:

(a) sections one, two, three, four, five, six, seven, eight, nine, ten, and eleven of this act shall take effect on July 1, 2009;

(b) sections one, two, five, six, nine, ten, and eleven of this act shall expire and be deemed repealed on June 30, 2015;

(c) the amendments to subdivision 1 of section 2590-b of the education law made by section three of this act shall not affect the expiration and reversion of such subdivision and shall expire therewith;

(d) the amendments to section 2590-e of the education law made by section four of this act shall be subject to the expiration and reversion of such section and shall expire therewith;

(e) the amendments to subdivision 30 of section 2590-h of the education law made by section seven of this act shall not affect the expiration and reversion of such subdivision and shall expire therewith; and

(f) section eight of this act shall expire and be deemed repealed November 30, 2015.