

5523

2009-2010 Regular Sessions

I N S E N A T E

May 13, 2009

Introduced by Sen. OPPENHEIMER -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law and the general municipal law, in relation to enacting the education mandate relief act of 2009

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

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "education mandate relief act of 2009."

3 S 2. The education law is amended by adding a new section 308-a to  
4 read as follows:

5 S 308-A. SPECIAL PROVISIONS; MANDATES. 1. AS USED IN THIS SECTION,  
6 "MANDATE" MEANS (A) ANY STATE LAW, RULE OR REGULATION WHICH CREATES A  
7 NEW PROGRAM OR REQUIRES A HIGHER LEVEL OF SERVICE FOR AN EXISTING  
8 PROGRAM WHICH A SCHOOL DISTRICT, ORGANIZED EITHER BY SPECIAL LAWS OR  
9 PURSUANT TO THE PROVISIONS OF A GENERAL LAW, IS REQUIRED TO PROVIDE; OR

10 (B) ANY GENERAL LAW WHICH GRANTS A NEW PROPERTY TAX EXEMPTION OR  
11 INCREASES AN EXISTING PROPERTY TAX EXEMPTION WHICH ANY SUCH SCHOOL  
12 DISTRICT IS REQUIRED TO PROVIDE.

13 2. IN THE EVENT THAT A MANDATE WHICH IMPOSES A COST UPON A SCHOOL  
14 DISTRICT IS CREATED AFTER THE ADOPTION OF A SCHOOL BUDGET, SUCH MANDATE  
15 SHALL NOT BE IMPLEMENTED UNTIL NO SOONER THAN THE FOLLOWING YEAR FOR  
16 WHICH SUCH SCHOOL BUDGET WAS ADOPTED.

17 3. NOTWITHSTANDING SUBDIVISION TWO OF THIS SECTION, SUCH A MANDATE MAY  
18 BE IMPOSED IF:

19 (A) THE MANDATE IS PROVIDED AT THE OPTION OF THE SCHOOL DISTRICT UNDER  
20 A LAW, REGULATION, RULE OR ORDER THAT IS PERMISSIVE RATHER THAN MANDATO-  
21 RY;

22 (B) THE MANDATE IS REQUIRED BY, OR ARISES FROM, AN EXECUTIVE ORDER OF  
23 THE GOVERNOR EXERCISING HIS OR HER EMERGENCY POWERS; OR

24 (C) THE MANDATE IS REQUIRED BY STATUTE OR EXECUTIVE ORDER THAT IMPLE-  
25 MENTS A FEDERAL LAW OR REGULATION AND RESULTS FROM COSTS MANDATED BY THE

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

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1 FEDERAL GOVERNMENT TO BE BORNE AT THE LOCAL LEVEL, UNLESS THE STATUTE OR  
2 EXECUTIVE ORDER IMPOSES COSTS WHICH EXCEED THE COSTS MANDATED BY THE  
3 FEDERAL GOVERNMENT.

4 S 3. Paragraph h of subdivision 25 of section 1709 of the education  
5 law, as added by chapter 700 of the laws of 1993, is amended to read as  
6 follows:

7 h. (1) The board of education is authorized to enter into a contract  
8 with another school district, a county, municipality, or the state divi-  
9 sion for youth to provide transportation for children, provided that the  
10 contract cost is appropriate. In determining the appropriate transporta-  
11 tion contract cost, the transportation service provider school district  
12 shall use a calculation consistent with regulations adopted by the  
13 commissioner for the purpose of assuring that charges reflect the true  
14 costs that would be incurred by a prudent person in the conduct of a  
15 competitive transportation business.

16 (2) NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION FOURTEEN OF SECTION  
17 THREE HUNDRED FIVE OF THIS CHAPTER, SECTION ONE HUNDRED THREE OF THE  
18 GENERAL MUNICIPAL LAW, OR ANY OTHER PROVISION OF LAW TO THE CONTRARY,  
19 THE BOARD OF EDUCATION SHALL BE AUTHORIZED TO ENTER INTO A PIGGYBACK  
20 CONTRACT WITH ANOTHER SCHOOL DISTRICT THAT TRANSPORTS STUDENTS PURSUANT  
21 TO A CONTRACT WITH A PRIVATE TRANSPORTATION CONTRACTOR, PROVIDED THAT  
22 THE BOARD FINDS THAT THE CONTRACT COST IS APPROPRIATE AND ENTRY INTO A  
23 PIGGYBACK CONTRACT WILL RESULT IN A COST SAVINGS TO THE SCHOOL DISTRICT.  
24 FOR PURPOSES OF THIS PARAGRAPH, A "PIGGYBACK CONTRACT" MEANS A CONTRACT  
25 FOR THE TRANSPORTATION OF STUDENTS THAT: (A) PROVIDES TRANSPORTATION TO  
26 A LOCATION OUTSIDE THE STUDENTS' SCHOOL DISTRICT OF RESIDENCE TO WHICH  
27 ANOTHER SCHOOL DISTRICT IS ALREADY PROVIDING TRANSPORTATION TO ITS OWN  
28 STUDENTS THROUGH AN EXISTING CONTRACT WITH A PRIVATE TRANSPORTATION  
29 CONTRACTOR, OTHER THAN A COOPERATIVELY BID CONTRACT; (B) IS ENTERED INTO  
30 BY THE PRIVATE TRANSPORTATION CONTRACTOR AND EACH SCHOOL DISTRICT  
31 INVOLVED; AND (C) PROVIDES FOR TRANSPORTATION IN ACCORDANCE WITH THE  
32 TERMS AND CONDITIONS OF SUCH EXISTING TRANSPORTATION CONTRACT.

33 S 4. Paragraph f of subdivision 2-a of section 1950 of the education  
34 law, as amended by chapter 602 of the laws of 1994, is amended to read  
35 as follows:

36 f. [In the event of a vacancy in the membership of a board of cooper-  
37 ative educational services which occurs prior to January first in any  
38 school year or during the period commencing five days prior to the date  
39 designated for submission of nominations of candidates to the board of  
40 cooperative educational services and ending on the last day of the  
41 school year, a special election to fill such vacancy shall be conducted  
42 in accordance with the provisions of paragraphs b, c and d of this  
43 subdivision on a date designated by the president of the board of coop-  
44 erative educational services not late than forty-five days after the  
45 date the vacancy occurred.] In the event of a vacancy in the membership  
46 of a board of cooperative educational services [which occurs on or after  
47 January first and prior to the fifth day preceding the date designated  
48 for submission of nominations of candidates the board of cooperative  
49 educational services], SUCH BOARD may fill such vacancy by appointment  
50 and the person so appointed shall hold office until the next annual  
51 election of the board of cooperative educational services. [Notwith-  
52 standing any other provision of this subdivision, any vacancy which  
53 occurs on or after July first, nineteen hundred ninety-three and prior  
54 to January first, nineteen hundred ninety-four shall be filled by a  
55 special election in accordance with paragraphs b, c and d of this subdi-  
56 vision.]

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

3 OO. THE BOARDS OF COOPERATIVE EDUCATIONAL SERVICES (BOCES) SHALL  
4 CONVENE COMMITTEES OF SCHOOL AND COMMUNITY LEADERS IN EACH BOCES REGION  
5 TO RECOMMEND OPTIONS FOR SCHOOL DISTRICT CONSOLIDATION AND SHARED  
6 SERVICES AND ISSUE A REPORT BASED ON SUCH FINDINGS TO THE COMMISSIONER,  
7 NO LATER THAN JULY FIRST, TWO THOUSAND TEN. SUCH REPORT SHALL INCLUDE,  
8 BUT NOT BE LIMITED TO AN EXAMINATION OF THE VIABILITY OF REGIONAL ADMIN-  
9 ISTRATIVE OPERATIONS, TRANSPORTATION, ENERGY PROCUREMENT AND HEALTH  
10 INSURANCE PROGRAMS, INCLUDING THE BULK PURCHASE OF PRESCRIPTION DRUGS.

11 S 6. Subparagraph 1 of paragraph d of subdivision 4 of section 1950 of  
12 the education law, as amended by chapter 474 of the laws of 1996, is  
13 amended to read as follows:

14 (1) Aidable shared services. At the request of component school  
15 districts, and with the approval of the commissioner, provide any of the  
16 following services on a cooperative basis: school nurse teacher, attend-  
17 ance supervisor, supervisor of teachers, dental hygienist, psychologist,  
18 teachers of art, music, physical education, career education subjects,  
19 guidance counsellors, operation of special classes for students with  
20 disabilities, as such term is defined in article eighty-nine of this  
21 chapter; pupil and financial accounting service by means of mechanical  
22 equipment; CLAIMS AUDITING OR INTERNAL AUDITING SERVICES; maintenance  
23 and operation of cafeteria or restaurant service for the use of pupils  
24 and teachers while at school, and such other services as the commission-  
25 er may approve. Such cafeteria or restaurant service may be used by the  
26 community for school related functions and activities and to furnish  
27 meals to the elderly residents of the district, sixty years of age or  
28 older. Utilization by elderly residents or school related groups shall  
29 be subject to the approval of the board of education. Charges shall be  
30 sufficient to bear the direct cost of preparation and serving of such  
31 meals, exclusive of any other available reimbursements.

32 S 7. Subparagraphs (v), (vi), (vii) and (vii) of paragraph b of subdi-  
33 vision 4 of section 2023 of the education law, subparagraphs (v) and  
34 (vi) as separately amended by section 1 of part D-2 of chapter 57 and  
35 chapter 422 of the laws of 2007, subparagraph (vii) as added by section  
36 1 of part D-2 of chapter 57 of the laws of 2007 and subparagraph (vii)  
37 as added by chapter 422 of the laws of 2007, are amended and a new  
38 subparagraph (ix) is added to read as follows:

39 (v) expenditures in the contingency budget attributable to projected  
40 increases in public school enrollment, which, for the purpose of this  
41 subdivision, may include increases attributable to the enrollment of  
42 students attending a pre-kindergarten program established in accordance  
43 with section thirty-six hundred two-e of this chapter, to be computed  
44 based upon an increase in enrollment from the year prior to the base  
45 year for which the budget is being adopted to the base year for which  
46 the budget is being adopted, provided that where the trustees or board  
47 of education have documented evidence that a further increase in enroll-  
48 ment will occur during the school year for which the contingency budget  
49 is prepared because of new construction, inception of a pre-kindergarten  
50 program, growth or similar factors, the expenditures attributable to  
51 such additional enrollment may also be disregarded;

52 (vi) non-recurring expenditures in the prior year's school district  
53 budget; [and]

54 (vii) expenditures for payments to charter schools pursuant to section  
55 twenty-eight hundred fifty-six of this chapter[.];

1 [(vii)] (VIII) expenditures for self-supporting programs. For purposes  
2 of this subparagraph, "self-supporting programs" shall mean any programs  
3 that are entirely funded by private funds that cover all the costs of  
4 the program[.]; AND

5 (IX) EXPENDITURES FOR THE AMOUNT OF ANY INCREASED COST FOR PENSION  
6 CONTRIBUTIONS, RETIREMENT BENEFITS AND HEALTH INSURANCE OVER THE PRIOR  
7 SCHOOL YEAR.

8 S 8. Paragraphs b and c of subdivision 1 of section 6-r of the general  
9 municipal law, as added by chapter 260 of the laws of 2004, are amended  
10 to read as follows:

11 b. "Participating employer" means: (I) a participating employer as  
12 defined in subdivision twenty of section two of the retirement and  
13 social security law or in subdivision twenty of section three hundred  
14 two of such law; OR (II) AN EMPLOYER AS DEFINED IN SUBDIVISION THREE OF  
15 SECTION FIVE HUNDRED ONE OF THE EDUCATION LAW.

16 c. "Retirement contribution" shall mean all or any portion of the  
17 amount payable by a municipal corporation to: (I) either the New York  
18 state and local employees' retirement system or the New York state and  
19 local police and fire retirement system pursuant to section seventeen or  
20 three hundred seventeen of the retirement and social security law; OR  
21 (II) THE NEW YORK STATE TEACHERS' RETIREMENT SYSTEM PURSUANT TO SECTION  
22 FIVE HUNDRED TWENTY-ONE OF THE EDUCATION LAW.

23 S 9. This act shall take effect immediately, provided, however, that  
24 section six of this act shall take effect July 1, 2010.