

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

5523--A

2009-2010 Regular Sessions

I N S E N A T E

May 13, 2009

Introduced by Sens. OPPENHEIMER, C. JOHNSON -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- recommitted to the Committee on Education in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law and the general municipal law, in relation to enacting the education mandate relief act of 2010; 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:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "education mandate relief act of 2010."
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:

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

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

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

6 (C) THE MANDATE IS REQUIRED BY STATUTE OR EXECUTIVE ORDER THAT IMPLE-
7 MENTS A FEDERAL LAW OR REGULATION AND RESULTS FROM COSTS MANDATED BY THE
8 FEDERAL GOVERNMENT TO BE BORNE AT THE LOCAL LEVEL, UNLESS THE STATUTE OR
9 EXECUTIVE ORDER IMPOSES COSTS WHICH EXCEED THE COSTS MANDATED BY THE
10 FEDERAL GOVERNMENT.

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

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

23 (2) NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION FOURTEEN OF SECTION
24 THREE HUNDRED FIVE OF THIS CHAPTER, SECTION ONE HUNDRED THREE OF THE
25 GENERAL MUNICIPAL LAW, OR ANY OTHER PROVISION OF LAW TO THE CONTRARY,
26 THE BOARD OF EDUCATION SHALL BE AUTHORIZED TO ENTER INTO A SHARED TRANS-
27 PORTATION SERVICES CONTRACT WITH ANOTHER SCHOOL DISTRICT THAT TRANSPORTS
28 STUDENTS PURSUANT TO A CONTRACT WITH A PRIVATE TRANSPORTATION CONTRAC-
29 TOR, PROVIDED THAT THE BOARD FINDS THAT THE CONTRACT COST IS APPROPRIATE
30 AND ENTRY INTO A SHARED TRANSPORTATION SERVICES CONTRACT WILL RESULT IN
31 A COST SAVINGS TO THE SCHOOL DISTRICT. FOR PURPOSES OF THIS PARAGRAPH, A
32 "SHARED TRANSPORTATION SERVICES CONTRACT" MEANS A CONTRACT FOR THE
33 TRANSPORTATION OF STUDENTS THAT: (1) PROVIDES TRANSPORTATION TO A
34 LOCATION OUTSIDE THE STUDENTS' SCHOOL DISTRICT OF RESIDENCE TO WHICH
35 ANOTHER SCHOOL DISTRICT IS ALREADY PROVIDING TRANSPORTATION TO ITS OWN
36 STUDENTS THROUGH AN EXISTING CONTRACT WITH A PRIVATE TRANSPORTATION
37 CONTRACTOR, OTHER THAN A COOPERATIVELY BID CONTRACT; (2) IS ENTERED INTO
38 BY THE PRIVATE TRANSPORTATION CONTRACTOR AND EACH SCHOOL DISTRICT
39 INVOLVED; AND (3) PROVIDES FOR TRANSPORTATION IN ACCORDANCE WITH THE
40 TERMS AND CONDITIONS OF SUCH EXISTING TRANSPORTATION CONTRACT.

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

44 f. [In the event of a vacancy in the membership of a board of cooper-
45 ative educational services which occurs prior to January first in any
46 school year or during the period commencing five days prior to the date
47 designated for submission of nominations of candidates to the board of
48 cooperative educational services and ending on the last day of the
49 school year, a special election to fill such vacancy shall be conducted
50 in accordance with the provisions of paragraphs b, c and d of this
51 subdivision on a date designated by the president of the board of coop-
52 erative educational services not late than forty-five days after the
53 date the vacancy occurred.] In the event of a vacancy in the membership
54 of a board of cooperative educational services [which occurs on or after
55 January first and prior to the fifth day preceding the date designated
56 for submission of nominations of candidates the board of cooperative

1 educational services], SUCH BOARD may fill such vacancy by appointment
2 and the person so appointed shall hold office until the next annual
3 election of the board of cooperative educational services. [Notwith-
4 standing any other provision of this subdivision, any vacancy which
5 occurs on or after July first, nineteen hundred ninety-three and prior
6 to January first, nineteen hundred ninety-four shall be filled by a
7 special election in accordance with paragraphs b, c and d of this subdivi-
8 vision.]

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

11 OO. THE BOARDS OF COOPERATIVE EDUCATIONAL SERVICES (BOCES) IN COOPER-
12 ATION WITH THE DISTRICT SUPERINTENDENT APPOINTED PURSUANT TO SECTION
13 TWENTY-TWO HUNDRED FOUR OF THIS CHAPTER SHALL CONVENE COMMITTEES OF
14 SCHOOL AND COMMUNITY LEADERS IN EACH BOCES REGION TO RECOMMEND OPTIONS
15 FOR SCHOOL DISTRICT CONSOLIDATION AND SHARED SERVICES AND ISSUE A REPORT
16 BASED ON SUCH FINDINGS TO THE COMMISSIONER, NO LATER THAN JULY FIRST,
17 TWO THOUSAND ELEVEN. SUCH REPORT SHALL INCLUDE, BUT NOT BE LIMITED TO
18 AN EXAMINATION OF THE VIABILITY OF REGIONAL ADMINISTRATIVE OPERATIONS,
19 TRANSPORTATION, ENERGY PROCUREMENT AND HEALTH INSURANCE PROGRAMS,
20 INCLUDING THE BULK PURCHASE OF PRESCRIPTION DRUGS.

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

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

42 S 7. Paragraph a of subdivision 4 of section 2023 of the education
43 law, as added by section 24 of part A of chapter 436 of the laws of
44 1997, is amended to read as follows:

45 a. The contingency budget shall not result in a percentage increase in
46 total spending over the district's total spending under the school
47 district budget for the prior school year that exceeds the lesser of:
48 (i) THE AVERAGE OF THE PREVIOUS FIVE YEARS OF the result obtained when
49 one hundred twenty percent is multiplied by the percentage increase in
50 the consumer price index, with the result rounded to two decimal places;
51 or (ii) four percent.

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

55 b. "Participating employer" means: (I) a participating employer as
56 defined in subdivision twenty of section two of the retirement and

1 social security law or in subdivision twenty of section three hundred
2 two of such law; OR (II) AN EMPLOYER AS DEFINED IN SUBDIVISION THREE OF
3 SECTION FIVE HUNDRED ONE OF THE EDUCATION LAW.

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

11 S 9. This act shall take effect immediately, provided, however, that:

12 a. section six of this act shall take effect July 1, 2011; and

13 b. section seven of this act shall take effect May 1, 2010 and shall
14 apply to school district budget votes for the 2010-11 school year and
15 shall expire June 30, 2011 when upon such date the provisions of such
16 section shall be deemed repealed.