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

5765

2009-2010 Regular Sessions

I N S E N A T E

June 3, 2009

Introduced by Sen. OPPENHEIMER -- (at request of the State Education Department) -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law, in relation to limiting the duration of a conditional appointment and to amend chapter 147 of the laws of 2001, amending the education law relating to conditional appointment of school district, charter school or BOCES employees, in relation to extending the effectiveness thereof

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

Section 1. Paragraph b of subdivision 39 of section 1604 of the education law, as amended by chapter 147 of the laws of 2001, is amended to read as follows:

b. Upon the recommendation of the superintendent, the trustees may conditionally appoint a prospective employee. A request for conditional clearance shall be forwarded to the commissioner along with the prospective employee's fingerprints, as required by paragraph a of this subdivision. Such appointment shall not commence until notification by the commissioner that the prospective employee has been conditionally cleared for employment and shall terminate FORTY-FIVE DAYS AFTER SUCH NOTIFICATION OF CONDITIONAL CLEARANCE OR when the prospective employer is notified of a determination by the commissioner to grant or deny clearance, WHICHEVER OCCURS EARLIER, AND MAY NOT BE EXTENDED OR RENEWED UNLESS THE COMMISSIONER ISSUES A NEW CONDITIONAL CLEARANCE AFTER FINDING THAT THERE WAS GOOD CAUSE FOR FAILING TO OBTAIN CLEARANCE WITHIN SUCH PERIOD, provided that if clearance is granted, the appointment shall continue and the conditional status shall be removed. Prior to commencement of such conditional appointment, the prospective employer shall obtain a signed statement for conditional appointment from the prospective employee, indicating whether, to the best of his or her knowledge,

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

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he or she has a pending criminal charge or criminal conviction in any jurisdiction outside the state.

S 2. Paragraph b of subdivision 39 of section 1709 of the education law, as amended by chapter 147 of the laws of 2001, is amended to read as follows:

b. Upon the recommendation of the superintendent, the board may conditionally appoint a prospective employee. A request for conditional clearance shall be forwarded to the commissioner along with the prospective employee's fingerprints, as required by paragraph a of this subdivision. Such appointment shall not commence until notification by the commissioner that the prospective employee has been conditionally cleared for employment and shall terminate FORTY-FIVE DAYS AFTER SUCH NOTIFICATION OF CONDITIONAL CLEARANCE OR when the prospective employer is notified of a determination by the commissioner to grant or deny clearance, WHICHEVER OCCURS EARLIER, AND MAY NOT BE EXTENDED OR RENEWED UNLESS THE COMMISSIONER ISSUES A NEW CONDITIONAL CLEARANCE AFTER FINDING THAT THERE WAS GOOD CAUSE FOR FAILING TO OBTAIN CLEARANCE WITHIN SUCH PERIOD, provided that if clearance is granted the appointment shall continue and the conditional status shall be removed. Prior to commencement of such conditional appointment, the prospective employer shall obtain a signed statement for conditional appointment from the prospective employee, indicating whether, to the best of his or her knowledge, he or she has a pending criminal charge or criminal conviction in any jurisdiction outside the state.

S 3. Paragraph b of subdivision 9 of section 1804 of the education law, as amended by chapter 147 of the laws of 2001, is amended to read as follows:

b. Upon the recommendation of the superintendent, the board may conditionally appoint a prospective employee. A request for conditional clearance shall be forwarded to the commissioner along with the prospective employee's fingerprints, as required by paragraph a of this subdivision. Such appointment shall not commence until notification by the commissioner that the prospective employee has been conditionally cleared for employment and shall terminate FORTY-FIVE DAYS AFTER SUCH NOTIFICATION OF CONDITIONAL CLEARANCE OR when the prospective employer is notified of a determination by the commissioner to grant or deny clearance, WHICHEVER OCCURS EARLIER, AND MAY NOT BE EXTENDED OR RENEWED UNLESS THE COMMISSIONER ISSUES A NEW CONDITIONAL CLEARANCE AFTER FINDING THAT THERE WAS GOOD CAUSE FOR FAILING TO OBTAIN CLEARANCE WITHIN SUCH PERIOD, provided that if clearance is granted the appointment shall continue and the conditional status shall be removed. Prior to commencement of such conditional appointment, the prospective employer shall obtain a signed statement for conditional appointment from the prospective employee, indicating whether, to the best of his or her knowledge, he or she has a pending criminal charge or criminal conviction in any jurisdiction outside the state.

S 4. Subparagraph b of paragraph ll of subdivision 4 of section 1950 of the education law, as amended by chapter 147 of the laws of 2001, is amended to read as follows:

b. Upon the recommendation of the district superintendent, the board may conditionally appoint a prospective employee. A request for conditional clearance shall be forwarded to the commissioner along with the prospective employee's fingerprints, as required by paragraph a of this subdivision. Such appointment shall not commence until notification by the commissioner that the prospective employee has been conditionally cleared for employment and shall terminate FORTY-FIVE DAYS AFTER SUCH

NOTIFICATION OF CONDITIONAL CLEARANCE OR when the prospective employer is notified of a determination by the commissioner to grant or deny clearance, WHICHEVER OCCURS EARLIER, AND MAY NOT BE EXTENDED OR RENEWED UNLESS THE COMMISSIONER ISSUES A NEW CONDITIONAL CLEARANCE AFTER FINDING THAT THERE WAS GOOD CAUSE FOR FAILING TO OBTAIN CLEARANCE WITHIN SUCH PERIOD, provided that if clearance is granted, the appointment shall continue and the conditional status shall be removed. Prior to commencement of such conditional appointment, the prospective employer shall obtain a signed statement for conditional appointment from the prospective employee, indicating whether, to the best of his or her knowledge, he or she has a pending criminal charge or criminal conviction in any jurisdiction outside the state.

S 5. Paragraph b of subdivision 18 of section 2503 of the education law, as amended by chapter 147 of the laws of 2001, is amended to read as follows:

b. Upon the recommendation of the superintendent, the board may conditionally appoint a prospective employee. A request for conditional clearance shall be forwarded to the commissioner along with the prospective employee's fingerprints, as required by paragraph a of this subdivision. Such appointment shall not commence until notification by the commissioner that the prospective employee has been conditionally cleared for employment and shall terminate FORTY-FIVE DAYS AFTER SUCH NOTIFICATION OF CONDITIONAL CLEARANCE OR when the prospective employer is notified of a determination by the commissioner to grant or deny clearance, WHICHEVER OCCURS EARLIER, AND MAY NOT BE EXTENDED OR RENEWED UNLESS THE COMMISSIONER ISSUES A NEW CONDITIONAL CLEARANCE AFTER FINDING THAT THERE WAS GOOD CAUSE FOR FAILING TO OBTAIN CLEARANCE WITHIN SUCH PERIOD, provided that if clearance is granted, the appointment shall continue and the conditional status shall be removed. Prior to commencement of such conditional appointment, the prospective employer shall obtain a signed statement for conditional appointment from the prospective employee, indicating whether, to the best of his or her knowledge, he or she has a pending criminal charge or criminal conviction in any jurisdiction outside the state.

S 6. Paragraph b of subdivision 25 of section 2554 of the education law, as amended by chapter 91 of the laws of 2002, is amended to read as follows:

b. Upon the recommendation of the superintendent, the board may conditionally appoint a prospective employee. A request for conditional clearance shall be forwarded to the commissioner along with the prospective employee's fingerprints, as required by paragraph a of this subdivision. Such appointment shall not commence until notification by the commissioner that the prospective employee has been conditionally cleared for employment and shall terminate FORTY-FIVE DAYS AFTER SUCH NOTIFICATION OF CONDITIONAL CLEARANCE OR when the prospective employer is notified of a determination by the commissioner to grant or deny clearance, WHICHEVER OCCURS EARLIER, AND MAY NOT BE EXTENDED OR RENEWED UNLESS THE COMMISSIONER ISSUES A NEW CONDITIONAL CLEARANCE AFTER FINDING THAT THERE WAS GOOD CAUSE FOR FAILING TO OBTAIN CLEARANCE WITHIN SUCH PERIOD, provided that if clearance is granted, the appointment shall continue and the conditional status shall be removed. Prior to commencement of such conditional appointment, the prospective employer shall obtain a signed statement for conditional appointment from the prospective employee, indicating whether, to the best of his or her knowledge, he or she has a pending criminal charge or criminal conviction in any jurisdiction outside the state.

S 7. Subparagraph (ii) of paragraph (a-2) of subdivision 3 of section 2854 of the education law, as amended by chapter 147 of the laws of 2001, is amended to read as follows:

(ii) Upon the recommendation of the chief executive officer of the charter school, the board of trustees of a charter school may conditionally appoint a prospective employee. A request for conditional clearance shall be forwarded to the commissioner along with the prospective employee's fingerprints, as required by subparagraph (i) of this paragraph. Such appointment shall not commence until notification by the commissioner that the prospective employee has been conditionally cleared for employment and shall terminate FORTY-FIVE DAYS AFTER SUCH NOTIFICATION OF CONDITIONAL CLEARANCE OR when the prospective employer is notified of a determination by the commissioner to grant or deny clearance, WHICHEVER OCCURS EARLIER, AND MAY NOT BE EXTENDED OR RENEWED UNLESS THE COMMISSIONER ISSUES A NEW CONDITIONAL CLEARANCE AFTER FINDING THAT THERE WAS GOOD CAUSE FOR FAILING TO OBTAIN CLEARANCE WITHIN SUCH PERIOD, provided that if clearance is granted, the appointment shall continue and the conditional status shall be removed. Prior to commencement of such conditional appointment, the prospective employer shall obtain a signed statement for conditional appointment from the prospective employee, indicating whether, to the best of his or her knowledge, he or she has a pending criminal charge or criminal conviction in any jurisdiction outside the state.

S 8. Section 12 of chapter 147 of the laws of 2001, amending the education law relating to conditional appointment of school district, charter school or BOCES employees, as amended by chapter 90 of the laws of 2007, is amended to read as follows:

S 12. This act shall take effect on the same date as chapter 180 of the laws of 2000 takes effect, and shall expire July 1, [2009] 2010 when upon such date the provisions of this act shall be deemed repealed.

S 9. All conditional clearances issued by the commissioner of education pursuant to sections 1604, 1709, 1804, 1950, 2503, 2554 or 2854 of the education law prior to the effective date of this act shall expire 45 days after such effective date, and upon such expiration the conditional appointment of the prospective employee shall terminate and may not be extended or renewed unless the commissioner issues a new conditional clearance after finding that there was good cause for failing to obtain clearance within such 45 day period.

S 10. This act shall take effect July 1, 2009; provided that in the event this act shall become a law after such date, this act shall take effect immediately and shall be deemed to have been in full force and effect on and after July 1, 2009; provided further that the amendments made to paragraph b of subdivision 39 of section 1604 of the education law by section one of this act, the amendments made to paragraph b of subdivision 39 of section 1709 of the education law by section two of this act, the amendments made to paragraph b of subdivision 9 of section 1804 of the education law by section three of this act, the amendments made to subparagraph b of paragraph ll of subdivision 4 of section 1950 of the education law by section four of this act, the amendments made to paragraph b of subdivision 18 of section 2503 of the education law by section five of this act, the amendments made to paragraph b of subdivision 25 of section 2554 of the education law by section six of this act and the amendments made to subparagraph (ii) of paragraph (a-2) of subdivision 3 of section 2854 of the education law by section seven of this act shall not affect the expiration and repeal of such provisions and shall expire and be repealed therewith.