

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:

1 Section 1. Paragraph b of subdivision 39 of section 1604 of the educa-
2 tion law, as amended by chapter 147 of the laws of 2001, is amended to
3 read as follows:
4 b. Upon the recommendation of the superintendent, the trustees may
5 conditionally appoint a prospective employee. A request for conditional
6 clearance shall be forwarded to the commissioner along with the prospec-
7 tive employee's fingerprints, as required by paragraph a of this subdivi-
8 sion. Such appointment shall not commence until notification by the
9 commissioner that the prospective employee has been conditionally
10 cleared for employment and shall terminate FORTY-FIVE DAYS AFTER SUCH
11 NOTIFICATION OF CONDITIONAL CLEARANCE OR when the prospective employer
12 is notified of a determination by the commissioner to grant or deny
13 clearance, WHICHEVER OCCURS EARLIER, AND MAY NOT BE EXTENDED OR RENEWED
14 UNLESS THE COMMISSIONER ISSUES A NEW CONDITIONAL CLEARANCE AFTER FINDING
15 THAT THERE WAS GOOD CAUSE FOR FAILING TO OBTAIN CLEARANCE WITHIN SUCH
16 PERIOD, provided that if clearance is granted, the appointment shall
17 continue and the conditional status shall be removed. Prior to commence-
18 ment of such conditional appointment, the prospective employer shall
19 obtain a signed statement for conditional appointment from the prospec-
20 tive 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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1 he or she has a pending criminal charge or criminal conviction in any
2 jurisdiction outside the state.

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

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

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

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

47 S 4. Subparagraph b of paragraph 11 of subdivision 4 of section 1950
48 of the education law, as amended by chapter 147 of the laws of 2001, is
49 amended to read as follows:

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

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

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

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

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

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

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

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

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

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

31 S 9. All conditional clearances issued by the commissioner of educa-
32 tion pursuant to sections 1604, 1709, 1804, 1950, 2503, 2554 or 2854 of
33 the education law prior to the effective date of this act shall expire
34 45 days after such effective date, and upon such expiration the condi-
35 tional appointment of the prospective employee shall terminate and may
36 not be extended or renewed unless the commissioner issues a new condi-
37 tional clearance after finding that there was good cause for failing to
38 obtain clearance within such 45 day period.

39 S 10. This act shall take effect July 1, 2009; provided that in the
40 event this act shall become a law after such date, this act shall take
41 effect immediately and shall be deemed to have been in full force and
42 effect on and after July 1, 2009; provided further that the amendments
43 made to paragraph b of subdivision 39 of section 1604 of the education
44 law by section one of this act, the amendments made to paragraph b of
45 subdivision 39 of section 1709 of the education law by section two of
46 this act, the amendments made to paragraph b of subdivision 9 of section
47 1804 of the education law by section three of this act, the amendments
48 made to subparagraph b of paragraph 11 of subdivision 4 of section 1950
49 of the education law by section four of this act, the amendments made to
50 paragraph b of subdivision 18 of section 2503 of the education law by
51 section five of this act, the amendments made to paragraph b of subdivi-
52 sion 25 of section 2554 of the education law by section six of this act
53 and the amendments made to subparagraph (ii) of paragraph (a-2) of
54 subdivision 3 of section 2854 of the education law by section seven of
55 this act shall not affect the expiration and repeal of such provisions
56 and shall expire and be repealed therewith.