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

10130

I N A S S E M B L Y

March 5, 2010

Introduced by M. of A. PAULIN, THIELE, WEISENBERG, ZEBROWSKI, SKARTADOS, KOON, JAFFEE, GUNTHER, GALEF, DelMONTE -- Multi-Sponsored by -- M. of A. BOYLAND, GABRYSZAK, HOOPER, REILLY -- read once and referred 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 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:

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

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

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

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

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

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

(A) THE MANDATE IS PROVIDED AT THE OPTION OF THE SCHOOL DISTRICT UNDER A LAW, REGULATION, RULE OR ORDER THAT IS PERMISSIVE RATHER THAN MANDATORY;

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

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

LBD11869-03-0

(C) THE MANDATE IS REQUIRED BY STATUTE OR EXECUTIVE ORDER THAT IMPLEMENTS A FEDERAL LAW OR REGULATION AND RESULTS FROM COSTS MANDATED BY THE FEDERAL GOVERNMENT TO BE BORNE AT THE LOCAL LEVEL, UNLESS THE STATUTE OR EXECUTIVE ORDER IMPOSES COSTS WHICH EXCEED THE COSTS MANDATED BY THE FEDERAL GOVERNMENT.

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

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

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

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

f. [In the event of a vacancy in the membership of a board of cooperative educational services which occurs prior to January first in any school year or during the period commencing five days prior to the date designated for submission of nominations of candidates to the board of cooperative educational services and ending on the last day of the school year, a special election to fill such vacancy shall be conducted in accordance with the provisions of paragraphs b, c and d of this subdivision on a date designated by the president of the board of cooperative educational services not late than forty-five days after the date the vacancy occurred.] In the event of a vacancy in the membership of a board of cooperative educational services [which occurs on or after January first and prior to the fifth day preceding the date designated for submission of nominations of candidates the board of cooperative educational services], SUCH BOARD may fill such vacancy by appointment and the person so appointed shall hold office until the next annual election of the board of cooperative educational services. [Notwithstanding any other provision of this subdivision, any vacancy which occurs on or after July first, nineteen hundred ninety-three and prior

to January first, nineteen hundred ninety-four shall be filled by a special election in accordance with paragraphs b, c and d of this subdivision.]

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

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

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

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

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

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

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

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

c. "Retirement contribution" shall mean all or any portion of the amount payable by a municipal corporation to: (I) either the New York

state and local employees' retirement system or the New York state and local police and fire retirement system pursuant to section seventeen or three hundred seventeen of the retirement and social security law; OR (II) THE NEW YORK STATE TEACHERS' RETIREMENT SYSTEM PURSUANT TO SECTION FIVE HUNDRED TWENTY-ONE OF THE EDUCATION LAW.

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

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

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