

2552

2009-2010 Regular Sessions

I N A S S E M B L Y

January 20, 2009

Introduced by M. of A. GANTT -- read once and referred to the Committee
on Education

AN ACT to amend the education law, in relation to the board of education
in the city of Rochester; and to repeal certain provisions of such law
relating thereto

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

1 Section 1. The opening paragraph of section 2554 of the education law,
2 as amended by chapter 91 of the laws of 2002, is amended to read as
3 follows:

4 THE BOARD OF EDUCATION IN A CITY SHALL EXERCISE NO EXECUTIVE POWER AND
5 PERFORM NO EXECUTIVE OR ADMINISTRATIVE FUNCTION. Subject to the
6 provisions of this chapter, the board of education in a city, except the
7 city board of the city of New York, shall have the power and it shall be
8 its duty:

9 S 2. Subdivision 2 of section 2554 of the education law, as amended by
10 section 2 of part B of chapter 88 of the laws of 2000, is amended to
11 read as follows:

12 2. To create, abolish, maintain and consolidate such positions, divi-
13 sions, boards or bureaus as, in its judgment, may be necessary for the
14 proper and efficient administration of its work; to appoint a super-
15 intendent of schools, such associate, assistant, district and other
16 superintendents, [examiners,] directors, supervisors, principals, teach-
17 ers, lecturers, special instructors, medical inspectors, nurses, audi-
18 tors, attendance officers, secretaries, clerks, custodians, janitors and
19 other employees and other persons or experts in educational, social or
20 recreational work or in the business management or direction of its
21 affairs as said board shall determine necessary for the efficient
22 management of the schools and other educational, social, recreational
23 and business activities; provided, however, that in the city school
24 [districts] DISTRICT of the [cities] CITY of Buffalo [and Rochester]

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

LBD05666-01-9

1 appointment of associate, assistant and district superintendents, and
2 other supervising staff who are excluded from the right to bargain
3 collectively pursuant to article fourteen of the civil service law
4 shall, within the amounts budgeted for such positions, be by the super-
5 intendent of such city school district AND THOSE SO APPOINTED SHALL BE
6 IN THE UNCLASSIFIED SERVICE UPON SUCH APPOINTMENT FOR CIVIL SERVICE AND
7 RELATED PURPOSES NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND IN THE
8 CITY SCHOOL DISTRICT OF THE CITY OF ROCHESTER APPOINTMENT OF ASSOCIATE,
9 ASSISTANT, DISTRICT SUPERINTENDENTS AND OTHER CERTIFIED AND UNCERTIFIED
10 SUPERVISING STAFF AND RELATED ADMINISTRATIVE STAFF WHO ARE EXCLUDED FROM
11 THE RIGHT TO BARGAIN COLLECTIVELY PURSUANT TO ARTICLE FOURTEEN OF THE
12 CIVIL SERVICE LAW SHALL, WITHIN AMOUNTS BUDGETED FOR SUCH POSITIONS, BE
13 BY THE SUPERINTENDENT OF SUCH CITY SCHOOL DISTRICT AND THOSE SO
14 APPOINTED SHALL BE IN THE UNCLASSIFIED SERVICE UPON SUCH APPOINTMENT FOR
15 CIVIL SERVICE AND RELATED PURPOSES NOTWITHSTANDING ANY OTHER PROVISION
16 OF LAW; and to determine their duties except as otherwise provided here-
17 in.

18 S 3. Subdivision 2-a of section 2554 of the education law is REPEALED
19 and five new subdivisions 2-a, 2-b, 28, 29 and 30 are added to read as
20 follows:

21 2-A. IN ITS DISCRETION TO ADOPT A RESOLUTION ESTABLISHING THE OFFICE
22 OF AUDITOR, AND AT ANY TIME AFTER THE ESTABLISHMENT OF THE OFFICE OF
23 AUDITOR, TO ADOPT A RESOLUTION ABOLISHING THE OFFICE; PROVIDED, HOWEVER,
24 THAT THE SCHOOL DISTRICT OF THE CITY OF ROCHESTER SHALL ADOPT A RESOL-
25 UTION ESTABLISHING THE OFFICE OF AUDITOR, AND SHALL NOT ABOLISH SUCH
26 OFFICE. A BOARD OF EDUCATION WHICH HAS ESTABLISHED THE OFFICE OF AUDITOR
27 SHALL APPOINT AN AUDITOR WHO SHALL HOLD SUCH POSITION SUBJECT TO THE
28 PLEASURE OF THE BOARD. NO PERSON SHALL BE ELIGIBLE FOR APPOINTMENT TO
29 THE OFFICE OF AUDITOR WHO SHALL BE A MEMBER OF THE BOARD OF EDUCATION OR
30 THE SUPERINTENDENT OF SCHOOLS OR WHO SHALL HOLD ANY OTHER POSITION OR
31 PERFORM IN ANY CAPACITY WITHIN THE SCHOOL DISTRICT. WHEN THE OFFICE OF
32 AUDITOR SHALL HAVE BEEN ESTABLISHED AND AN AUDITOR QUALIFIED, THE POWERS
33 AND DUTIES OF THE BOARD OF EDUCATION WITH RESPECT TO AUDITING ACCOUNTS,
34 CHARGES, CLAIMS OR DEMANDS AGAINST THE CITY SCHOOL DISTRICT SHALL
35 DEVOLVE UPON AND THEREAFTER BE EXERCISED BY SUCH AUDITOR, DURING THE
36 CONTINUANCE OF THE OFFICE. THE AUDITOR SHALL HAVE ACCESS TO AND MAY
37 DEMAND PRODUCTION OF ANY RECORDS OF THE SCHOOL DISTRICT, INCLUDING BUT
38 NOT LIMITED TO ESTIMATES OF REVENUES, EXPENSES, INDEBTEDNESS AND CAPITAL
39 NEEDS AND PLANS, WHETHER IN DRAFT OR FINAL FORM WITH ALL BACK-UP INFOR-
40 MATION AND WORK PAPERS, AND WHETHER BEFORE OR AFTER SUBMISSION TO OR
41 APPROVAL BY THE SCHOOL BOARD.

42 2-B. IN ITS DISCRETION TO ASSIGN AN EXAMINER WITH POWER TO CONDUCT
43 INVESTIGATIONS AND HEARINGS ON BEHALF OF THE BOARD OF EDUCATION. EACH
44 EXAMINER SHALL HAVE ACCESS TO AND MAY REQUIRE THE PRODUCTION OF BOOKS,
45 PAPERS AND OTHER DOCUMENTS AND INFORMATION MATERIAL RELATED TO ANY
46 INVESTIGATION OR HEARING. EACH EXAMINER SHALL CONCLUDE AND REPORT THE
47 RESULT OF ANY SUCH INVESTIGATION OR HEARING TO THE BOARD OF EDUCATION NO
48 LATER THAN SIX MONTHS AFTER THE DATE OF AUTHORIZATION OF SUCH INVESTI-
49 GATION OR HEARING.

50 28. IN THE CITY SCHOOL DISTRICT OF THE CITY OF ROCHESTER, TO AUTHORIZE
51 CONTRACTS FOR GOODS AND SERVICES IN AMOUNTS OF FIFTY THOUSAND DOLLARS OR
52 MORE.

53 29. IN THE CITY SCHOOL DISTRICT OF THE CITY OF ROCHESTER, UPON RECEIPT
54 FROM THE SUPERINTENDENT, TO REVIEW AND EITHER RETURN TO THE SUPERINTEN-
55 DENT FOR AMENDMENT OR APPROVE AND FILE WITH THE MAYOR, PURSUANT TO
56 SECTION TWENTY-FIVE HUNDRED SEVENTY-SIX OF THIS ARTICLE, THE ANNUAL

1 ITEMIZED ESTIMATE AND CAPITAL PLAN FOR THE DISTRICT. SUCH BUDGET AND
2 CAPITAL PLAN SHALL INCLUDE MULTI-YEAR PROJECTIONS OF REVENUES, EXPENSES,
3 INDEBTEDNESS AND CAPITAL NEEDS.

4 30. IN THE CITY SCHOOL DISTRICT OF THE CITY OF ROCHESTER, TO DEVELOP
5 JOINTLY, WITH THE SUPERINTENDENT, POLICIES AND PROCEDURES FOR THE
6 HIRING, FIRING AND EVALUATION OF ALL EMPLOYEES OF THE DISTRICT.

7 S 4. Subdivision 3 of section 2565 of the education law, as added by
8 chapter 302 of the laws of 1980, is amended to read as follows:

9 3. Notwithstanding the provisions of subdivisions one and two of this
10 section, the superintendent of schools of the Rochester city school
11 district shall serve [at the pleasure of the board of education] FOR A
12 TERM PURSUANT TO A CONTRACT; provided, however, that such term shall, in
13 no event, exceed a period of four years. FURTHER, THE SUPERINTENDENT
14 SHALL NOT BE REMOVED FROM OFFICE EXCEPT UPON THE VOTE OF TWO-THIRDS OF
15 THE MEMBERS OF THE BOARD.

16 S 5. Subdivision 6 of section 2566 of the education law, as amended by
17 chapter 263 of the laws of 2005, is amended to read as follows:

18 6. To have supervision and direction of associate, assistant, district
19 and other superintendents, directors, supervisors, principals, teachers,
20 lecturers, medical inspectors, nurses, claims auditors, attendance offi-
21 cers, janitors and other persons employed in the management of the
22 schools or the other educational activities of the city authorized by
23 this chapter and under the direction and management of the board of
24 education, except that in the city school [districts] DISTRICT of the
25 [cities] CITY of Buffalo [and Rochester] to also appoint, within the
26 amounts budgeted therefor, such associate, assistant and district super-
27 intendents and all other supervising staff who are excluded from the
28 right to bargain collectively pursuant to article fourteen of the civil
29 service law AND THOSE SO APPOINTED SHALL BE IN THE UNCLASSIFIED SERVICE
30 UPON SUCH APPOINTMENT FOR CIVIL SERVICE AND RELATED PURPOSES NOTWITH-
31 STANDING ANY OTHER PROVISION OF LAW, AND IN THE CITY SCHOOL DISTRICT OF
32 THE CITY OF ROCHESTER TO ALSO APPOINT, WITHIN AMOUNTS BUDGETED THEREFOR,
33 SUCH ASSOCIATE, ASSISTANT, DISTRICT SUPERINTENDENTS AND ALL OTHER CERTI-
34 FIED AND UNCERTIFIED SUPERVISING STAFF AND RELATED ADMINISTRATIVE STAFF
35 WHO ARE EXCLUDED FROM THE RIGHT TO BARGAIN COLLECTIVELY PURSUANT TO
36 ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW AND THOSE SO APPOINTED SHALL
37 BE IN THE UNCLASSIFIED SERVICE UPON SUCH APPOINTMENT FOR CIVIL SERVICE
38 AND RELATED PURPOSES NOTWITHSTANDING ANY OTHER PROVISION OF LAW; to
39 transfer teachers from one school to another, or from one grade of the
40 course of study to another grade in such course, and to report imme-
41 diately such transfers to said board for its consideration and action;
42 to report to said board of education violations of regulations and cases
43 of insubordination, and to suspend an associate, assistant, district or
44 other superintendent, director, supervisor, expert, principal, teacher
45 or other employee until the next regular meeting of the board, when all
46 facts relating to the case shall be submitted to the board for its
47 consideration and action.

48 S 6. Section 2566 of the education law is amended by adding four new
49 subdivisions 10, 11, 12 and 13 to read as follows:

50 10. IN THE CITY SCHOOL DISTRICT OF THE CITY OF ROCHESTER, TO PREPARE
51 AND DELIVER TO THE BOARD OF EDUCATION FOR REVIEW AND APPROVAL AN ANNUAL
52 ITEMIZED ESTIMATE AS PROVIDED FOR IN SECTION TWENTY-FIVE HUNDRED SEVEN-
53 TY-SIX OF THIS ARTICLE AND AN EDUCATIONAL FACILITIES CAPITAL PLAN. EACH
54 SUCH ESTIMATE AND CAPITAL PLAN SHALL BE AT SUCH LEVEL OF DETAIL AS
55 NECESSARY SO AS TO ENABLE THE BOARD TO MAKE AN INFORMED REVIEW OF SUCH
56 ESTIMATE AND CAPITAL. ALSO, EACH SUCH ESTIMATE AND CAPITAL PLAN SHALL

1 INCLUDE A FOUR-YEAR PROJECTION OF ESTIMATED REVENUES, EXPENSES, CAPITAL
2 NEEDS, AND INDEBTEDNESS.

3 11. IN THE CITY SCHOOL DISTRICT OF THE CITY OF ROCHESTER, TO PREPARE
4 AND SUBMIT FOR EVERY PERIOD OF TWO MONTHS, IN A FORMAT APPROVED BY THE
5 BOARD OF EDUCATION AND THE MAYOR, A SUMMARY OF THE DISTRICT'S ACTUAL
6 REVENUES, EXPENSES, AND INDEBTEDNESS, AND COMPARING THE SAME WITH THE
7 ANNUAL ESTIMATE.

8 12. IN THE CITY SCHOOL DISTRICT OF THE CITY OF ROCHESTER, TO AUTHORIZE
9 CONTRACTS FOR GOODS AND SERVICES IN AMOUNTS LESS THAN FIFTY THOUSAND
10 DOLLARS.

11 13. IN THE CITY SCHOOL DISTRICT OF THE CITY OF ROCHESTER, TO DEVELOP
12 JOINTLY, WITH THE BOARD OF EDUCATION, POLICIES AND PROCEDURES FOR THE
13 HIRING, FIRING, AND EVALUATION OF ALL EMPLOYEES OF THE DISTRICT.

14 S 7. Subdivision 3 of section 2573 of the education law, as amended by
15 section 4 of part B of chapter 88 of the laws of 2000, is amended to
16 read as follows:

17 3. Associate superintendents, examiners and all other employees
18 authorized by section twenty-five hundred fifty-four of this article,
19 except as otherwise provided in subdivision one of this section, shall
20 be appointed by the board of education except that in the city school
21 [districts] DISTRICT of the [cities] CITY of Buffalo [and Rochester],
22 the associate, assistant and district superintendents and all other
23 supervising staff who are excluded from the right to bargain collective-
24 ly pursuant to article fourteen of the civil service law shall be
25 appointed, within amounts budgeted therefor, by the superintendent of
26 such city school district AND THOSE SO APPOINTED SHALL BE IN THE UNCLAS-
27 SIFIED SERVICE UPON SUCH APPOINTMENT FOR CIVIL SERVICE AND RELATED
28 PURPOSES NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND IN THE CITY
29 SCHOOL DISTRICT OF THE CITY OF ROCHESTER THE ASSOCIATE, ASSISTANT,
30 DISTRICT SUPERINTENDENTS AND ALL OTHER CERTIFIED AND UNCERTIFIED SUPER-
31 VISING STAFF AND RELATED ADMINISTRATIVE STAFF WHO ARE EXCLUDED FROM THE
32 RIGHT TO BARGAIN COLLECTIVELY PURSUANT TO ARTICLE FOURTEEN OF THE CIVIL
33 SERVICE LAW SHALL BE APPOINTED, WITHIN AMOUNTS BUDGETED THEREFOR, BY THE
34 SUPERINTENDENT OF SUCH CITY SCHOOL DISTRICT AND THOSE SO APPOINTED SHALL
35 BE IN THE UNCLASSIFIED SERVICE UPON SUCH APPOINTMENT FOR CIVIL SERVICE
36 AND RELATED PURPOSES NOTWITHSTANDING ANY OTHER PROVISION OF LAW. In a
37 city having a population of one million or more, such appointments shall
38 be made on nomination of the superintendent of schools. Notwithstanding
39 any other provision in this chapter to the contrary, whenever an associ-
40 ate superintendent of schools in the employ of the board of education in
41 a city having a population of one million or more fails of reappoint-
42 ment, said person shall be immediately appointed an assistant super-
43 intendent of schools with permanent appointment as said term permanent
44 appointment is defined in subdivisions four, five and six of this
45 section. The salary of such assistant superintendent shall be less than
46 the salary of an associate superintendent, but said differential in
47 salary shall not exceed ten per centum of the annual salary of an asso-
48 ciate superintendent of schools. When, however, an associate super-
49 intendent of schools who fails of reappointment has to his credit thirty
50 or more years of city service including ten or more years of service as
51 such associate superintendent of schools, he shall suffer no reduction
52 of salary or of pension prospects while serving as such assistant super-
53 intendent of schools.

54 S 8. This act shall take effect immediately; provided, however, that
55 sections one through seven of this act shall take effect July 1, 2009;
56 provided, further, that the amendments to the opening paragraph of

1 section 2554 of the education law made by section one of this act shall
2 not affect the expiration of such opening paragraph and shall be deemed
3 to expire therewith.