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

2552--A

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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 -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

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 ASSEMBLY, DO ENACT AS FOLLOWS:

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

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

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

2. To create, abolish, maintain and consolidate such positions, divisions, boards or bureaus as, in its judgment, may be necessary for the proper and efficient administration of its work; to appoint a superintendent of schools, such associate, assistant, district and other superintendents, [examiners,] directors, supervisors, principals, teachers, lecturers, special instructors, medical inspectors, nurses, auditors, attendance officers, secretaries, clerks, custodians, janitors and other employees and other persons or experts in educational, social or recreational work or in the business management or direction of its affairs as said board shall determine necessary for the efficient management of the schools and other educational, social, recreational

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

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and business activities; provided, however, that in the city school [districts] DISTRICT of the [cities] CITY of Buffalo [and Rochester] appointment of associate, assistant and district superintendents, and other supervising staff who are excluded from the right to bargain collectively pursuant to article fourteen of the civil service law shall, within the amounts budgeted for such positions, be by the superintendent of such city school district AND THOSE SO APPOINTED SHALL BE IN THE UNCLASSIFIED SERVICE UPON SUCH APPOINTMENT FOR CIVIL SERVICE AND RELATED PURPOSES NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND IN THE CITY SCHOOL DISTRICT OF THE CITY OF ROCHESTER APPOINTMENT OF ASSOCIATE, ASSISTANT, DISTRICT SUPERINTENDENTS AND OTHER CERTIFIED AND UNCERTIFIED SUPERVISING STAFF AND RELATED ADMINISTRATIVE STAFF WHO ARE EXCLUDED FROM THE RIGHT TO BARGAIN COLLECTIVELY PURSUANT TO ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW SHALL, WITHIN AMOUNTS BUDGETED FOR SUCH POSITIONS, BE BY THE SUPERINTENDENT OF SUCH CITY SCHOOL DISTRICT AND THOSE SO APPOINTED SHALL BE IN THE UNCLASSIFIED SERVICE UPON SUCH APPOINTMENT FOR CIVIL SERVICE AND RELATED PURPOSES NOTWITHSTANDING ANY OTHER PROVISION OF LAW; and to determine their duties except as otherwise provided herein.

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

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

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

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

29. IN THE CITY SCHOOL DISTRICT OF THE CITY OF ROCHESTER, UPON RECEIPT FROM THE SUPERINTENDENT, TO REVIEW AND EITHER RETURN TO THE SUPERINTEN-

DENT FOR AMENDMENT OR APPROVE AND FILE WITH THE MAYOR, PURSUANT TO SECTION TWENTY-FIVE HUNDRED SEVENTY-SIX OF THIS ARTICLE, THE ANNUAL ITEMIZED ESTIMATE AND CAPITAL PLAN FOR THE DISTRICT. SUCH BUDGET AND CAPITAL PLAN SHALL INCLUDE MULTI-YEAR PROJECTIONS OF REVENUES, EXPENSES, INDEBTEDNESS AND CAPITAL NEEDS.

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

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

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

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

6. To have supervision and direction of associate, assistant, district and other superintendents, directors, supervisors, principals, teachers, lecturers, medical inspectors, nurses, claims auditors, attendance officers, janitors and other persons employed in the management of the schools or the other educational activities of the city authorized by this chapter and under the direction and management of the board of education, except that in the city school [districts] DISTRICT of the [cities] CITY of Buffalo [and Rochester] to also appoint, within the amounts budgeted therefor, such associate, assistant and district superintendents and all other supervising staff who are excluded from the right to bargain collectively pursuant to article fourteen of the civil service law AND THOSE SO APPOINTED SHALL BE IN THE UNCLASSIFIED SERVICE UPON SUCH APPOINTMENT FOR CIVIL SERVICE AND RELATED PURPOSES NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND IN THE CITY SCHOOL DISTRICT OF THE CITY OF ROCHESTER TO ALSO APPOINT, WITHIN AMOUNTS BUDGETED THEREFOR, SUCH ASSOCIATE, ASSISTANT, DISTRICT SUPERINTENDENTS AND ALL OTHER CERTIFIED AND UNCERTIFIED SUPERVISING STAFF AND RELATED ADMINISTRATIVE STAFF WHO ARE EXCLUDED FROM THE RIGHT TO BARGAIN COLLECTIVELY PURSUANT TO ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW AND THOSE SO APPOINTED SHALL BE IN THE UNCLASSIFIED SERVICE UPON SUCH APPOINTMENT FOR CIVIL SERVICE AND RELATED PURPOSES NOTWITHSTANDING ANY OTHER PROVISION OF LAW; to transfer teachers from one school to another, or from one grade of the course of study to another grade in such course, and to report immediately such transfers to said board for its consideration and action; to report to said board of education violations of regulations and cases of insubordination, and to suspend an associate, assistant, district or other superintendent, director, supervisor, expert, principal, teacher or other employee until the next regular meeting of the board, when all facts relating to the case shall be submitted to the board for its consideration and action.

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

10. IN THE CITY SCHOOL DISTRICT OF THE CITY OF ROCHESTER, TO PREPARE AND DELIVER TO THE BOARD OF EDUCATION FOR REVIEW AND APPROVAL AN ANNUAL ITEMIZED ESTIMATE AS PROVIDED FOR IN SECTION TWENTY-FIVE HUNDRED SEVENTY-SIX OF THIS ARTICLE AND AN EDUCATIONAL FACILITIES CAPITAL PLAN. EACH SUCH ESTIMATE AND CAPITAL PLAN SHALL BE AT SUCH LEVEL OF DETAIL AS

NECESSARY SO AS TO ENABLE THE BOARD TO MAKE AN INFORMED REVIEW OF SUCH ESTIMATE AND CAPITAL. ALSO, EACH SUCH ESTIMATE AND CAPITAL PLAN SHALL INCLUDE A FOUR-YEAR PROJECTION OF ESTIMATED REVENUES, EXPENSES, CAPITAL NEEDS, AND INDEBTEDNESS.

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

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

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

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

3. Associate superintendents, examiners and all other employees authorized by section twenty-five hundred fifty-four of this article, except as otherwise provided in subdivision one of this section, shall be appointed by the board of education except that in the city school [districts] DISTRICT of the [cities] CITY of Buffalo [and Rochester], the associate, assistant and district superintendents and all other supervising staff who are excluded from the right to bargain collectively pursuant to article fourteen of the civil service law shall be appointed, within amounts budgeted therefor, by the superintendent of such city school district AND THOSE SO APPOINTED SHALL BE IN THE UNCLASSIFIED SERVICE UPON SUCH APPOINTMENT FOR CIVIL SERVICE AND RELATED PURPOSES NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND IN THE CITY SCHOOL DISTRICT OF THE CITY OF ROCHESTER THE ASSOCIATE, ASSISTANT, DISTRICT SUPERINTENDENTS AND ALL OTHER CERTIFIED AND UNCERTIFIED SUPERVISING STAFF AND RELATED ADMINISTRATIVE STAFF WHO ARE EXCLUDED FROM THE RIGHT TO BARGAIN COLLECTIVELY PURSUANT TO ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW SHALL BE APPOINTED, WITHIN AMOUNTS BUDGETED THEREFOR, BY THE SUPERINTENDENT OF SUCH CITY SCHOOL DISTRICT AND THOSE SO APPOINTED SHALL BE IN THE UNCLASSIFIED SERVICE UPON SUCH APPOINTMENT FOR CIVIL SERVICE AND RELATED PURPOSES NOTWITHSTANDING ANY OTHER PROVISION OF LAW. In a city having a population of one million or more, such appointments shall be made on nomination of the superintendent of schools. Notwithstanding any other provision in this chapter to the contrary, whenever an associate superintendent of schools in the employ of the board of education in a city having a population of one million or more fails of reappointment, said person shall be immediately appointed an assistant superintendent of schools with permanent appointment as said term permanent appointment is defined in subdivisions four, five and six of this section. The salary of such assistant superintendent shall be less than the salary of an associate superintendent, but said differential in salary shall not exceed ten per centum of the annual salary of an associate superintendent of schools. When, however, an associate superintendent of schools who fails of reappointment has to his credit thirty or more years of city service including ten or more years of service as such associate superintendent of schools, he shall suffer no reduction of salary or of pension prospects while serving as such assistant superintendent of schools.

S 8. This act shall take effect immediately; provided, however, that sections one through seven of this act shall take effect July 1, 2010; provided, further, that the amendments to the opening paragraph of section 2554 of the education law made by section one of this act shall not affect the expiration of such opening paragraph and shall be deemed to expire therewith.