

8563

2009-2010 Regular Sessions

I N   A S S E M B L Y

May 28, 2009

---

Introduced by M. of A. NOLAN -- (at request of the State Education Department) -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to providing school districts with flexibility in carrying out their claims auditing function

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

1     Section 1. Subdivision 35 of section 1604 of the education law, as  
2     added by chapter 263 of the laws of 2005, is amended to read as follows:  
3     35. a. In their discretion, to adopt a resolution establishing the  
4     office of claims auditor and appoint a claims auditor who shall hold his  
5     or her position subject to the pleasure of such trustees. IN ITS  
6     DISCRETION, THE TRUSTEES MAY ADOPT A RESOLUTION ESTABLISHING THE OFFICE  
7     OF DEPUTY CLAIMS AUDITOR WHO SHALL ACT AS CLAIMS AUDITOR IN THE ABSENCE  
8     OF THE CLAIMS AUDITOR. Such claims auditor shall report directly to the  
9     trustees. No person shall be eligible for appointment to the office of  
10    claims auditor OR DEPUTY CLAIMS AUDITOR who shall also be:  
11    (1) a trustee of the school district;  
12    (2) the clerk or treasurer of the school district;  
13    (3) the superintendent of schools or other official of the district  
14    responsible for business management;  
15    (4) the person designated as purchasing agent; or  
16    (5) clerical or professional personnel directly involved in accounting  
17    and purchasing functions of the school district.  
18    b. Such claims auditor OR DEPUTY CLAIMS AUDITOR shall not be required  
19    to be a resident of the district, and the [position] POSITIONS of claims  
20    auditor AND DEPUTY CLAIMS AUDITOR shall be classified in the exempt  
21    class of the civil service. The trustees, at any time after the estab-  
22    lishment of the office of claims auditor OR DEPUTY CLAIMS AUDITOR, may  
23    adopt a resolution abolishing such office, whereupon such office shall  
24    be abolished. When the office of claims auditor shall have been estab-

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

LBD11732-03-9

lished and a claims auditor shall have been appointed and shall have qualified, the powers and duties of the trustees with respect to claims auditing, and allowing or rejecting all accounts, charges, claims or demands against the school district, shall devolve upon and thereafter be exercised by such claims auditor during the continuance of such office. The trustees shall be permitted to delegate the claims audit function TO ONE OR MORE INDEPENDENT ENTITIES by using (1) inter-municipal cooperative agreements, (2) shared services to the extent authorized by section nineteen hundred fifty of this title, or (3) independent contractors, to fulfill this function.

C. WHEN THE TRUSTEES DELEGATE THE CLAIMS AUDIT FUNCTION USING AN INTER-MUNICIPAL COOPERATIVE AGREEMENT, SHARED SERVICE AUTHORIZED BY SECTION NINETEEN HUNDRED FIFTY OF THIS TITLE, OR AN INDEPENDENT CONTRACTOR, THE TRUSTEES SHALL BE RESPONSIBLE FOR AUDITING ALL CLAIMS FOR SERVICES FROM THE ENTITY PROVIDING THE DELEGATED CLAIMS AUDITOR, EITHER DIRECTLY OR THROUGH A DELEGATION TO A DIFFERENT INDEPENDENT ENTITY.

S 2. Subdivision 20-a of section 1709 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

20-a. a. In its discretion to adopt a resolution establishing the office of claims auditor and appoint a claims auditor who shall hold his or her position subject to the pleasure of such board of education. IN ITS DISCRETION, THE BOARD OF EDUCATION MAY ADOPT A RESOLUTION ESTABLISHING THE OFFICE OF DEPUTY CLAIMS AUDITOR WHO SHALL ACT AS CLAIMS AUDITOR IN THE ABSENCE OF THE CLAIMS AUDITOR. Such claims auditor shall report directly to the board of education. No person shall be eligible for appointment to the office of claims auditor OR DEPUTY CLAIMS AUDITOR who shall also be:

(1) a member of the board of education;

(2) the clerk or treasurer of the board of education;

(3) the superintendent of schools or other official of the district responsible for business management;

(4) the person designated as purchasing agent; or

(5) clerical or professional personnel directly involved in accounting and purchasing functions of the school district.

b. Such claims auditor OR DEPUTY CLAIMS AUDITOR shall not be required to be a resident of the district, and such position shall be classified in the exempt class of the civil service. Such board of education, at any time after the establishment of the office of claims auditor OR DEPUTY CLAIMS AUDITOR, may adopt a resolution abolishing such office, whereupon such office shall be abolished. When the office of claims auditor OR DEPUTY CLAIMS AUDITOR shall have been established and a claims auditor OR DEPUTY CLAIMS AUDITOR shall have been appointed and shall have qualified, the powers and duties of the board of education with respect to claims auditing, allowing or rejecting all accounts, charges, claims or demands against the school district shall devolve upon and thereafter be exercised by such claims auditor, during the continuance of such office. A board shall be permitted to delegate the claims audit function TO ONE OR MORE INDEPENDENT ENTITIES by using (1) inter-municipal cooperative agreements, (2) shared services to the extent authorized by section nineteen hundred fifty of this title, or (3) independent contractors, to fulfill this function.

C. WHEN THE BOARD OF EDUCATION DELEGATES THE CLAIMS AUDIT FUNCTION USING AN INTER-MUNICIPAL COOPERATIVE AGREEMENT, SHARED SERVICE AUTHORIZED BY SECTION NINETEEN HUNDRED FIFTY OF THIS TITLE, OR AN INDEPENDENT CONTRACTOR, THE BOARD SHALL BE RESPONSIBLE FOR AUDITING ALL CLAIMS FOR

SERVICES FROM THE ENTITY PROVIDING THE DELEGATED CLAIMS AUDITOR, EITHER DIRECTLY OR THROUGH A DELEGATION TO A DIFFERENT INDEPENDENT ENTITY.

S 3. Paragraph e of subdivision 2 of section 1711 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

e. To have supervision and direction of associate, assistant and other superintendents, directors, supervisors, principals, teachers, lecturers, medical inspectors, nurses, claims auditors, DEPUTY CLAIMS AUDITORS, attendance officers, janitors and other persons employed in the management of the schools or the other educational activities of the district authorized by this chapter and under the direction and management of the board of education; 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 such board for its consideration and actions; to report to such board violations of regulations and cases of insubordination, and to suspend an associate, assistant or other superintendent, director, supervisor, expert, principal, teacher or other employee until the next regular meeting of such board, when all facts relating to the case shall be submitted to such board for its consideration and action.

S 4. Subdivision 5 of section 2503 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

5. Shall 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; shall appoint properly qualified persons to fill such positions, including a superintendent of schools, such associate, assistant and other superintendents, directors, supervisors, principals, teachers, lecturers, special instructors, medical inspectors, nurses, claims auditors, DEPUTY CLAIMS 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 and business activities; and shall determine their duties except as otherwise provided herein.

S 5. Subdivision 5 of section 2508 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

5. To have supervision and direction of associate, assistant and other superintendents, directors, supervisors, principals, teachers, lecturers, medical inspectors, nurses, claims auditors, DEPUTY CLAIMS AUDITORS, attendance officers, janitors and other persons employed in the management of the schools or the other educational activities of the district authorized by this chapter and under the direction and management of the board of education; 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 such board for its consideration and action; to report to such board violations of regulations and cases of insubordination, and to suspend an associate, assistant or other superintendent, director, supervisor, expert, principal, teacher or other employee until the next regular meeting of such board, when all facts relating to the case shall be submitted to such board for its consideration and action.

S 6. Subdivision 2 of section 2523 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

1     2. Such moneys shall be disbursed only on the signature of such treas-  
2     urer by checks payable to the person or persons entitled thereto. The  
3     board of education may in its discretion require that such checks-other  
4     than checks for salary, be countersigned by another officer of such  
5     district. When authorized by resolution of the board of education such  
6     checks may be signed with the facsimile signature of the treasurer and  
7     other district officer whose signature is required, as reproduced by a  
8     machine or device commonly known as a check-signer. Each check drawn by  
9     the treasurer shall state the fund against which it is drawn. No fund  
10    shall be overdrawn nor shall any check be drawn upon one fund to pay a  
11    claim chargeable to another. No money shall be paid out by the treasurer  
12    except upon the warrant of the clerk of the board of education after  
13    audit and allowance by such board, or if a claims auditor OR DEPUTY  
14    CLAIMS AUDITOR shall have been appointed, except upon the warrant of  
15    such claims auditor OR DEPUTY CLAIMS AUDITOR after audit and allowance  
16    thereof; provided, however, when provision for payment has been made in  
17    the annual budget the treasurer may pay, without such warrant or prior  
18    audit and allowance, (a) the principal of and interest on bonds, notes  
19    or other evidences of indebtedness of the district or for the payment of  
20    which the district shall be liable, and (b) compensation for services of  
21    officers or employees engaged at agreed wages by the hour, day, week,  
22    month or year upon presentation of a duly certified payroll. By resol-  
23    ution duly adopted, the board may determine to enter into a contract to  
24    provide for the deposit of the periodic payroll of the school district  
25    in a bank or trust company for disbursal by it in accordance with  
26    provisions of section ninety-six-b of the banking law.

27    S 7. Subdivision 1 of section 2524 of the education law, as amended by  
28    chapter 263 of the laws of 2005, is amended to read as follows:

29    1. No claim against a city school district, except for compensation  
30    for services of an officer or employee engaged at agreed wages by the  
31    hour, day, week, month or year or for the principal of or interest on  
32    indebtedness of the district, shall be paid unless an itemized voucher  
33    therefor approved by the officer whose action gave rise or origin to the  
34    claim, shall have been presented to the board of education, or THE  
35    claims auditor OR DEPUTY CLAIMS AUDITOR of the city school district and  
36    shall have been audited and allowed. The board of education shall be  
37    authorized, but not required, to prescribe the form of such voucher.

38    S 8. Section 2525 of the education law, as amended by chapter 263 of  
39    the laws of 2005, is amended to read as follows:

40    S 2525. Audit of claims. 1. The board of education, in considering any  
41    claim, may require any person presenting the same to be sworn before it  
42    or before any member thereof and to give testimony relative to the just-  
43    ness and accuracy of such claim, and may take evidence and examine  
44    witnesses under oath in respect to the claim, and for that purpose may  
45    issue subpoenas for the attendance of witnesses. When a claim has been  
46    finally audited by the board of education the clerk of such board shall  
47    endorse thereon or attach thereto a certificate of such audit and file  
48    the same as a public record in his or her office. When any claim has  
49    been so audited and a certificate thereof so filed, the clerk of the  
50    board of education shall draw a warrant specifying the name of the  
51    claimant, the amount allowed and the fund, function and object chargea-  
52    ble therewith and such other information as may be deemed necessary and  
53    essential, directed to the treasurer of the district, authorizing and  
54    directing him or her to pay to the claimant the amount allowed upon his  
55    or her claim. A copy of such warrant shall be filed in the office of the  
56    clerk.

1 2. In a city school district in which the office of claims auditor OR  
2 DEPUTY CLAIMS AUDITOR has been created, the claims auditor OR DEPUTY  
3 CLAIMS AUDITOR in considering a claim, may require any person presenting  
4 the same to be sworn before him or her and to give testimony relative to  
5 the justness and accuracy of such claim, and may take evidence and exam-  
6 ine witnesses under oath in respect to the claim, and for that purpose  
7 may issue subpoenas for the attendance of witnesses. When a claim has  
8 been finally audited by the claims auditor OR DEPUTY CLAIMS AUDITOR he  
9 or she shall endorse thereon or attach thereto a certificate of such  
10 audit and file the same as a public record in his or her office. When  
11 any claim has been so audited and a certificate thereof so filed, the  
12 claims auditor OR DEPUTY CLAIMS AUDITOR shall draw a warrant specifying  
13 the number of the claim, the name of the claimant, the amount allowed  
14 and the fund, function and object chargeable therewith and such other  
15 information as may be deemed necessary or essential, directed to the  
16 treasurer of the district, authorizing and directing him or her to pay  
17 to the claimant the amount allowed upon his or her claim. A copy of such  
18 warrant shall be filed in the office of the clerk.

19 S 9. Section 2526 of the education law, as amended by chapter 263 of  
20 the laws of 2005, is amended to read as follows:

21 S 2526. Claims auditor. 1. The board of education of a city school  
22 district may adopt a resolution establishing the office of claims audi-  
23 tor and appoint a claims auditor who shall hold his or her position  
24 subject to the pleasure of such board of education. IN ITS DISCRETION,  
25 THE BOARD MAY ADOPT A RESOLUTION ESTABLISHING THE OFFICE OF DEPUTY  
26 CLAIMS AUDITOR WHO SHALL ACT AS CLAIMS AUDITOR IN THE ABSENCE OF THE  
27 CLAIMS AUDITOR. Such claims auditor shall report directly to the board  
28 of education. No person shall be eligible for appointment to the office  
29 of claims auditor OR DEPUTY CLAIMS AUDITOR who shall be:

- 30 (1) a member of the board of education;  
31 (2) the clerk or treasurer of the board of education;  
32 (3) the superintendent of schools or other official of the district  
33 responsible for business management;  
34 (4) the person designated as purchasing agent; or  
35 (5) clerical or professional personnel directly involved in accounting  
36 and purchasing functions of the school district.

37 1-a. The [position] POSITIONS of claims auditor AND DEPUTY CLAIMS  
38 AUDITOR shall be classified in the exempt class of civil service. Such  
39 board of education, at any time after the establishment of the office of  
40 claims auditor OR DEPUTY CLAIMS AUDITOR, may adopt a resolution abolish-  
41 ing such office, whereupon such office shall be abolished.

42 2. When the office of claims auditor OR DEPUTY CLAIMS AUDITOR shall  
43 have been established and a claims auditor OR DEPUTY CLAIMS AUDITOR  
44 shall have been appointed and shall have qualified, the powers and  
45 duties of the board of education with respect to claims auditing, allow-  
46 ing or rejecting all accounts, charges, claims or demands against the  
47 city school district shall devolve upon and thereafter be exercised by  
48 such claims auditor OR DEPUTY CLAIMS AUDITOR, during the continuance of  
49 such office. The board of education shall be permitted to delegate the  
50 claims audit function TO ONE OR MORE INDEPENDENT ENTITIES by using (1)  
51 inter-municipal cooperative agreements, (2) shared services to the  
52 extent authorized by section nineteen hundred fifty of this title, or  
53 (3) independent contractors, to fulfill this function.

54 3. WHEN THE BOARD OF EDUCATION DELEGATES THE CLAIMS AUDIT FUNCTION  
55 USING AN INTER-MUNICIPAL COOPERATIVE AGREEMENT, SHARED SERVICE AUTHOR-  
56 IZED BY SECTION NINETEEN HUNDRED FIFTY OF THIS TITLE, OR AN INDEPENDENT

1 CONTRACTOR, THE BOARD SHALL BE RESPONSIBLE FOR AUDITING ALL CLAIMS FOR  
2 SERVICES FROM THE ENTITY PROVIDING THE DELEGATED CLAIMS AUDITOR, EITHER  
3 DIRECTLY OR THROUGH A DELEGATION TO A DIFFERENT INDEPENDENT ENTITY.

4 S 10. Section 2527 of the education law, as amended by chapter 263 of  
5 the laws of 2005, is amended to read as follows:

6 S 2527. Official undertakings. The clerk of the board of education or,  
7 where the office of claims auditor OR DEPUTY CLAIMS AUDITOR has been  
8 created, the claims auditor OR DEPUTY CLAIMS AUDITOR, and the treasurer,  
9 collector and such other officers and employees as the board of educa-  
10 tion shall designate, shall, before they enter upon the duties of their  
11 respective offices or positions, each execute to the school district and  
12 file with the school district clerk an official undertaking in such sum  
13 and with such corporate surety as the board of education shall direct  
14 and approve. The board of education may, at any time, require any such  
15 officer or employee to file a new official undertaking for such sum and  
16 with such corporate surety as the board shall approve. Such undertakings  
17 as shall have been approved by the board of education shall forthwith be  
18 filed with the school district clerk. The expense of any undertaking  
19 executed pursuant to this section shall be a school district charge.

20 S 11. Subdivision 2-a of section 2554 of the education law, as amended  
21 by chapter 263 of the laws of 2005, is amended to read as follows:

22 2-a. a. In its discretion to adopt a resolution establishing the  
23 office of claims auditor and appoint a claims auditor who shall hold his  
24 or her position subject to the pleasure of the board. IN ITS DISCRETION,  
25 THE BOARD MAY ADOPT A RESOLUTION ESTABLISHING ONE OR MORE OFFICES OF  
26 DEPUTY CLAIMS AUDITOR WHO SHALL ACT AS CLAIMS AUDITOR IN THE ABSENCE OF  
27 THE CLAIMS AUDITOR. Such claims auditor shall report directly to the  
28 board of education. No person shall be eligible for appointment to the  
29 office of claims auditor OR DEPUTY CLAIMS AUDITOR who shall be

- 30 (1) a member of the board of education;  
31 (2) a clerk or treasurer of the board of education;  
32 (3) the superintendent of schools or other official of the district  
33 responsible for business management;  
34 (4) the person designated as purchasing agent; or  
35 (5) clerical or professional personnel directly involved in accounting  
36 and purchasing functions of the school district.

37 b. The [position] POSITIONS of claims auditor OR DEPUTY CLAIMS AUDITOR  
38 shall be classified in the exempt class of civil service. The board of  
39 education, at any time after the establishment of the office of claims  
40 auditor OR DEPUTY CLAIMS AUDITOR, may adopt a resolution abolishing the  
41 office. When the office of claims auditor OR DEPUTY CLAIMS AUDITOR shall  
42 have been established and a claims auditor OR DEPUTY CLAIMS AUDITOR  
43 shall have been appointed and shall have qualified, the powers and  
44 duties of the board of education with respect to auditing accounts,  
45 charges, claims or demands against the city school district shall  
46 devolve upon and thereafter be exercised by such claims auditor OR DEPU-  
47 TY CLAIMS AUDITOR, during the continuance of the office. The board of  
48 education shall be permitted to delegate the claims audit function TO  
49 ONE OR MORE INDEPENDENT ENTITIES by using (1) inter-municipal cooper-  
50 ative agreements, or (2) independent contractors, to fulfill this func-  
51 tion.

52 C. WHEN THE BOARD OF EDUCATION DELEGATES THE CLAIMS AUDIT FUNCTION  
53 USING AN INTER-MUNICIPAL COOPERATIVE AGREEMENT, SHARED SERVICE AUTHOR-  
54 IZED BY SECTION NINETEEN HUNDRED FIFTY OF THIS TITLE, OR AN INDEPENDENT  
55 CONTRACTOR, THE BOARD SHALL BE RESPONSIBLE FOR AUDITING ALL CLAIMS FOR

SERVICES FROM THE ENTITY PROVIDING THE DELEGATED CLAIMS AUDITOR, EITHER DIRECTLY OR THROUGH A DELEGATION TO A DIFFERENT INDEPENDENT ENTITY.

S 12. Subdivision 2 of section 2562 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

2. The said board of education may require any person presenting for settlement an account or claim for any cause whatever against it to be sworn before it or a committee thereof, or before the claims auditor OR DEPUTY CLAIMS AUDITOR, or before any person designated by said board, touching such account or claim, and when so sworn, to answer orally as to any facts relative to the justness of such account or claim. A member of the board, the claims auditor OR DEPUTY CLAIMS AUDITOR, or any other person designated as hereinbefore stated, shall have the power to administer an oath to any person who shall give testimony to the justness of such account or claim, and for the purpose of securing such testimony may issue subpoenas for the attendance of witnesses. Wilful false swearing before the said board of education, a committee thereof, the claims auditor OR DEPUTY CLAIMS AUDITOR, or before any person designated as hereinbefore stated, is perjury and punishable as such.

S 13. 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, DEPUTY 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 of the cities 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; 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 14. Paragraph a of subdivision 1 of section 2576 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

a. The salary of the superintendent of schools, associate, district or assistant or other superintendents, examiners, directors, supervisors, principals, teachers, lecturers, special instructors, claims auditors, DEPUTY CLAIMS AUDITORS, medical inspectors, nurses, attendance officers, clerks, custodians and janitors and the salary, fees or compensation of all other employees appointed or employed by said board of education. In addition, the expenses of personnel utilized to fulfill the internal audit function pursuant to section twenty-one hundred sixteen-b of this chapter.

S 15. Subdivision 2 of section 2580 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

2. Such funds shall be disbursed by authority of the board of education upon written orders drawn on the city treasurer or other fiscal

1 officer of the city. Such orders shall be signed by the superintendent  
2 of schools and the secretary of the board of education or such other  
3 officers as the board may authorize. If a claims auditor OR DEPUTY  
4 CLAIMS AUDITOR shall have been appointed, orders shall be signed by  
5 [the] SUCH claims auditor; provided, however, that the board may  
6 require, in addition, the signature of such other officer or officers as  
7 it may by resolution direct. Orders shall be numbered consecutively and  
8 shall specify the purpose for which they are drawn and the person or  
9 corporation to whom they are payable.

10 S 16. The commissioner of education is authorized to promulgate any  
11 regulations necessary to implement the provisions of this act.

12 S 17. This act shall take effect immediately.