

416

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. CAHILL, HOYT, MCENENY, GALEF, REILLY,
PEOPLES-STOKES, THIELE, SCHROEDER, MOLINARO, CONTE, MONTESANO --
Multi-Sponsored by -- M. of A. AMEDORE, BRENNAN, MARKEY, RAIA, TEDIS-
CO, TITONE -- read once and referred to the Committee on Education

AN ACT in relation to establishing the commission on education in the
twenty-first century; and providing for the repeal of such provisions
upon expiration thereof

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

1 Section 1. Commission established. (a) There is hereby created in the
2 executive department a commission to be known as the "commission on
3 education in the twenty-first century", hereafter referred to as the
4 "commission", which shall be charged with examining the system of school
5 districts and the delivery of education related services in New York
6 state and recommending changes to that system in light of factors
7 submitted pursuant to section four of this act and any additional
8 factors established by the commission.
9 (b) The commission shall consist of eighteen statewide members, and
10 regional members appointed pursuant to section six of this act. The
11 eighteen statewide members shall be appointed as follows: (i) two
12 members shall be appointed by the temporary president of the senate;
13 (ii) two members shall be appointed by the speaker of the assembly;
14 (iii) one member shall be appointed by the minority leader of the
15 senate; (iv) one member shall be appointed by the minority leader of the
16 assembly; (v) two members shall be appointed by the governor; and (vi)
17 ten members shall be appointed by the board of regents. The board of
18 regents shall designate the chair from among the statewide members of
19 the commission.
20 (c) The members of the commission shall receive no compensation for
21 their services as members, but shall be allowed their actual and neces-

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

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sary expenses incurred in the performance of their duties. Members of the commission shall be considered public officers for purposes of section 17 of the public officers law.

(d) The commission shall begin to act forty-five days after this act shall have become a law. A quorum shall consist of a majority of the members of the commission entitled to vote on the matter under consideration. Approval of any matter shall require the affirmative vote of a majority of the members voting thereon.

(e) The statewide members of the commission shall adopt by-laws for the management and regulation of its affairs.

S 2. Appointments to commission. The legislative leaders and the governor shall submit their appointments to the board of regents, and the board of regents shall make appointments, no later than forty-five days after this act becomes a law. If any such appointment is not made by such date, the person or board responsible for making the appointment pursuant to subdivision (b) of section one of this act may make the appointment after that date, but the vacant appointment shall not count for calculation of a quorum until it is filled. Vacancies in the commission shall be filled in the same manner as the member whose vacancy is being filled was appointed.

S 3. Commission staff and agency liaison. (a) The commissioner of education shall designate such employees of the state education department as are reasonably necessary to provide support services to the commission. The commission, acting by the chair of the commission, may employ additional staff and consultants, who shall be paid from amounts available to the commission for that purpose.

(b) The commissioner of education shall appoint one or more representatives of the department of education to serve as liaison between such department and the commission. All state agencies, public authorities and public benefit corporations shall provide such assistance as may be reasonably requested by the chair of the commission.

S 4. Factors and information for consideration. (a) The commissioner of education shall submit to the commission, no later than ninety days after this act becomes a law, a list of factors to be considered in its deliberations, which shall include but not be limited to: (i) geography, including physical proximity and the size of the current school districts and boards of cooperative educational services in each region of the state; (ii) demographics, including student enrollment trends and the composition and nature of communities in the current school districts and boards of cooperative educational services in each region of the state; (iii) economics, including existing collaborations to be preserved or enhanced and opportunities to deliver commodities and services through boards of cooperative educational services or other entities; (iv) transportation and the potential for regional transportation services; (v) special education and the potential for regional special education services; (vi) population density; and (vii) other unique circumstances including the need to preserve existing or developing relationships, meet the needs of students, maximize educational opportunities for students, assure local control, maintain the character of community schools and ensure equitable access to rigorous programs for all students.

(b) The commissioner of education may submit additional relevant factors to be considered in the deliberations of the commission. The commission may also adopt additional factors to be considered in its deliberations.

1 S 5. Deliberations of commission. The deliberations, meetings and
2 other proceedings of the commission and any committee thereof shall be
3 governed by article 7 of the public officers law. Any one or more
4 members of a committee may participate in a meeting of such committee by
5 means of a conference telephone, conference video or similar communi-
6 cations equipment allowing all persons participating in the meeting to
7 hear each other at the same time. Participation by such means shall
8 constitute presence in person at a meeting. At any meetings of the
9 commission conducted by means of a conference telephone, conference
10 video or similar communications equipment, other than executive
11 sessions, the public shall be given an opportunity to listen. If a meet-
12 ing other than an executive session is to be conducted by means of a
13 conference telephone, conference video or similar communications equip-
14 ment, the public notice for the meeting shall inform the public that
15 such equipment will be used, and identify the means by which the public
16 may listen to such meeting.

17 S 6. Regional input. (a) There shall be eight regional members of the
18 commission for each region established pursuant to this section. For
19 each region, two regional members shall be appointed by the governor,
20 two regional members shall be appointed by the temporary president of
21 the senate, two regional members shall be appointed by the speaker of
22 the assembly, and two regional members shall be appointed by the board
23 of regents. Regional members shall be considered to be members of the
24 commission for purposes of this act, provided that:

25 (i) Regional members shall vote and be counted for quorum purposes
26 only when the commission is acting on recommendations relating solely to
27 the regional members' respective region; and

28 (ii) Regional members shall not be considered to be members of the
29 commission for purposes of participation in commission meetings, except
30 where items relating specifically to that member's region are on the
31 agenda of a commission meeting.

32 (b) For purposes of this act, there shall be six regions:

33 (i) Long Island, consisting of the Eastern Suffolk, Nassau and Western
34 Suffolk boards of cooperative educational services;

35 (ii) New York City;

36 (iii) Hudson Valley, consisting of the Dutchess, Orange-Ulster,
37 Putnam-Northern Westchester, Rockland, Southern Westchester, Sullivan
38 and Ulster boards of cooperative educational services;

39 (iv) Eastern, consisting of the Capital Region, Clinton-Essex-Warren-
40 Washington, Delaware-Chenango-Madison-Otsego, Franklin-Essex-Hamilton,
41 Hamilton-Fulton-Montgomery, Otsego-Delaware-Schoharie-Greene, Questar
42 III, St. Lawrence-Lewis and Washington-Saratoga-Warren-Hamilton-Essex
43 boards of cooperative educational services;

44 (v) Central, consisting of the Broome-Tioga, Cayuga-Onondaga, Jeffer-
45 son-Lewis-Hamilton-Herkimer-Oneida, Herkimer-Hamilton-Fulton-Oswego,
46 Madison-Oneida, Oneida-Herkimer-Madison, Onondaga-Cortland-Madison,
47 Oswego, Schuyler, Chemung, Tioga and Tompkins-Seneca-Tioga boards of
48 cooperative educational services;

49 (vi) Western, consisting of the Cattaraugus-Allegany-Erie-Wyoming,
50 Erie 1, Erie 2-Chautauqua-Cattaraugus, Genesee Valley, Monroe 1, Monroe
51 2-Orleans, Ontario-Seneca-Yates-Cayuga-Wayne, Orleans-Niagara and Great-
52 er Southern Tier boards of cooperative educational services.

53 (c) The commission shall establish a regional advisory committee for
54 each region. The maximum number of members of each regional advisory
55 committee shall be determined by the commission. Members of each
56 regional advisory committee shall be appointed in equal numbers by the

1 governor, the temporary president of the senate, the speaker of the
2 assembly and the board of regents. The governor, the temporary president
3 of the senate, the speaker of the assembly, and the board of regents
4 shall submit to the commission their appointments to the regional advisory
5 committees no later than ninety days after this act shall have
6 become a law. If any such appointment is not made by such date, the
7 person or board responsible for making such appointment may make the
8 appointment after that date, but the vacant appointment shall not count
9 for calculation of a quorum until such position is filled. Vacancies in
10 regional advisory committees shall be filled in the same manner as the
11 member whose vacancy is being filled was appointed. The regional advisory
12 committees shall begin to act ninety days after this act shall have
13 become a law.

14 (d) Each regional advisory committee upon consideration of demographic,
15 geographic, educational and fiscal indicators within each board of
16 cooperative educational services region, shall develop recommendations
17 for reconfiguring such region's school districts and administrative
18 functions to align educational services with regional and local needs.
19 In carrying out its functions, a regional advisory committee shall
20 foster discussions among, and conduct formal public hearings with requisite
21 public notice to solicit input from, local stakeholders' interests,
22 including but not limited to, school district administrators, district
23 superintendents and superintendents of schools, teachers, school board
24 members, parents, students, non-pedagogical school support personnel,
25 representatives from post-secondary institutions and other pertinent
26 groups and individuals. In developing its recommendations, each regional
27 advisory committee shall as far as practicable estimate the efficiencies
28 that may be derived from such school district or administrative reconfiguration.
29 On November 15, 2012, each regional advisory committee shall
30 transmit to the commission a report containing its recommendations,
31 which shall include specific recommendations for school district and
32 administrative reconfigurations. Such recommendations shall include but
33 not be limited to: delivery of commodities and services; pupil transportation;
34 specialized professional development; maintenance; insurance procurement;
35 payroll administration; human resources and employee benefit coordination;
36 cooperative purchasing coordination; centralization of business operations;
37 printing services; state aid planning; textbook purchasing and substitute
38 teacher coordination; safety and risk management; the units of school
39 administration to be included in the reconfigured school district; the
40 units of school administration that will be transferred to the board of
41 cooperative educational services; size, composition and apportionment of
42 the governing body; the composition, powers and duties of any local
43 school committees to be created; the disposition of real and personal
44 school property; the disposition of existing school indebtedness and
45 lease-purchase; the assignment of school personnel contracts, school
46 collective bargaining agreements and other school contractual obligations;
47 the disposition of existing school funds and existing financial obligations,
48 including undesignated fund balances, trust funds, reserve funds and
49 other funds appropriated for school purposes; a transition plan that
50 addresses the development of a budget for the first school year and
51 interim personnel policies; an estimate of the cost savings to be
52 achieved through reconfiguration and how costs will be reduced;
53 recommended dates by which such actions should occur; necessary
54 investments, if any, that should be made in each case to carry out
55 the regional advisory committee's recommendations; and the regional
56 advisory committee's justification for its recommendations,

1 including the use of any factors developed pursuant to section four of
2 this act.

3 (e) The failure of any regional advisory committee to perform the
4 duties imposed by this section shall not affect the obligation of the
5 commission to perform the duties imposed by section seven of this act.

6 S 7. Commission recommendations. (a) The commission, upon consider-
7 ation of demographic, geographic, educational and fiscal indicators
8 within each board of cooperative educational services region, shall
9 develop recommendations for reconfiguring school districts and adminis-
10 trative functions to align educational services with regional and local
11 needs. In carrying out its functions, the commission shall collaborate
12 with the regional advisory committees insofar as practicable to foster
13 discussions among, and conduct formal public hearings with requisite
14 public notice to solicit input and recommendations from statewide and
15 regional stakeholder interests including but not limited to school
16 district administrators, district superintendents and superintendents of
17 schools, teachers, school board members, parents, students, non-pedagog-
18 ical school support personnel, representatives from post-secondary
19 institutions and other pertinent groups and individuals. The commission
20 shall formally solicit recommendations from school district administra-
21 tors, district superintendents and superintendents of schools, teachers,
22 school board members, parents, students, non-pedagogical school support
23 personnel, representatives from post-secondary institutions and other
24 interested parties in each region of the state, and it shall take into
25 account such recommendations and the recommendations of the regional
26 advisory committees during its deliberations. In developing its recom-
27 mendations, the commission shall as far as practicable estimate the
28 efficiencies that may be derived from such school district and adminis-
29 trative reconfiguration, and shall consider the recommendations of the
30 regional advisory committees.

31 (b) The commission shall make recommendations relating to school
32 district and administrative reconfiguration, within each region. The
33 regional commission members shall vote as members of the commission only
34 when the commission is acting on recommendations relating solely to the
35 regional commission members' region.

36 (c) Such recommendations shall include but not be limited to: delivery
37 of commodities and services; pupil transportation; specialized profes-
38 sional development; maintenance; insurance procurement; payroll adminis-
39 tration; human resources and employee benefit coordination; cooperative
40 purchasing coordination; centralization of business operations; printing
41 services; state aid planning; textbook purchasing and substitute teacher
42 coordination; safety and risk management; the units of school adminis-
43 tration to be included in the reconfigured school district; the units of
44 school administration that will be transferred to the board of cooper-
45 ative educational services; size, composition and apportionment of the
46 governing body; the composition, powers and duties of any local school
47 committees to be created; the disposition of real and personal school
48 property; the disposition of existing school indebtedness and lease-pur-
49 chase; the assignment of school personnel contracts, school collective
50 bargaining agreements and other school contractual obligations; the
51 disposition of existing school funds and existing financial obligations,
52 including undesignated fund balances, trust funds, reserve funds and
53 other funds appropriated for school purposes; a transition plan that
54 addresses the development of a budget for the first school year and
55 interim personnel policies; an estimate of the cost savings to be
56 achieved through reconfiguration and how costs will be reduced; recom-

mended dates by which such actions should occur; necessary investments, if any, that should be made in each case to carry out the commission's recommendations; the commission's response to the recommendations of the regional advisory committees; and the commissioner's justification for its recommendations, including the use of the factors pursuant to section four of this act.

(d) On or before December 1, 2012, the commission shall transmit to the governor and the legislature a report containing its recommendations, which shall include specific recommendations for school districts to be reconfigured and specific recommendations for administrative services to be transferred to boards of cooperative educational services. Upon the transmission of the report to the governor and the legislature the commission shall be dissolved.

S 8. Implementation of recommendations. (a) Notwithstanding any contrary provision of law, rule or regulation related to the reconfiguring of school districts and administrative services the commissioner of education shall take all actions necessary to implement, in a reasonable, cost-efficient manner, the recommendations of the commission pursuant to subdivisions (b) and (c) of section seven of this act. Such school districts and boards of cooperative educational services shall submit to the commissioner of education, at a time and in a form as determined by the commissioner of education, an acceptable plan of reconfiguration in accordance with applicable regulations.

(b) The provisions of subdivision (a) of this section shall not apply: (i) unless the governor has transmitted the commission's report under section seven of this act with his or her written approval of the recommendations of the commission pursuant to subdivisions (b) and (c) of section seven of this act to the commissioner of education and transmitted a message to the legislature stating his or her approval of the report on or before December 5, 2012; and (ii) if a majority of the members of each house of the legislature vote to adopt a concurrent resolution rejecting the recommendations of the commission pursuant to subdivisions (b) and (c) of section seven of this act in their entirety by December 31, 2012, after receiving a message from the governor under this subdivision. In no event shall the commissioner of education begin to implement the recommendations of the commission pursuant to subdivisions (b) and (c) of section seven of this act prior to December 31, 2012.

S 9. The commission shall be authorized and entitled to receive any grants offered pursuant to section 54 of the state finance law.

S 10. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 11. This act shall take effect immediately and shall expire and be deemed repealed June 30, 2014.