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

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2011-2012 Regular Sessions

I N A S S E M B L Y

March 28, 2011

Introduced by M. of A. BRENNAN, BARRON, N. RIVERA -- Multi-Sponsored by -- M. of A. ABBATE, COOK, P. RIVERA -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to establishing a nominating panel for appointments by the mayor of the city of New York to the board of education, the purchase and delivery of material goods, supplies and services by or to the chancellor of the city school district of the city of New York; to repeal certain provisions of such law relating thereto; and providing for the repeal of certain provisions upon expiration thereof

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

Section 1. Paragraph (a) of subdivision 1 of section 2590-b of the education law, as amended by chapter 345 of the laws of 2009, is amended and a new paragraph (f) is added to read as follows:

(a) The board of education of the city school district of the city of New York is hereby continued. Such board of education shall consist of thirteen appointed members: one member to be appointed by each borough president of the city of New York; and eight members to be appointed by the mayor of the city of New York FROM THE LIST PROVIDED BY THE NOMINATING PANEL AS DESCRIBED IN SECTION TWENTY-FIVE HUNDRED NINETY-V OF THIS ARTICLE. The chancellor shall serve as an ex-officio non-voting member of the city board. The [city] board OF EDUCATION shall [elect its own chairperson from among its voting members] SELECT A BOARD MEMBER TO SERVE AS CHAIR. All thirteen appointed members shall serve [at the pleasure of the appointing authority] A THREE YEAR TERM and shall not be employed in any capacity by the city of New York, or a subdivision thereof, or the city board. No appointed member of the city board shall also be a member, officer, or employee of any public corporation, authority, or commission where the mayor of the city of New York has a majority of the appointments. Each borough president's appointee shall be a resident

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

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of the borough for which the borough president appointing him or her was elected and shall be the parent of a child attending a public school within the city school district of the city of New York. Each mayoral appointee shall be a resident of the city and two shall be parents of a child attending a public school within the city district. All parent members shall be eligible to continue to serve on the city board for two years following the conclusion of their child's attendance at a public school within the city district. Any vacancy shall be filled by appointment by the appropriate appointing authority within ninety days of such vacancy. Notwithstanding any provision of local law, the members of the board shall not have staff, offices, or vehicles assigned to them or receive compensation for their services, but shall be reimbursed for the actual and necessary expenses incurred by them in the performance of their duties.

(F) THE CITY BOARD MAY APPOINT A SECRETARY WHO SHALL PERFORM THE FOLLOWING FUNCTIONS:

(I) PREPARE MEETING NOTICES, AGENDAS AND MINUTES;

(II) RECORD AND MAINTAIN ACCOUNTS OF PROCEEDINGS AND OTHER CITY BOARD MEETINGS; AND

(III) PREPARE BRIEFING MATERIALS AND OTHER RELATED INFORMATIONAL MATERIALS FOR SUCH MEETINGS. THE CITY BOARD SHALL BE RESPONSIBLE FOR THE APPOINTMENT, SUPERVISION, EVALUATION AND DISCHARGE OF THE SECRETARY.

S 2. The education law is amended by adding a new section 2590-v to read as follows:

S 2590-V. NOMINATING PANEL. 1. THERE SHALL BE A NOMINATING PANEL COMPOSED OF THIRTEEN MEMBERS WHOSE SOLE FUNCTION SHALL BE TO NOMINATE PERSONS FOR CONSIDERATION BY THE MAYOR FOR APPOINTMENT TO THE BOARD OF EDUCATION. REPRESENTATION ON THE PANEL AND THE SELECTION OF SUCH MEMBERS SHALL BE AS FOLLOWS: THREE MEMBERS SHALL BE SELECTED CITY-WIDE BY THE COMMUNITY DISTRICT EDUCATION COUNCILS AS A BODY; ONE MEMBER SHALL BE SELECTED BY THE CITY-WIDE COUNCIL ON HIGH SCHOOLS; ONE MEMBER SHALL BE SELECTED BY THE CITY-WIDE COUNCIL ON SPECIAL EDUCATION; ONE TEACHER SHALL BE SELECTED BY THE UNION REPRESENTING THE TEACHERS; ONE ADMINISTRATOR SHALL BE SELECTED BY THE COUNCIL OF SUPERVISORS AND ADMINISTRATORS; ONE REPRESENTATIVE OF THE BUSINESS COMMUNITY SHALL BE SELECTED BY THE NEW YORK CITY PARTNERSHIP; ONE MEMBER SHALL BE SELECTED BY THE CHANCELLOR OF THE STATE UNIVERSITY OF NEW YORK WHO SHALL CHOOSE A PRESIDENT OF A PUBLIC OR PRIVATE COLLEGE OR UNIVERSITY WITHIN THE STATE OF NEW YORK; AND FOUR MEMBERS SHALL BE SELECTED BY THE MAYOR.

2. THE MEMBERS OF THE NOMINATING PANEL SHALL BE SELECTED FROM TIME TO TIME NO LATER THAN SEPTEMBER THIRTIETH AND SHALL SERVE FOR A TERM OF TWO YEARS, EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION. IN THE EVENT THAT ANY MEMBER DOES NOT COMPLETE HIS OR HER TERM FOR ANY REASON, THE PERSON OR ENTITY WHO SELECTED SUCH MEMBER SHALL SELECT ANOTHER PERSON IN LIKE MANNER TO COMPLETE THE UNEXPIRED TERM.

3. THE NOMINATING PANEL ANNUALLY SHALL FROM AMONG ITS MEMBERSHIP ELECT A CHAIR WHO SHALL FORTHWITH PUBLISH A LIST OF THE NAMES AND ADDRESSES OF THE MEMBERS OF THE PANEL ON THE BOARD OF EDUCATION WEBSITE. THE PANEL SHALL MEET IN PUBLIC FOR THE SOLE PURPOSE OF DELIBERATING UPON, HEARING PUBLIC COMMENT WITH RESPECT TO, AND FINALLY SELECTING A LIST OF NOMINEES TO BE PRESENTED TO THE MAYOR FROM TIME TO TIME. EACH NOMINEE SHALL BE A RESIDENT OF THE CITY OF NEW YORK AT THE TIME OF SUCH NOMINATION. THE PANEL SHALL STRIVE TO NOMINATE INDIVIDUALS WHO REFLECT THE ETHNIC, RACIAL AND SOCIOECONOMIC DIVERSITY OF THE CITY OF NEW YORK AND ITS PUBLIC SCHOOL POPULATION.

4. MEMBERS OF THE BOARD OF EDUCATION SHALL SERVE FOR A TERM OF THREE YEARS. PROVIDED, HOWEVER, OF THE MEMBERS FIRST APPOINTED:

(A) THREE OF THE MEMBERS APPOINTED BY THE MAYOR SHALL SERVE A TERM OF ONE YEAR. THE MAYOR SHALL DESIGNATE WHICH THREE MEMBERS ARE TO SERVE ONE-YEAR TERMS.

(B) THE FOUR REMAINING MEMBERS APPOINTED BY THE MAYOR SHALL EACH SERVE A TWO-YEAR TERM.

(C) THE MEMBERS APPOINTED BY THE BOROUGH PRESIDENTS SHALL EACH SERVE A THREE-YEAR TERM.

5. THE FIRST NOMINATING PANEL SHALL CONVENE ITSELF IN A MUNICIPAL BUILDING WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION. IT SHALL HOLD SUCH MEETINGS AS IT DEEMS NECESSARY AND SHALL PRESENT TO THE MAYOR A LIST CONTAINING THE NAMES AND ADDRESSES OF NOT FEWER THAN FOURTEEN NOMINEES NOT LATER THAN DECEMBER SECOND, TWO THOUSAND ELEVEN, FROM WHICH THE MAYOR SHALL APPOINT SEVEN PERSONS TO SERVE AS MEMBERS OF THE PANEL ON EDUCATIONAL POLICY; PROVIDED, HOWEVER, SHOULD THE PANEL FAIL TO PRESENT SUCH LIST TO THE MAYOR BY DECEMBER SECOND, TWO THOUSAND ELEVEN, THE MAYOR SHALL HAVE THE POWER TO APPOINT ANY PERSON HE DEEMS SUITABLE TO THE PANEL FOR THE TERMS TO COMMENCE IN THE FOLLOWING JANUARY.

6. IN TWO THOUSAND TWELVE AND THEREAFTER, ON THE FIRST WEDNESDAY OF OCTOBER OF EVERY YEAR THE NOMINATING PANEL SHALL CONVENE TO SELECT TWO NOMINEES FOR EACH OFFICE OF PANEL ON EDUCATIONAL POLICY THAT SHALL BECOME VACANT ON THE FIRST DAY OF THE NEXT MUNICIPAL YEAR. NO LATER THAN THE FIRST MONDAY IN DECEMBER OF EACH YEAR, THE PANEL SHALL PRESENT TO THE MAYOR A LIST CONTAINING THE NAMES AND ADDRESSES OF SUCH NOMINEES FOR EACH TERM OF OFFICE TO COMMENCE ON THE FIRST DAY OF THE NEXT MUNICIPAL YEAR; PROVIDED, HOWEVER, SHOULD THE PANEL FAIL TO PRESENT SUCH LIST TO THE MAYOR BY THE FIRST MONDAY IN DECEMBER, THE MAYOR SHALL HAVE THE POWER TO APPOINT ANY PERSON HE DEEMS SUITABLE TO THE OFFICE OF SCHOOL COMMITTEE FOR THE TERM TO COMMENCE IN THE FOLLOWING JANUARY.

7. UPON NOTICE PROVIDED BY THE CHANCELLOR THAT A VACANCY EXISTS IN THE OFFICE OF ANY SCHOOL COMMITTEE MEMBER DUE TO DEATH OR RESIGNATION, THE PANEL SHALL CONVENE WITHIN TEN DAYS OF SUCH NOTICE AND SHALL, WITHIN THIRTY DAYS AFTER SO CONVENING, SELECT AND PRESENT TO THE MAYOR A LIST CONTAINING THE NAMES AND ADDRESSES OF TWO NOMINEES. WITHIN FIFTEEN DAYS AFTER SUCH PRESENTMENT, THE MAYOR SHALL APPOINT A SCHOOL COMMITTEE MEMBER TO SERVE THE UNEXPIRED TERM OF THE VACANT OFFICE; PROVIDED, HOWEVER, SHOULD THE PANEL FAIL TO PRESENT SUCH LIST WITHIN SUCH THIRTY DAYS, THE MAYOR SHALL HAVE THE POWER TO APPOINT ANY PERSON HE OR SHE DEEMS SUITABLE TO THE VACANT OFFICE TO SERVE SUCH UNEXPIRED TERM.

S 3. Subdivision 36 of section 2590-h of the education law is REPEALED and a new subdivision 36 is added to read as follows:

36. (A) ENSURE THAT ALL CONTRACTS OR AGREEMENTS INVOLVING THE PURCHASE OR DELIVERY OF MATERIAL GOODS, SUPPLIES AND SERVICES BY OR TO THE CHANCELLOR, THE SUPERINTENDENTS OR THE SCHOOLS, INCLUDING ANY FRANCHISE OR CONCESSION AGREEMENTS, REGARDLESS OF THE SOURCE OF FUNDS, ARE ENTERED INTO IN ACCORDANCE WITH THE PROVISIONS OF CHAPTERS THIRTEEN AND FOURTEEN OF THE NEW YORK CITY CHARTER AND THE RULES OF THE NEW YORK CITY PROCUREMENT POLICY BOARD AND OF THE NEW YORK CITY FRANCHISE CONCESSION AND REVIEW COMMITTEE, PROVIDED THAT WHERE SUCH LAW OR RULES REQUIRE ACTION BY OR APPEAL TO THE MAYOR OR AN APPOINTEE OF THE MAYOR, OTHER THAN THE CHANCELLOR, SUCH ACTION SHALL INSTEAD BE TAKEN BY THE CHANCELLOR OR SUCH APPOINTEE OF THE CHANCELLOR AS THE CHANCELLOR MAY DELEGATE IN WRITING, AND PROVIDED FURTHER, ANY CONTRACT AWARDED WITHOUT COMPETITION OR IN EXCESS OF ONE MILLION DOLLARS SHALL BE SUBJECT TO THE VOTE OF THE FULL

BOARD OF EDUCATION UNLESS SUCH CONTRACT SHALL BE DEEMED AN EMERGENCY AS DEFINED IN SECTION THREE HUNDRED FIFTEEN OF THE NEW YORK CITY CHARTER OR SHALL BE MADE IN ACCORDANCE WITH RULES OF THE PROCUREMENT POLICY BOARD ESTABLISHED PURSUANT TO SECTION THREE HUNDRED FOURTEEN OF THE NEW YORK CITY CHARTER. NO SUCH CONTRACT OR AGREEMENT SHALL BE IMPLEMENTED UNTIL IT HAS BEEN FILED AND REGISTERED BY THE COMPTROLLER PURSUANT TO CHAPTERS FIVE AND THIRTEEN OF THE NEW YORK CITY CHARTER. FOR THE PURPOSES OF THIS SUBDIVISION, THE TERMS "CONTRACT" OR "AGREEMENT" SHALL INCLUDE ANY CONTRACT THAT DIRECTLY OR INDIRECTLY BENEFITS THE CITY DISTRICT, INCLUDING ANY CONTRACT OR OTHER INSTRUMENT IN WHICH THE CITY, CITY BOARD OR ANY OF ITS OFFICERS AGREES TO GIVE OR RECEIVE A CONSIDERATION OTHER THAN THE PAYMENT OF MONEY;

(B) ESTABLISH STANDARDS FOR QUALITY, FUNCTION, AND UTILITY OF ALL MATERIAL GOODS, SUPPLIES, AND SERVICES PURCHASED BY THE CHANCELLOR, SUPERINTENDENTS, OR SCHOOLS; AND

(C) PROMULGATE REGULATIONS WHICH ENABLE SUPERINTENDENTS AND SCHOOLS TO PURCHASE MATERIAL GOODS, SUPPLIES, AND SERVICES DIRECTLY FROM VENDORS OR SUPPLIERS WHEN SUCH PRODUCTS ARE AVAILABLE AT PRICES OR OTHER TERMS MORE ECONOMICALLY BENEFICIAL FOR THE PURPOSES OF THE ACQUIRING SUPERINTENDENT OR SCHOOL. SUCH REGULATIONS SHALL ALSO INCLUDE REPAIR SERVICES AND BUILDING SUPPLIES, AS DEFINED IN SUCH REGULATIONS, FOR EXPENDITURES FROM EACH DISTRICT'S MINOR REPAIR AND PURCHASING FUNDS PURSUANT TO SECTION TWENTY-FIVE HUNDRED NINETY-R OF THIS ARTICLE.

S 4. This act shall take effect immediately; provided that:

1. the amendments to paragraph (a) of subdivision 1 of section 2590-b of the education law made by section one of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith;

2. the provisions of section two of this act shall expire June 30, 2015 when upon such date the provisions of such section shall be deemed repealed; and

3. the amendments to section 2590-h of the education law made by section three of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith.