

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

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 ASSEMBLY, 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

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

LBD03360-01-1

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

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 Subdivision 2-a of section 2554 of the education law is REPEALED  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

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

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

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

54 29. IN THE CITY SCHOOL DISTRICT OF THE CITY OF ROCHESTER, UPON RECEIPT  
55 FROM THE SUPERINTENDENT, TO REVIEW AND EITHER RETURN TO THE SUPERINTEN-  
56 DENT FOR AMENDMENT OR APPROVE AND FILE WITH THE MAYOR, PURSUANT TO

1 SECTION TWENTY-FIVE HUNDRED SEVENTY-SIX OF THIS ARTICLE, THE ANNUAL  
2 ITEMIZED ESTIMATE AND CAPITAL PLAN FOR THE DISTRICT. SUCH BUDGET AND  
3 CAPITAL PLAN SHALL INCLUDE MULTI-YEAR PROJECTIONS OF REVENUES, EXPENSES,  
4 INDEBTEDNESS AND CAPITAL NEEDS.

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

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

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

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

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

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

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

1 ESTIMATE AND CAPITAL. ALSO, EACH SUCH ESTIMATE AND CAPITAL PLAN SHALL  
2 INCLUDE A FOUR-YEAR PROJECTION OF ESTIMATED REVENUES, EXPENSES, CAPITAL  
3 NEEDS, AND INDEBTEDNESS.

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

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

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

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

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

55 S 8. This act shall take effect immediately; provided, however, that  
56 sections one through seven of this act shall take effect July 1, 2012;

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