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

January 18, 2011

Introduced by M. of A. GALEF -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to a board of cooperative educational services school district restructuring committee

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

Section 1. Subdivision 4 of section 1950 of the education law is amended by adding a new paragraph oo to read as follows:

OO. TO ESTABLISH, BY NO LATER THAN OCTOBER FIRST, TWO THOUSAND THIRTEEN, A BOARD OF COOPERATIVE EDUCATIONAL SERVICES SCHOOL DISTRICT RESTRUCTURING COMMITTEE TO STUDY AND REVIEW THE ORGANIZATION AND OPERATION OF ALL COMPONENT AND NON-COMPONENT SCHOOL DISTRICTS WITHIN THE AREA SERVED BY THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES, OTHER THAN SCHOOL DISTRICTS FORMED BY SPECIAL ACT AND SCHOOL DISTRICTS IN CITIES HAVING A POPULATION OF ONE MILLION INHABITANTS OR MORE.

(1) SUCH COMMITTEE SHALL HAVE AT LEAST TEN BUT NO MORE THAN TWENTY-FIVE MEMBERS APPOINTED BY THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES UPON THE RECOMMENDATION OF THE DISTRICT SUPERINTENDENT OF SCHOOLS, AFTER CONSULTATION WITH ORGANIZATIONS REPRESENTING SCHOOL BOARDS, SUPERINTENDENTS OF SCHOOLS, SCHOOL ADMINISTRATORS, TEACHERS AND PARENTS IN THE AREA SERVED BY THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES. THE COMMITTEE SHALL BE CHAIRED BY THE DISTRICT SUPERINTENDENT OF SCHOOLS OR HIS OR HER DESIGNEE, AND SHALL INCLUDE REPRESENTATIVES OF PARENTS, TEACHERS, SCHOOL ADMINISTRATORS, SCHOOL BOARD MEMBERS, SUPERINTENDENTS OF SCHOOLS AND OTHER INTERESTED CITIZENS, SUCH AS REPRESENTATIVES OF CIVIC AND BUSINESS ASSOCIATIONS. MEMBERS OF THE COMMITTEE SHALL SERVE WITHOUT COMPENSATION. A MAJORITY OF THE WHOLE NUMBER OF THE COMMITTEE SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF BUSINESS AND APPROVAL OF AT LEAST A MAJORITY OF THE WHOLE NUMBER SHALL BE REQUIRED FOR ACTION BY THE COMMITTEE. ALL COMMITTEE MEETINGS SHALL BE OPEN TO THE PUBLIC. THE COMMITTEE SHALL CONDUCT AT LEAST ONE PUBLIC HEARING IN THE AREA SERVED BY THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES ON OR BEFORE JUNE FIFTEENTH, TWO THOUSAND TWELVE TO RECEIVE TESTIMONY AND PUBLIC COMMENT ON THE POTENTIAL FOR COST SAVINGS AND THE IMPROVEMENT OF

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

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SERVICES THROUGH SHARED OR CONSOLIDATED SERVICES AND SCHOOL DISTRICT REORGANIZATIONS.

(2) SUCH COMMITTEE SHALL REVIEW CURRENT SCHOOL DISTRICT ORGANIZATION, ENROLLMENTS AND FINANCIAL CIRCUMSTANCES AND IDENTIFY AND EVALUATE OPPORTUNITIES FOR COSTS SAVINGS AND IMPROVEMENT OF SERVICES THROUGH RESTRUCTURING OF SCHOOL DISTRICT FUNCTIONS AS WELL AS SCHOOL DISTRICT REORGANIZATION, AND BY OCTOBER FIRST, TWO THOUSAND FOURTEEN SHALL ISSUE A PRELIMINARY WRITTEN REPORT DESCRIBING ITS FINDINGS ON THE POTENTIAL FOR CONSOLIDATION AND SHARING OF SERVICES WITHIN THE AREA SERVED BY THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND RECOMMENDING ANY SPECIFIC STUDIES OF SHARED OR CONSOLIDATED SERVICES THAT THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND/OR TRUSTEES OR BOARDS OF EDUCATION OF SCHOOL DISTRICTS IN THE AREA SERVED BY THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHOULD UNDERTAKE. SUCH PRELIMINARY REPORT SHALL ALSO CONTAIN RECOMMENDATIONS FOR STUDIES OF POTENTIAL SCHOOL DISTRICT REORGANIZATIONS OR SPECIFIC RECOMMENDATIONS TO THE COMMISSIONER AND AFFECTED SCHOOL DISTRICTS ON POTENTIAL SCHOOL DISTRICT REORGANIZATIONS THAT WOULD ASSURE THE MOST EFFICIENT AND ECONOMICAL PROVISION OF EDUCATIONAL FACILITIES IN THE REGION AND THE BEST EDUCATIONAL INTERESTS OF THE CHILDREN IN THE AREA. THE TRUSTEES OR BOARDS OF EDUCATION OF THE AFFECTED SCHOOL DISTRICTS AND THE BOARDS OF COOPERATIVE EDUCATIONAL SERVICES SHALL CONSIDER UNDERTAKING ANY SUCH STUDIES RECOMMENDED BY THE COMMITTEE AND APPLYING FOR FUNDING THROUGH THE LOCAL GOVERNMENT EFFICIENCY GRANTS OR OTHER STATE FUNDING SOURCES.

(3) ON OR BEFORE OCTOBER FIRST, TWO THOUSAND FIFTEEN, THE COMMITTEE SHALL ISSUE A FINAL REPORT CONTAINING ITS FINAL RECOMMENDATIONS ON SHARING OR CONSOLIDATION OF SERVICES AND SPECIFIC RECOMMENDATIONS TO THE COMMISSIONER AND AFFECTED SCHOOL DISTRICTS ON SCHOOL DISTRICT REORGANIZATIONS.

(4) IN MAKING RECOMMENDATIONS ON SCHOOL DISTRICT REORGANIZATION, THE COMMITTEE SHALL CONSIDER CURRENT AND PROJECTED ENROLLMENTS OF EXISTING SCHOOL DISTRICTS AND THE IMPACT OF POTENTIAL REORGANIZATIONS ON COSTS AND PROPERTY TAX BURDEN IN THE AFFECTED SCHOOL DISTRICTS, AS WELL AS ANY EDUCATIONAL BENEFITS RESULTING FROM REORGANIZATION. FOLLOWING RECEIPT OF A RECOMMENDATION FOR SCHOOL DISTRICT REORGANIZATION FROM SUCH COMMITTEE, THE COMMISSIONER SHALL EITHER: (I) RETURN THE RECOMMENDATION TO THE COMMITTEE FOR RECONSIDERATION BASED ON THE COMMITTEE'S FAILURE TO DEMONSTRATE THAT THE REORGANIZATION WILL RESULT IN EFFICIENT AND ECONOMICAL DELIVERY OF SERVICES OR WOULD BE IN THE BEST EDUCATIONAL INTERESTS OF STUDENTS OR BECAUSE THE PROPOSED REORGANIZATION CANNOT BE ACCOMPLISHED WITHOUT A CHANGE IN LAW; OR (II) APPROVE THE RECOMMENDATION AND ORDER ANY AMENDMENTS TO THE STATE PLAN FOR REORGANIZATION PURSUANT TO SUBDIVISION TWO OF SECTION THREE HUNDRED FOURTEEN OF THIS CHAPTER THAT WOULD BE REQUIRED TO CARRY OUT SUCH RECOMMENDATION, AND THEREAFTER ISSUE ANY FURTHER ORDERS NECESSARY TO INITIATE THE REORGANIZATION RECOMMENDED BY THE COMMITTEE.

(5) THE DEPARTMENT, THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND THE TRUSTEES OR BOARDS OF EDUCATION OF SCHOOL DISTRICTS WITHIN THE AREA SERVED BY THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL COMPLY WITH REASONABLE REQUESTS BY THE COMMITTEE FOR DATA AND INFORMATION NEEDED TO CARRY OUT ITS FUNCTIONS, INCLUDING BUT NOT LIMITED TO ENROLLMENT PROJECTIONS, FINANCIAL INFORMATION, INFORMATION ON FACILITIES, INFORMATION ON PAST STUDIES OR EXAMPLES OF SHARING OF SERVICES OR SCHOOL DISTRICT REORGANIZATIONS, RELEVANT RESEARCH OR REPORTS AND INFORMATION ON LAWS OR PROGRAMS THAT MAY BE RELEVANT. THE DISTRICT SUPERINTENDENT OF SCHOOLS SHALL REGULARLY REPORT TO THE COMMISSIONER ON PROGRESS BEING

MADE BY THE COMMITTEE, AND THE INFORMATION SO REPORTED SHALL BE SUMMARIZED AND MADE AVAILABLE TO INTERESTED PARTIES AND SHALL BE POSTED ON THE DEPARTMENT'S WEBSITE. THE PRELIMINARY AND FINAL REPORTS OF EACH COMMITTEE SHALL ALSO BE POSTED ON THE DEPARTMENT'S WEBSITE. THE COMMISSIONER SHALL SUMMARIZE THE ACTIVITIES OF THE REGIONAL SCHOOLS RESTRUCTURING COMMITTEES AND REPORT TO THE BOARD OF REGENTS, THE LEGISLATURE AND THE GOVERNOR WITHIN SIXTY DAYS OF THE RECEIPT OF THE FINAL REPORTS FROM THE COMMITTEES.

S 2. Subdivision 6 of section 314 of the education law, as amended by chapter 163 of the laws of 1972, is amended to read as follows:

6. A. Whenever any school district scheduled for reorganization pursuant to the state plan of reorganization as herein established has not consolidated or reorganized in accordance therewith within two years after the entry of an order pursuant to subdivision two [herein] OF THIS SECTION establishing such final plan of reorganization for the affected district or districts, or has failed within such time after receipt of such notice to institute a proceeding for a change in accordance with this section, or is unable to show that such district has adopted a resolution or resolutions in accordance with sections eighteen hundred one through eighteen hundred three, fifteen hundred ten through fifteen hundred thirteen, fifteen hundred twenty-two and fifteen hundred twenty-three, fifteen hundred twenty-four or fifteen hundred twenty-six of this chapter in favor of such reorganization or that in the case of an order of dissolution and annexation, such district has not asked for a referendum pursuant to subdivision two of section eighteen hundred two OF THIS CHAPTER, and is being prevented from reorganizing by the action of another district which is part of the same plan of reorganization, OR THAT THE VOTERS OF SUCH DISTRICT HAVE FAILED TO APPROVE A REFERENDUM SUBMITTED PURSUANT TO SECTION NINETEEN HUNDRED THIRTEEN OF THIS CHAPTER AS A RESULT OF A RECOMMENDATION IN THE FINAL REPORT OF A BOARD OF COOPERATIVE EDUCATIONAL SERVICES SCHOOL DISTRICT RESTRUCTURING COMMITTEE, commencing with the school year following the school year in which the two-year period expired, such school district shall not be eligible to receive any building aid exceeding the building aid which such district would be entitled to receive in accordance with the applicable provisions of the education law in existence on July first, nineteen hundred sixty-five until such reorganization shall take place, except for such additional amounts as may be computed as due on debt service already incurred[; provided] OR TO BE INCURRED ON PROJECTS APPROVED BY THE VOTERS OF THE SCHOOL DISTRICT PRIOR TO THE EFFECTIVE DATE OF SUCH ORDER OR FOR CAPITAL OUTLAYS OR DEBT SERVICE INCURRED AFTER THE EFFECTIVE DATE OF SUCH ORDER TO THE EXTENT AUTHORIZED BY PARAGRAPH C OF THIS SUBDIVISION.

B. WHERE AN ORDER ISSUED PURSUANT TO SUBDIVISION TWO OF THIS SECTION IS A RESULT OF A RECOMMENDATION IN THE FINAL REPORT OF A BOARD OF COOPERATIVE EDUCATIONAL SERVICES SCHOOL DISTRICT RESTRUCTURING COMMITTEE, NO BUILDING AID SHALL BE PAYABLE ON NEW PROJECTS APPROVED BY THE VOTERS OF ANY SCHOOL DISTRICT AFFECTED BY SUCH ORDER UNTIL THE RECOMMENDED REORGANIZATION TAKES PLACE, EXCEPT AS AUTHORIZED BY PARAGRAPH C OF THIS SUBDIVISION.

C. PROVIDED, however, that nothing contained in this subdivision shall prevent the apportionment of building aid for construction, reconstruction, alterations of or additions to school building facilities for the use of grades kindergarten through [eight] TWELVE, provided the commissioner shall find that: (1) existing facilities are obsolete or inadequate; and (2)(I) that the construction for which aid is sought

would be capable of substantial educational use by the reorganized district in the event that the reorganization under the existing plan for reorganization is effected; OR (II) THE PROJECT FOR WHICH AID IS SOUGHT ON CAPITAL OUTLAYS OR DEBT SERVICE IS A CONSTRUCTION EMERGENCY PROJECT AS DEFINED IN CLAUSE (C) OF SUBPARAGRAPH TWO OF PARAGRAPH B OF SUBDIVISION SIX OF SECTION THIRTY-SIX HUNDRED TWO OF THIS CHAPTER.

S 3. Paragraph a of subdivision 14 of section 3602 of the education law, as added by chapter 57 of the laws of 1993, is amended to read as follows:

a. District subject to reorganization. (1) No apportionments pursuant to subdivision six of this section shall be paid to any school district which is scheduled for reorganization pursuant to the state plan for school district reorganization, unless there shall have been compliance with this paragraph.

(2) In order to obtain an apportionment under subdivision six of this section for a district scheduled for reorganization and not reorganized, such district shall file with the commissioner a formal written application therefor, (a) showing (i) inadequacy or obsolescence of present facilities, and (ii) that such construction for which such apportionment is sought would be capable of substantial educational use by the reorganized district in case the reorganization under the existing plan of reorganization is effected, and that it will provide more efficient and more economical educational facilities for such reorganized district in the best educational interests of the children in the reorganized school district; or (b) showing that: (I) such district has adopted a resolution or resolutions in accordance with sections eighteen hundred one through eighteen hundred three of this chapter in favor of such reorganization OR THE VOTERS OF THE SCHOOL DISTRICT HAVE VOTED IN FAVOR OF A REORGANIZATION WHICH WAS RECOMMENDED IN THE FINAL REPORT OF A BOARD OF COOPERATIVE EDUCATIONAL SERVICES SCHOOL DISTRICT RESTRUCTURING COMMITTEE; and (II) SUCH DISTRICT is being prevented from reorganizing by the action of another district which is part of the same plan of reorganization; OR (C) THE PROJECT FOR WHICH AID IS SOUGHT ON CAPITAL OUTLAYS OR DEBT SERVICE IS A CONSTRUCTION EMERGENCY PROJECT AS DEFINED IN CLAUSE (C) OF SUBPARAGRAPH TWO OF PARAGRAPH B OF SUBDIVISION SIX OF SECTION THIRTY-SIX HUNDRED TWO OF THIS CHAPTER. The commissioner shall within ninety days grant such apportionment or deny such apportionment with leave to the district to petition for a formal hearing. Such hearing shall be held pursuant to the procedures provided in subdivision three of section three hundred fourteen of this chapter.

(3) (a) Within sixty days after such hearing is concluded and all papers in relation thereto are submitted, the commissioner shall render a preliminary finding recommending whether a change is warranted, setting forth [his] THE COMMISSIONER'S findings and conclusions which shall be based exclusively on the evidence presented at the hearing. The commissioner shall recommend the amendment or confirmation of the state plan in accordance with his preliminary finding by a report made by him and entered in [his] THE COMMISSIONER'S office. The commissioner shall serve a copy of such preliminary finding upon the clerk or in the event that there is no clerk, the trustee or trustees of the school districts located in the affected area or areas. In the event that such districts do not agree with such preliminary findings, the school districts affected by the terms of such preliminary finding may within thirty days apply to the chancellor of the board of regents for the appointment of a committee of the regents to review the proposed amendment or confirmation of the state plan. In the event that an application to the chancel-

lor is not made within thirty days for the appointment of a committee of the regents, the preliminary finding shall become an order without further action of the commissioner.

(b) Upon receipt of such application, the chancellor shall appoint a committee of three members of the regents, one of whom shall be a regent whose judicial district includes all or part of the areas affected. The committee of regents shall review the proposed amendment or confirmation of the state plan. In the event the committee is unable to resolve the differences between the commissioner and such school districts, it shall within sixty days from the date of the appointment of such committee, make an order reversing, affirming, or modifying, wholly or in part, such preliminary finding of the commissioner and amending or confirming the state plan setting forth the committee's findings and conclusions which shall be based exclusively on the evidence presented at the commissioner's hearing and any additional evidence presented at the committee's review. The committee shall have the discretion to permit additional evidence to be presented by any party. The commissioner shall serve a copy of such order upon the clerk or in the event there is no clerk, the trustee or trustees of the school districts located in the affected area or areas.

(c) Such order of the committee of the regents shall be binding and final and subject to review pursuant to article seventy-eight of the civil practice law and rules. The scope of review shall include the question whether the determination is on the entire record supported by substantial evidence.

(d) The commissioner shall establish and promulgate rules of practice and procedures in connection with such hearings, shall provide for the attendance of the hearing officer, regulate the course of the hearing, fix the time for filing of briefs and other documents, provide a hearing stenographer and for the making of a record as well as the making of a full transcript of all proceedings at the hearing and shall at the request of any party, school district or interested person have prepared and furnish a copy of the transcript or any party thereof upon payment of the costs therefor.

(e) School districts designated in the established plan by an order of the committee of the regents shall be made parties by the petitioning district. Districts which may be affected by the proposed change may join or be joined in such proceeding by the commissioner or any party.

(4) Notwithstanding the provisions of subparagraphs one through three of this paragraph, any such district which has qualified for an apportionment for school building purposes, under laws in effect prior to the date this act takes effect, shall receive an apportionment under subdivision six of this section; and provided, further, that no new apportionment shall be paid and the commissioner shall not approve any new expenditures for school building purposes in any such district after such date, except where the commissioner has made a determination as herein provided.

(5) Nothing herein provided shall prevent a school district which has heretofore been denied an apportionment subsequent to July first, nineteen hundred sixty-two from making an application hereunder, except that any such apportionment which may be granted shall not be retroactive beyond July first, nineteen hundred sixty-two.

S 4. This act shall take effect on the first of October next succeeding the date on which it shall have become a law.