

2011-2012 Regular Sessions

I N   S E N A T E

(PREFILED)

January 5, 2011

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Introduced by Sen. DIAZ -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law, in relation to the retaining quality teachers and teachers in shortage subject areas when teaching positions are eliminated in city school districts of cities having one million or more inhabitants; and to repeal certain provisions of the education law relating thereto

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

1     Section 1.     This act shall be known and may be cited as "the keep  
2     effective and excellent professionals in the classroom act".  
3     S 2. The section heading of section 2588 of the education law, as  
4     added by chapter 521 of the laws of 1976, is amended to read as follows:  
5     Seniority, retention and displacement rights in connection with aboli-  
6     tion of positions in city school districts of cities having [more than]  
7     one million inhabitants OR MORE.  
8     S 3. Subdivision 3 of section 2588 of the education law is REPEALED  
9     and a new subdivision 3 is added to read as follows:  
10    3. (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY,  
11    WHENEVER THE CITY SCHOOL DISTRICT ABOLISHES TEACHING OR SUPERVISORY  
12    POSITIONS CITYWIDE AS A RESULT OF A CITYWIDE BUDGET REDUCTION IN ACCORD-  
13    ANCE WITH PARAGRAPH B OF SUBDIVISION FIVE-A OF SECTION TWENTY-FIVE  
14    HUNDRED SEVENTY-SIX OF THIS ARTICLE AND THE MAINTENANCE OF EFFORT  
15    REQUIREMENTS APPLICABLE TO THE CITY OF NEW YORK.  
16    (I) DECISIONS CONCERNING WHICH POSITIONS WITHIN INDIVIDUAL SCHOOLS ARE  
17    TO BE ABOLISHED, AND WHICH PERSONS OCCUPYING SUCH POSITIONS ARE TO BE  
18    ABOLISHED, AND WHICH PERSONS OCCUPYING SUCH POSITIONS ARE TO BE LAID  
19    OFF, SHALL BE MADE BY THE PRINCIPAL, CONSISTENT WITH GUIDANCE PROMULGAT-  
20    ED BY THE CHANCELLOR PURSUANT TO THIS SECTION. THE PRINCIPAL SHALL MAKE  
21    THE DECISION AFTER CONSIDERING THE RECOMMENDATIONS OF A SCHOOL-BASED

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

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1 COMMITTEE COMPRISED OF TEACHERS, ADMINISTRATORS AND PARENTS. THE FOLLOW-  
2 ING FACTORS SHALL BE CONSIDERED IN DETERMINING WHICH POSITIONS SHALL BE  
3 ABOLISHED AND WHICH PERSONS OCCUPYING SUCH POSITIONS ARE TO BE LAID OFF:  
4 (A) SCHOOL NEEDS FOR PARTICULAR LICENSE AREAS; AND (B) WHEN MORE THAN  
5 ONE PERSON HOLDS A POSITION WITHIN THE SAME LICENSE AREA: SIGNIFICANT  
6 RELEVANT CONTRIBUTIONS, ACCOMPLISHMENTS, OR PERFORMANCE OF EACH SUCH  
7 PERSON; RELEVANT SUPPLEMENTAL PROFESSIONAL EXPERIENCES OF EACH SUCH  
8 PERSON AS DEMONSTRATED ON THE JOB; OFFICE OR SCHOOL NEEDS, INCLUDING:  
9 CURRICULUM SPECIALIZED EDUCATION, DEGREES, LICENSES OR AREAS OF EXPER-  
10 TISE; AND LENGTH OF SATISFACTORY SERVICE BY EACH SUCH PERSON.

11 (II) IN THE CASE OF TEACHERS OR SUPERVISORS WHO ARE ASSIGNED TO POSI-  
12 TIONS THAT ARE NOT WITHIN INDIVIDUAL SCHOOLS, OR WHO HAVE BEEN DISCI-  
13 PLINED PURSUANT TO SECTION THREE THOUSAND TWENTY-A OF THIS CHAPTER AND  
14 ARE NOT ASSIGNED TO A FULL-TIME POSITION, THE CHANCELLOR SHALL DETERMINE  
15 WHETHER THE PERSON WILL BE LAID OFF PURSUANT TO GUIDANCE PROMULGATED BY  
16 THE CHANCELLOR.

17 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, WHEN-  
18 EVER THE CITY SCHOOL DISTRICT ABOLISHES TEACHING OR SUPERVISORY POSI-  
19 TIONS AT INDIVIDUAL SCHOOLS IN ORDER TO MEET SCHOOL BUDGETARY NEEDS,  
20 REORGANIZE FUNCTIONS, OR FOR OTHER COMPELLING REASONS, OUTSIDE OF A  
21 CITYWIDE REDUCTION IN ACCORDANCE WITH PARAGRAPH (A) OF THIS SUBDIVISION,  
22 DECISIONS CONCERNING WHICH POSITIONS ARE TO BE ABOLISHED SHALL BE MADE  
23 BY THE PRINCIPAL, CONSISTENT WITH GUIDANCE PROMULGATED BY THE CHANCELLOR  
24 PURSUANT TO THIS SECTION. THE PRINCIPAL SHALL MAKE THE DECISION AFTER  
25 CONSIDERING THE RECOMMENDATIONS OF A SCHOOL-BASED COMMITTEE COMPRISED OF  
26 TEACHERS, ADMINISTRATORS AND PARENTS. THE FOLLOWING FACTORS SHALL BE  
27 CONSIDERED IN DETERMINING WHICH POSITIONS SHALL BE ABOLISHED AND WHICH  
28 PERSONS OCCUPYING SUCH POSITIONS ARE TO BE LAID OFF: (I) SCHOOL NEEDS  
29 FOR PARTICULAR LICENSE AREAS; AND (II) WHEN MORE THAN ONE PERSON HOLDS A  
30 POSITION WITHIN THE SAME LICENSE AREA: SIGNIFICANT RELEVANT CONTRIB-  
31 UTIONS, ACCOMPLISHMENTS, OR PERFORMANCE OF EACH SUCH PERSON; RELEVANT  
32 SUPPLEMENTAL PROFESSIONAL EXPERIENCES OF EACH SUCH PERSON AS DEMON-  
33 STRATED ON THE JOB; OFFICE OR SCHOOL NEEDS, INCLUDING: CURRICULUM  
34 SPECIALIZED EDUCATION, DEGREES, LICENSES OR AREAS OF EXPERTISE; AND  
35 LENGTH OF SATISFACTORY SERVICE BY EACH SUCH PERSON. A TEACHER OR SUPER-  
36 VISOR WHOSE POSITION IS ABOLISHED PURSUANT TO THIS SUBPARAGRAPH SHALL BE  
37 ELIGIBLE TO REMAIN EMPLOYED BY THE DISTRICT WITH NO DIMINUTION IN SALARY  
38 OR BENEFITS FOR ONE YEAR FROM THE DATE UPON WHICH THE PERSON'S POSITION  
39 WAS ABOLISHED, PROVIDED THAT (A) IF THE PERSON IS A NON-TENURED EMPLOY-  
40 EE, THE PERSON'S PERFORMANCE HAS BEEN SATISFACTORY; (B) IF THE PERSON IS  
41 A TENURED EMPLOYEE, THE PERSON HAS NOT BEEN SUSPENDED WITHOUT PAY OR  
42 RECEIVED A PENALTY OF TERMINATION IN PROCEEDINGS PURSUANT TO SECTION  
43 THREE THOUSAND TWENTY-A OF THIS CHAPTER; AND (C) SHOULD CITYWIDE LAYOFFS  
44 IN ACCORDANCE WITH PARAGRAPH (A) OF THIS SUBDIVISION BE CARRIED OUT  
45 DURING THIS ONE-YEAR PERIOD, THE CHANCELLOR SHALL DETERMINE WHETHER THE  
46 PERSON WILL BE LAID OFF PURSUANT TO GUIDANCE PROMULGATED BY THE CHANCEL-  
47 LOR. NOTWITHSTANDING ANY OTHER LAWS TO THE CONTRARY, INCLUDING BUT NOT  
48 LIMITED TO SECTION THREE THOUSAND TWENTY AND THREE THOUSAND TWENTY-A OF  
49 THIS CHAPTER, AFTER THE EXPIRATION OF ONE YEAR, A TEACHER OR SUPERVISOR  
50 WHO REMAINS EMPLOYED BY THE DISTRICT PURSUANT TO THIS SUBPARAGRAPH SHALL  
51 BE TERMINATED AUTOMATICALLY UNLESS THE TEACHER OR SUPERVISOR HAS BEEN  
52 REGULARLY APPOINTED TO A NON-SUBSTITUTE POSITION IN THE DISTRICT.

53 (C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, WHEN-  
54 EVER THE CITY SCHOOL DISTRICT ABOLISHES TEACHING POSITIONS DUE TO THE  
55 CLOSURE OR PHASE-OUT OF A SCHOOL, A TEACHER OR SUPERVISOR WHOSE POSITION  
56 IS ABOLISHED PURSUANT TO THIS PARAGRAPH SHALL BE ELIGIBLE TO REMAIN

1 EMPLOYED BY THE DISTRICT WITH NO DIMINUTION IN SALARY OR BENEFITS FOR  
2 ONE YEAR FROM THE DATE UPON WHICH THE TEACHER'S POSITION WAS ABOLISHED,  
3 PROVIDED THAT (I) IF THE PERSON IS A NON-TENURED EMPLOYEE, THE PERSON'S  
4 PERFORMANCE HAS BEEN SATISFACTORY; (II) IF THE PERSON IS A TENURED  
5 EMPLOYEE, THE PERSON HAS NOT BEEN SUSPENDED WITHOUT PAY OR RECEIVED A  
6 PENALTY OF TERMINATION IN PROCEEDINGS PURSUANT TO SECTION THREE THOUSAND  
7 TWENTY-A OF THIS CHAPTER; AND (III) SHOULD CITYWIDE LAYOFFS IN ACCORD-  
8 ANCE WITH PARAGRAPH (A) OF THIS SUBDIVISION BE CARRIED OUT DURING THIS  
9 ONE-YEAR PERIOD, THE CHANCELLOR SHALL DETERMINE WHETHER THE PERSON WILL  
10 BE LAID OFF PURSUANT TO GUIDANCE PROMULGATED BY THE CHANCELLOR. NOTWITH-  
11 STANDING ANY OTHER LAWS TO THE CONTRARY, INCLUDING BUT NOT LIMITED TO  
12 SECTION THREE THOUSAND TWENTY AND THREE THOUSAND TWENTY-A OF THIS CHAP-  
13 TER, AFTER THE EXPIRATION OF ONE YEAR, A TEACHER OR SUPERVISOR WHO  
14 REMAINS EMPLOYED BY THE DISTRICT PURSUANT TO THIS PARAGRAPH SHALL BE  
15 TERMINATED AUTOMATICALLY UNLESS THE TEACHER OR SUPERVISOR HAS BEEN REGU-  
16 LARLY APPOINTED TO A NON-SUBSTITUTE POSITION IN THE DISTRICT.

17 S 4. Subdivision 4 of section 2588 of the education law is REPEALED  
18 and a new subdivision 4 is added to read as follows:

19 4. WHENEVER A TEACHING POSITION IS ABOLISHED PURSUANT TO SUBDIVISION  
20 THREE OF THIS SECTION, SHOULD A VACANCY OCCUR IN THE SAME POSITION AT  
21 THE SAME SCHOOL OR ADMINISTRATIVE OFFICE WITHIN ONE YEAR OF THE DATE  
22 WHEN THE POSITION WAS ABOLISHED, THE PRINCIPAL, OR THE CHANCELLOR OR  
23 DESIGNEE, SHALL OFFER THE POSITION TO THE PERSON WHO HELD THE POSITION  
24 BEFORE IT WAS ABOLISHED. IF THE PERSON REJECTS THE OFFER, OR FAILS TO  
25 RESPOND TO THE OFFER WITHIN THIRTY DAYS, THE PERSON SHALL NO LONGER HAVE  
26 A RIGHT TO RETURN TO THE POSITION. IF MORE THAN ONE POSITION WAS ABOL-  
27 IShed IN THE SAME LICENSE AREA AT THE SAME SCHOOL OR ADMINISTRATIVE  
28 OFFICE, AND THERE ARE FEWER VACANCIES IN THE SAME LICENSE AREA THAN  
29 PERSONS WHOSE POSITIONS WERE ABOLISHED, THE PRINCIPAL, THE CHANCELLOR OR  
30 DESIGNEE, SHALL HAVE DISCRETION TO DETERMINE WHICH PERSON SHOULD BE  
31 OFFERED THE POSITION FIRST.

32 S 5. Subdivision 7 of section 2588 of the education law is REPEALED.

33 S 6. Section 3013 of the education law, as added by chapter 737 of the  
34 laws of 1992, is amended to read as follows:

35 S 3013. Abolition of office or position. 1. [If] EXCEPT IN THE CASE OF  
36 TEACHING OR SUPERVISORY POSITIONS IN CITY SCHOOL DISTRICTS IN CITIES  
37 WITH ONE MILLION INHABITANTS OR MORE, IF a trustee, board of trustees,  
38 board of education or board of cooperative educational services abol-  
39 ishes an office or position and creates another office or position for  
40 the performance of duties similar to those performed in the office or  
41 position abolished, the person filling such office or position at the  
42 time of its abolishment shall be appointed to the office or position  
43 thus created without reduction in salary or increment, provided the  
44 record of such person has been one of faithful, competent service in the  
45 office or position he or she has filled.

46 2. [Whenever] EXCEPT IN THE CASE OF TEACHING OR SUPERVISORY POSITIONS  
47 IN CITY SCHOOL DISTRICTS IN CITIES WITH ONE MILLION INHABITANTS OR MORE,  
48 WHENEVER a trustee, board of [trustee] TRUSTEES, board of education or  
49 board of cooperative educational services abolishes a position under  
50 this chapter, the services of the teacher having the least seniority in  
51 the system within the tenure of the position abolished shall be discon-  
52 tinued.

53 3. (a) [If] EXCEPT IN THE CASE OF TEACHING OR SUPERVISORY POSITIONS IN  
54 CITY SCHOOL DISTRICTS IN CITIES WITH ONE MILLION INHABITANTS OR MORE, IF  
55 an office or position is abolished or if it is consolidated with another  
56 position without creating a new position, the person filling such posi-

1 tion at the time of its abolishment or consolidation shall be placed  
2 upon a preferred eligible list of candidates for appointment to a vacan-  
3 cy that then exists or that may thereafter occur in an office or posi-  
4 tion similar to the one which such person filled without reduction in  
5 salary or increment, provided the record of such person has been one of  
6 faithful, competent service in the office or position he or she has  
7 filled. The persons on such preferred list shall be reinstated or  
8 appointed to such vacancies in such corresponding or similar positions  
9 in the order of their length of service in the system at any time within  
10 seven years from the date of abolition or consolidation of such office  
11 or position.

12 (b) The persons on such preferred list shall be reinstated, in accord-  
13 ance with the terms of paragraph (a) of this subdivision, to such  
14 substitute positions of five months or more in duration, as may from  
15 time to time occur without losing their preferred status on such list.  
16 Declination of such reinstatement shall not adversely affect the  
17 persons' preferred eligibility status.

18 4. IN CITY SCHOOL DISTRICTS OF CITIES WITH ONE MILLION INHABITANTS OR  
19 MORE, ABOLITION OF TEACHING OR SUPERVISORY OFFICES OR POSITIONS SHALL BE  
20 CONDUCTED IN ACCORDANCE WITH SECTION TWENTY-FIVE HUNDRED EIGHTY-EIGHT OF  
21 THIS CHAPTER.

22 S 7. This act shall take effect immediately.