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

5567--A

2013-2014 Regular Sessions

I N S E N A T E

May 21, 2013

Introduced by Sen. FLANAGAN -- (at request of the State Education Department) -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- recommitted to the Committee on Education in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to recognizing boards of cooperative educational services as regional leaders and to expand the provision of services by boards of cooperative educational services, authorizing school library systems to serve charter school libraries, expanding the authority of boards of cooperative educational services to provide services to charter schools, authorizing boards of cooperative educational services to enter into contracts with state agencies for the administration of certain instructional services, authorizing the office of mental health to meet its educational obligations for certain children by contracting for such services with the board of cooperative educational services and providing school districts with flexibility in carrying out their claims auditing function

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

Section 1. Legislative findings. The legislature finds and declares that boards of cooperative educational services serve a critical function as regional leaders essential in supporting the State's commitment to implementing the reforms in the State's Race to the Top Application and in assisting the State in carrying out the State's educational policies, including but not limited to the reform agenda of the board of regents. The role of the board of cooperative educational services is essential to the State's effective implementation of a common set of K-12 standards that are built on college and career readiness; developing and implementing common, high-quality assessments; assisting districts in fully implementing a statewide longitudinal data system and

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

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improving teacher and principal effectiveness using a rigorous Statewide evaluation system and ensuring accountability.

S 2. Section 282 of the education law, as added by chapter 348 of the laws of 1984, is amended to read as follows:

S 282. Establishment of school library systems. The commissioner is authorized to approve the establishment of school library systems, each system to be composed of school districts which are located within a board of cooperative educational services area, or a school district serving a city with a population of one hundred twenty-five thousand or more, or combinations thereof. The systems may include non-public school libraries as defined in regulations to be promulgated by the commissioner AND CHARTER SCHOOL LIBRARIES. Upon establishment, such school library systems shall be governed by either their respective boards of cooperative educational services, by boards of education in school districts serving cities with populations of one hundred twenty-five thousand or more, or by a governing body established under the plan to be submitted to the commissioner in cases of systems serving a combination of areas.

S 3. Paragraph h of subdivision 4 of section 1950 of the education law is amended by adding a new subparagraph 12 to read as follows:

(12) TO ENTER INTO CONTRACTS WITH CHARTER SCHOOLS LOCATED WITHIN THE AREA SERVED BY THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES TO PROVIDE SUCH CHARTER SCHOOLS, AT COST, WITH ANY SERVICES THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES PROVIDES TO SCHOOL DISTRICTS. CONTRACTS MUST BE EXECUTED BY THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND THE BOARD OF TRUSTEES OF SUCH CHARTER SCHOOLS AND SHALL ONLY AUTHORIZE CHARTER SCHOOL STUDENTS TO PARTICIPATE IN AN INSTRUCTIONAL PROGRAM IF SUCH SERVICES ARE AVAILABLE TO ALL ELIGIBLE STUDENTS IN THE COMPONENT DISTRICTS. TO BE APPROVED BY THE COMMISSIONER, THE CONTRACT, INCLUDING ANY BUSINESS PLAN, SHALL DEMONSTRATE THAT ANY SERVICES PROVIDED TO CHARTER SCHOOLS PURSUANT TO THIS SUBPARAGRAPH SHALL NOT RESULT IN ANY ADDITIONAL COSTS BEING IMPOSED ON COMPONENT SCHOOL DISTRICTS AND THAT ANY PAYMENTS RECEIVED BY THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES FOR SERVICES PROVIDED IN THIS SUBPARAGRAPH THAT EXCEED ANY COST TO THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES FOR PROVIDING SUCH SERVICES SHALL BE APPLIED TO REDUCE THE COSTS OF AIDABLE SHARED SERVICES ALLOCATED TO COMPONENT SCHOOL DISTRICTS PURSUANT TO PARAGRAPH D OF THIS SUBDIVISION AND SHALL ALSO BE APPLIED TO REDUCE THE APPROVED COST OF SERVICES PURSUANT TO SUBDIVISION FIVE OF THIS SECTION. SERVICES PROVIDED BY A BOARD OF COOPERATIVE EDUCATIONAL SERVICES TO COMPONENT DISTRICTS AT THE TIME OF APPROVAL OF A CONTRACT UNDER THIS PARAGRAPH SHALL NOT BE REDUCED OR ELIMINATED SOLELY DUE TO A BOARD OF COOPERATIVE EDUCATIONAL SERVICES' PERFORMANCE OF SERVICES TO CHARTER SCHOOLS PURSUANT TO THIS PARAGRAPH.

S 4. Subparagraph 9 of paragraph h of subdivision 4 of section 1950 of the education law, as added by section 1 of part M of chapter 56 of the laws of 2012, is amended to read as follows:

(9) To enter into contracts with the commissioner of the office of mental health, to provide [special education and related services] EDUCATIONAL SERVICES, in accordance with subdivision six-b of section thirty-two hundred two of this chapter to patients hospitalized in hospitals operated by the office of mental health who are between the ages of five and twenty-one who have not received a high school diploma; PROVIDED HOWEVER THAT EDUCATIONAL SERVICES FOR SUCH STUDENTS SHALL BE LIMITED TO THE PROVISION OF SPECIAL EDUCATION AND RELATED SERVICES FOR STUDENTS WITH DISABILITIES UNLESS THE COMMISSIONER OF THE OFFICE OF MENTAL HEALTH DETERMINES THAT REASONABLE EFFORTS WERE MADE TO CONTRACT

WITH A SCHOOL DISTRICT FOR THE PROVISION OF REGULAR EDUCATIONAL SERVICES PURSUANT TO SUBDIVISION SIX-B OF SECTION THIRTY-SIX HUNDRED TWO OF THIS CHAPTER BUT AN AGREEMENT COULD NOT BE REACHED. [Any such proposed contract shall be subject to the review by the commissioner and his and her determination that it is an approved cooperative educational service. Services]

(I) PRIOR TO ENTERING ANY SUCH CONTRACT, AND ANNUALLY THEREAFTER, THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL SUBMIT TO THE COMMISSIONER, THE COMMISSIONER OF THE OFFICE OF MENTAL HEALTH, AND THE DIVISION OF THE BUDGET A PROPOSED OPERATING PLAN AND PROPOSED BUDGET BASED UPON THE REQUEST FOR SERVICES RECEIVED FROM THE COMMISSIONER OF THE OFFICE OF MENTAL HEALTH.

(II) THE EDUCATIONAL SERVICES THAT ARE CONTAINED IN SUCH OPERATING PLAN SHALL BE SUBJECT TO THE APPROVAL OF THE COMMISSIONER UPON A DETERMINATION THAT SUCH SERVICES ARE NECESSARY TO SATISFY THE OBLIGATIONS PURSUANT TO SECTION 33.11 OF THE MENTAL HYGIENE LAW OR SECTION ONE HUNDRED TWELVE OF THIS TITLE.

(III) THE PROPOSED BUDGET ACCOMPANYING AN OPERATING PLAN APPROVED BY THE COMMISSIONER SHALL CONFORM TO THE REQUIREMENT THAT ANY SERVICES provided pursuant to [such contracts] A CONTRACT AUTHORIZED BY THIS SUBPARAGRAPH shall be provided at cost and [approved by the commissioner of the office of mental health and the director of the division of the budget, and] the board of cooperative educational services shall not be authorized to charge any costs incurred in providing such services to its component school districts.

(IV) SERVICES PROVIDED BY A BOARD OF COOPERATIVE EDUCATIONAL SERVICES TO COMPONENT DISTRICTS AT THE TIME OF APPROVAL OF A CONTRACT UNDER THIS SUBPARAGRAPH SHALL NOT BE REDUCED OR ELIMINATED SOLELY DUE TO A BOARD OF COOPERATIVE EDUCATIONAL SERVICES' PERFORMANCE OF SERVICES PURSUANT TO THIS SUBPARAGRAPH.

S 5. Paragraph h of subdivision 4 of section 1950 of the education law is amended by adding a new subparagraph 13 to read as follows:

(13) TO ENTER INTO CONTRACTS WITH STATE AGENCIES THAT HAVE SCHOOLS MAINTAINED FOR CHILDREN IN FACILITIES OPERATED OR SUPERVISED BY SUCH AGENCIES AND ARE RESPONSIBLE FOR THE EDUCATION OF SUCH CHILDREN, OTHER THAN THE STATE AGENCIES TO WHICH SUBPARAGRAPH EIGHT OR NINE OF THIS PARAGRAPH APPLY, TO PROVIDE SUCH CHILDREN WITH ANY INSTRUCTIONAL SERVICES PROVIDED BY THE BOARDS OF COOPERATIVE EDUCATIONAL SERVICES TO SCHOOL DISTRICTS, INCLUDING, BUT NOT LIMITED TO, SPECIAL EDUCATION AND RELATED SERVICES. ANY SUCH PROPOSED CONTRACT SHALL BE SUBJECT TO THE REVIEW AND APPROVAL OF THE COMMISSIONER. SERVICES PROVIDED PURSUANT TO SUCH CONTRACTS SHALL BE PROVIDED AT COST TO SUCH STATE AGENCIES AND THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL NOT BE AUTHORIZED TO CHARGE ANY COSTS INCURRED IN PROVIDING SUCH SERVICES TO ITS COMPONENT SCHOOL DISTRICTS. THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND SUCH STATE AGENCIES ARE HEREBY AUTHORIZED TO DO AND PERFORM ANY AND ALL ACTS NECESSARY OR CONVENIENT IN RELATION TO THE PERFORMANCE OF SUCH CONTRACTS.

S 6. Paragraph h of subdivision 4 of section 1950 of the education law is amended by adding a new subparagraph 14 to read as follows:

(14) TO ENTER INTO CONTRACTS WITH SCHOOL DISTRICTS FOR THE PURPOSE OF PROVIDING TREASURER AND PURCHASING AGENT SERVICES TO SUCH SCHOOL DISTRICTS. THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND SUCH STATE SCHOOLS ARE HEREBY AUTHORIZED TO DO AND PERFORM ANY AND ALL ACTS NECESSARY OR CONVENIENT IN RELATION TO THE PROVISION OF SUCH SERVICES.

S 7. Subdivision 6-b of section 3202 of the education law, as added by section 2 of part M of chapter 56 of the laws of 2012, is amended to read as follows:

6-b. The commissioner of mental health may meet his or her obligations under section 33.11 of the mental hygiene law AND SECTION ONE HUNDRED TWELVE OF THIS CHAPTER by contracting pursuant to this subdivision for educational services for children between the ages of five and twenty-one who do not hold a high school diploma and who are hospitalized in hospitals operated by the office of mental health with the trustees or board of education of any school district for educational services or with a board of cooperative educational services for the provision of EDUCATIONAL SERVICES TO SUCH CHILDREN, INCLUDING BUT NOT LIMITED TO, special education and related services to [such] children WITH DISABILITIES in accordance with their individualized education programs.

(1) The costs of such education shall not be a charge upon a school district pursuant to section 33.11 of the mental hygiene law.

[(1) The education department shall reimburse the school district or board of cooperative educational services providing educational services pursuant to this subdivision for the full cost of all services pursuant to the terms of such contract.]

(2) The commissioner of mental health, with the approval of the director of the division of the budget, shall be authorized to [transfer funding to the commissioner of education to the extent necessary to reimburse school districts and boards of cooperative educational services for services and educational programming provided under such contracts] ESTABLISH THE TERMS OF THE CONTRACT, INCLUDING THE AGREED UPON CHARGE FOR THE SERVICES TO BE PROVIDED, WHICH SHALL CONFORM TO THE REQUIREMENTS CONTAINED WITHIN SUBPARAGRAPH NINE OF PARAGRAPH H OF SUBDIVISION FOUR OF SECTION NINETEEN HUNDRED FIFTY OF THIS CHAPTER.

(3) Notwithstanding any provision of law to the contrary, nothing in this subdivision or subparagraph nine of paragraph h of subdivision four of section nineteen hundred fifty of this chapter shall be construed as requiring participation by any local school district or board of cooperative educational services.

S 8. This act shall take effect July 1, 2014, provided however, if this act shall become a law after such date it shall take effect immediately and shall be deemed to have been in full force and effect on and after July 1, 2014, provided further that the amendments to subparagraph 9 of paragraph h of subdivision 4 of section 1950 of the education law made by section four of this act shall not affect the repeal of such subparagraph and shall be deemed repealed therewith, and the amendments to subdivision 6-b of section 3202 of the education law made by section seven of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith.