

7227--A

Cal. No. 1034

I N   S E N A T E

May 6, 2014

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Introduced by Sen. FLANAGAN -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the education law, in relation to the leasing of real property by boards of cooperative educational services; and providing for the repeal of such provisions upon expiration thereof

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

1     Section 1. Subparagraph (a) of paragraph p of subdivision 4 of section  
2     1950 of the education law, as amended by chapter 602 of the laws of  
3     1994, is amended to read as follows:  
4     (a) To rent suitable land, classrooms, offices or buildings upon or in  
5     which to maintain and conduct such cooperative educational services and  
6     administrative offices for a period not to exceed ten years FOR LEASES  
7     ENTERED INTO WITH PUBLIC ENTITIES AND TWENTY YEARS FOR LEASES ENTERED  
8     INTO WITH NON-PUBLIC ENTITIES and to improve, alter, equip and furnish  
9     such land, classrooms, offices or buildings in a suitable manner for  
10    such purposes, PROVIDED THAT: (1) before executing any lease, the board  
11    shall adopt a resolution determining that such agreement is in the best  
12    financial interests of the supervisory district and stating the basis of  
13    that determination; (2) the rental payment shall not be more than the  
14    fair market value as determined by the board AND PROVIDED TO THE COMMIS-  
15    SIONER; (3) THE BOARD DISCLOSES ANY CONFLICT OF INTEREST PURSUANT TO  
16    SUBPARAGRAPH (C) OF THIS PARAGRAPH, OR ANY OTHER POTENTIAL OR PERCEIVED  
17    CONFLICT OF INTEREST, TO THE COMMISSIONER, AND IN SUCH EVENT PROVIDES  
18    DETAILED DOCUMENTATION TO THE COMMISSIONER DEMONSTRATING THAT THE COST  
19    OF THE LEASE IS NOT MORE THAN FAIR MARKET VALUE; and [(3)] (4) upon the  
20    consent of the commissioner, renewal of such lease may be made for a  
21    period of up to ten years. Nothing contained herein shall prevent the  
22    board from entering into a lease agreement which provides for the  
23    cancellation of the same by such board upon: (i) a substantial increase  
24    or decrease in pupil enrollment; or (ii) a substantial change in the

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

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1 needs and requirements of a board of cooperative educational services  
2 with respect to facilities; or (iii) any other change which substantial-  
3 ly affects the needs or requirements of a board of cooperative educa-  
4 tional services or the community in which it is located. No lease or  
5 other contract for the occupancy of such land, classrooms, offices or  
6 buildings shall be enforceable against the board of cooperative educa-  
7 tional services unless and until the same shall have been approved in  
8 writing by the commissioner. IN THE CASE OF A LEASE LONGER THAN TEN  
9 YEARS, THE COMMISSIONER'S WRITTEN APPROVAL MUST INCLUDE A FINDING THAT  
10 THE PROPOSED LEASE COMPLIES WITH ALL REQUIREMENTS OF THIS PARAGRAPH AND  
11 WOULD BE MORE COST-EFFECTIVE THAN A LEASE OF TEN YEARS OR FEWER.

12 S 2. Paragraph p of subdivision 4 of section 1950 of the education law  
13 is amended by adding a new subparagraph (c) to read as follows:

14 (C) IF ANY MEMBER, OFFICER OR EMPLOYEE OF THE BOARD OF COOPERATIVE  
15 EDUCATIONAL SERVICES SHALL HAVE AN INTEREST, EITHER DIRECT OR INDIRECT,  
16 IN ANY LEASE TO WHICH THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES IS,  
17 OR IS TO BE, A PARTY, SUCH INTEREST SHALL BE DISCLOSED TO THE BOARD OF  
18 DIRECTORS OF SUCH BOARD OF COOPERATIVE EDUCATIONAL SERVICES IN WRITING  
19 AND SHALL BE SET FORTH IN THE MINUTES OF THE BOARD OF COOPERATIVE EDUCA-  
20 TIONAL SERVICES. THE MEMBER, OFFICER OR EMPLOYEE HAVING SUCH INTEREST  
21 SHALL NOT PARTICIPATE IN ANY ACTION BY THE BOARD OF COOPERATIVE EDUCA-  
22 TIONAL SERVICES WITH RESPECT TO SUCH LEASE.

23 S 3. The commissioner of education, in consultation with participating  
24 boards of cooperative educational services, shall prepare a report  
25 describing any leases in excess of ten years approved by such commis-  
26 sioner pursuant to paragraph p of subdivision 4 of section 1950 of the  
27 education law, including the number of leases in excess of ten years  
28 entered into by boards of cooperative educational services, the term of  
29 such leases, any modifications made to the property, a description of  
30 the use or uses of such property, and any savings realized by entering  
31 into a lease in excess of ten years. Such report shall be submitted to  
32 the board of regents, the governor, the director of the division of the  
33 budget, the majority leader of the senate, the speaker of the assembly,  
34 and the chairs of the senate and assembly education committees, no later  
35 than December 15, 2018, with recommendations on whether and under what  
36 conditions leases longer than ten years should continue to be authorized  
37 beyond the expiration date of this act.

38 S 4. This act shall take effect immediately, and shall expire and be  
39 deemed repealed July 1, 2019, provided, however, that any contracts  
40 entered pursuant to this act shall not be impaired or modified by such  
41 expiration and repeal.