

1015

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

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 chapter 27 of the laws of 2012, is amended to read as follows:
11 2. To create, abolish, maintain and consolidate such positions, divi-
12 sions, boards or bureaus as, in its judgment, may be necessary for the
13 proper and efficient administration of its work; to appoint a super-
14 intendent of schools, such associate, assistant, district and other
15 superintendents, [examiners,] directors, supervisors, principals, teach-
16 ers, lecturers, special instructors, medical inspectors, nurses, audi-
17 tors, attendance officers, secretaries, clerks, custodians, janitors and
18 other employees and other persons or experts in educational, social or
19 recreational work or in the business management or direction of its
20 affairs as said board shall determine necessary for the efficient
21 management of the schools and other educational, social, recreational
22 and business activities; provided, however, that in the city school
23 districts of the cities of Buffalo[, Rochester,] and Syracuse appoint-
24 ment of associate, assistant and district superintendents, and other
25 supervising staff who are excluded from the right to bargain collective-
26 ly pursuant to article fourteen of the civil service law shall, within

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

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1 the amounts budgeted for such positions, be by the superintendent of
2 such city school district AND THOSE SO APPOINTED SHALL BE IN THE UNCLAS-
3 SIFIED SERVICE UPON SUCH APPOINTMENT FOR CIVIL SERVICE AND RELATED
4 PURPOSES NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND IN THE CITY
5 SCHOOL DISTRICT OF THE CITY OF ROCHESTER APPOINTMENT OF ASSOCIATE,
6 ASSISTANT, DISTRICT SUPERINTENDENTS AND OTHER CERTIFIED AND UNCERTIFIED
7 SUPERVISING STAFF AND RELATED ADMINISTRATIVE STAFF WHO ARE EXCLUDED FROM
8 THE RIGHT TO BARGAIN COLLECTIVELY PURSUANT TO ARTICLE FOURTEEN OF THE
9 CIVIL SERVICE LAW SHALL, WITHIN AMOUNTS BUDGETED FOR SUCH POSITIONS, BE
10 BY THE SUPERINTENDENT OF SUCH CITY SCHOOL DISTRICT AND THOSE SO
11 APPOINTED SHALL BE IN THE UNCLASSIFIED SERVICE UPON SUCH APPOINTMENT FOR
12 CIVIL SERVICE AND RELATED PURPOSES NOTWITHSTANDING ANY OTHER PROVISION
13 OF LAW; and to determine their duties except as otherwise provided here-
14 in.

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

18 2-A. IN ITS DISCRETION TO ADOPT A RESOLUTION ESTABLISHING THE OFFICE
19 OF AUDITOR, AND AT ANY TIME AFTER THE ESTABLISHMENT OF THE OFFICE OF
20 AUDITOR, TO ADOPT A RESOLUTION ABOLISHING THE OFFICE; PROVIDED, HOWEVER,
21 THAT THE SCHOOL DISTRICT OF THE CITY OF ROCHESTER SHALL ADOPT A RESOL-
22 UTION ESTABLISHING THE OFFICE OF AUDITOR, AND SHALL NOT ABOLISH SUCH
23 OFFICE. A BOARD OF EDUCATION WHICH HAS ESTABLISHED THE OFFICE OF AUDITOR
24 SHALL APPOINT AN AUDITOR WHO SHALL HOLD SUCH POSITION SUBJECT TO THE
25 PLEASURE OF THE BOARD. NO PERSON SHALL BE ELIGIBLE FOR APPOINTMENT TO
26 THE OFFICE OF AUDITOR WHO SHALL BE A MEMBER OF THE BOARD OF EDUCATION OR
27 THE SUPERINTENDENT OF SCHOOLS OR WHO SHALL HOLD ANY OTHER POSITION OR
28 PERFORM IN ANY CAPACITY WITHIN THE SCHOOL DISTRICT. WHEN THE OFFICE OF
29 AUDITOR SHALL HAVE BEEN ESTABLISHED AND AN AUDITOR QUALIFIED, THE POWERS
30 AND DUTIES OF THE BOARD OF EDUCATION WITH RESPECT TO AUDITING ACCOUNTS,
31 CHARGES, CLAIMS OR DEMANDS AGAINST THE CITY SCHOOL DISTRICT SHALL
32 DEVOLVE UPON AND THEREAFTER BE EXERCISED BY SUCH AUDITOR, DURING THE
33 CONTINUANCE OF THE OFFICE. THE AUDITOR SHALL HAVE ACCESS TO AND MAY
34 DEMAND PRODUCTION OF ANY RECORDS OF THE SCHOOL DISTRICT, INCLUDING BUT
35 NOT LIMITED TO ESTIMATES OF REVENUES, EXPENSES, INDEBTEDNESS AND CAPITAL
36 NEEDS AND PLANS, WHETHER IN DRAFT OR FINAL FORM WITH ALL BACK-UP INFOR-
37 MATION AND WORK PAPERS, AND WHETHER BEFORE OR AFTER SUBMISSION TO OR
38 APPROVAL BY THE SCHOOL BOARD.

39 2-B. IN ITS DISCRETION TO ASSIGN AN EXAMINER WITH POWER TO CONDUCT
40 INVESTIGATIONS AND HEARINGS ON BEHALF OF THE BOARD OF EDUCATION. EACH
41 EXAMINER SHALL HAVE ACCESS TO AND MAY REQUIRE THE PRODUCTION OF BOOKS,
42 PAPERS AND OTHER DOCUMENTS AND INFORMATION MATERIAL RELATED TO ANY
43 INVESTIGATION OR HEARING. EACH EXAMINER SHALL CONCLUDE AND REPORT THE
44 RESULT OF ANY SUCH INVESTIGATION OR HEARING TO THE BOARD OF EDUCATION NO
45 LATER THAN SIX MONTHS AFTER THE DATE OF AUTHORIZATION OF SUCH INVESTI-
46 GATION OR HEARING.

47 28. IN THE CITY SCHOOL DISTRICT OF THE CITY OF ROCHESTER, TO AUTHORIZE
48 CONTRACTS FOR GOODS AND SERVICES IN AMOUNTS OF FIFTY THOUSAND DOLLARS OR
49 MORE.

50 29. IN THE CITY SCHOOL DISTRICT OF THE CITY OF ROCHESTER, UPON RECEIPT
51 FROM THE SUPERINTENDENT, TO REVIEW AND EITHER RETURN TO THE SUPERINTEN-
52 DENT FOR AMENDMENT OR APPROVE AND FILE WITH THE MAYOR, PURSUANT TO
53 SECTION TWENTY-FIVE HUNDRED SEVENTY-SIX OF THIS ARTICLE, THE ANNUAL
54 ITEMIZED ESTIMATE AND CAPITAL PLAN FOR THE DISTRICT. SUCH BUDGET AND
55 CAPITAL PLAN SHALL INCLUDE MULTI-YEAR PROJECTIONS OF REVENUES, EXPENSES,
56 INDEBTEDNESS AND CAPITAL NEEDS.

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

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

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

13 S 5. Subdivision 6 of section 2566 of the education law, as amended by
14 chapter 27 of the laws of 2012, is amended to read as follows:

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

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

47 10. IN THE CITY SCHOOL DISTRICT OF THE CITY OF ROCHESTER, TO PREPARE
48 AND DELIVER TO THE BOARD OF EDUCATION FOR REVIEW AND APPROVAL AN ANNUAL
49 ITEMIZED ESTIMATE AS PROVIDED FOR IN SECTION TWENTY-FIVE HUNDRED SEVEN-
50 TY-SIX OF THIS ARTICLE AND AN EDUCATIONAL FACILITIES CAPITAL PLAN. EACH
51 SUCH ESTIMATE AND CAPITAL PLAN SHALL BE AT SUCH LEVEL OF DETAIL AS
52 NECESSARY SO AS TO ENABLE THE BOARD TO MAKE AN INFORMED REVIEW OF SUCH
53 ESTIMATE AND CAPITAL. ALSO, EACH SUCH ESTIMATE AND CAPITAL PLAN SHALL
54 INCLUDE A FOUR-YEAR PROJECTION OF ESTIMATED REVENUES, EXPENSES, CAPITAL
55 NEEDS, AND INDEBTEDNESS.

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

6 12. IN THE CITY SCHOOL DISTRICT OF THE CITY OF ROCHESTER, TO AUTHORIZE
7 CONTRACTS FOR GOODS AND SERVICES IN AMOUNTS LESS THAN FIFTY THOUSAND
8 DOLLARS.

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

12 S 7. Subdivision 3 of section 2573 of the education law, as amended by
13 chapter 27 of the laws of 2012, is amended to read as follows:

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

51 S 8. This act shall take effect immediately; provided, however, that
52 sections one through seven of this act shall take effect July 1, 2014;
53 provided, further, that the amendments to the opening paragraph of
54 section 2554 of the education law made by section one of this act shall
55 not affect the expiration of such paragraph and shall be deemed to
56 expire therewith.