

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:

1 Section 1. Legislative findings. The legislature finds and declares
2 that boards of cooperative educational services serve a critical func-
3 tion as regional leaders essential in supporting the State's commitment
4 to implementing the reforms in the State's Race to the Top Application
5 and in assisting the State in carrying out the State's educational poli-
6 cies, including but not limited to the reform agenda of the board of
7 regents. The role of the board of cooperative educational services is
8 essential to the State's effective implementation of a common set of
9 K-12 standards that are built on college and career readiness; develop-
10 ing and implementing common, high-quality assessments; assisting
11 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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1 improving teacher and principal effectiveness using a rigorous State-
2 wide evaluation system and ensuring accountability.

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

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

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

21 (12) TO ENTER INTO CONTRACTS WITH CHARTER SCHOOLS LOCATED WITHIN THE
22 AREA SERVED BY THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES TO PROVIDE
23 SUCH CHARTER SCHOOLS, AT COST, WITH ANY SERVICES THE BOARD OF COOPER-
24 ATIVE EDUCATIONAL SERVICES PROVIDES TO SCHOOL DISTRICTS. CONTRACTS MUST
25 BE EXECUTED BY THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND THE
26 BOARD OF TRUSTEES OF SUCH CHARTER SCHOOLS AND SHALL ONLY AUTHORIZE CHAR-
27 TER SCHOOL STUDENTS TO PARTICIPATE IN AN INSTRUCTIONAL PROGRAM IF SUCH
28 SERVICES ARE AVAILABLE TO ALL ELIGIBLE STUDENTS IN THE COMPONENT
29 DISTRICTS. TO BE APPROVED BY THE COMMISSIONER, THE CONTRACT, INCLUDING
30 ANY BUSINESS PLAN, SHALL DEMONSTRATE THAT ANY SERVICES PROVIDED TO CHAR-
31 TER SCHOOLS PURSUANT TO THIS SUBPARAGRAPH SHALL NOT RESULT IN ANY ADDI-
32 TIONAL COSTS BEING IMPOSED ON COMPONENT SCHOOL DISTRICTS AND THAT ANY
33 PAYMENTS RECEIVED BY THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES FOR
34 SERVICES PROVIDED IN THIS SUBPARAGRAPH THAT EXCEED ANY COST TO THE BOARD
35 OF COOPERATIVE EDUCATIONAL SERVICES FOR PROVIDING SUCH SERVICES SHALL BE
36 APPLIED TO REDUCE THE COSTS OF AIDABLE SHARED SERVICES ALLOCATED TO
37 COMPONENT SCHOOL DISTRICTS PURSUANT TO PARAGRAPH D OF THIS SUBDIVISION
38 AND SHALL ALSO BE APPLIED TO REDUCE THE APPROVED COST OF SERVICES PURSU-
39 ANT TO SUBDIVISION FIVE OF THIS SECTION. SERVICES PROVIDED BY A BOARD OF
40 COOPERATIVE EDUCATIONAL SERVICES TO COMPONENT DISTRICTS AT THE TIME OF
41 APPROVAL OF A CONTRACT UNDER THIS PARAGRAPH SHALL NOT BE REDUCED OR
42 ELIMINATED SOLELY DUE TO A BOARD OF COOPERATIVE EDUCATIONAL SERVICES'
43 PERFORMANCE OF SERVICES TO CHARTER SCHOOLS PURSUANT TO THIS PARAGRAPH.

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

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

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

7 (I) PRIOR TO ENTERING ANY SUCH CONTRACT, AND ANNUALLY THEREAFTER, THE
8 BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL SUBMIT TO THE COMMIS-
9 SIONER, THE COMMISSIONER OF THE OFFICE OF MENTAL HEALTH, AND THE DIVI-
10 SION OF THE BUDGET A PROPOSED OPERATING PLAN AND PROPOSED BUDGET BASED
11 UPON THE REQUEST FOR SERVICES RECEIVED FROM THE COMMISSIONER OF THE
12 OFFICE OF MENTAL HEALTH.

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

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

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

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

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

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

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

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

4 6-b. The commissioner of mental health may meet his or her obligations
5 under section 33.11 of the mental hygiene law AND SECTION ONE HUNDRED
6 TWELVE OF THIS CHAPTER by contracting pursuant to this subdivision for
7 educational services for children between the ages of five and twenty-
8 one who do not hold a high school diploma and who are hospitalized in
9 hospitals operated by the office of mental health with the trustees or
10 board of education of any school district for educational services or
11 with a board of cooperative educational services for the provision of
12 EDUCATIONAL SERVICES TO SUCH CHILDREN, INCLUDING BUT NOT LIMITED TO,
13 special education and related services to [such] children WITH DISABILI-
14 TIES in accordance with their individualized education programs.

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

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

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

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

35 S 8. This act shall take effect July 1, 2014, provided however, if
36 this act shall become a law after such date it shall take effect imme-
37 diately and shall be deemed to have been in full force and effect on and
38 after July 1, 2014, provided further that the amendments to subparagraph
39 9 of paragraph h of subdivision 4 of section 1950 of the education law
40 made by section four of this act shall not affect the repeal of such
41 subparagraph and shall be deemed repealed therewith, and the amendments
42 to subdivision 6-b of section 3202 of the education law made by section
43 seven of this act shall not affect the repeal of such subdivision and
44 shall be deemed repealed therewith.