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

5561--A

2015-2016 Regular Sessions

I N S E N A T E

May 14, 2015

Introduced by Sen. FUNKE -- 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 charter school access to unused school facilities, property or land

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

Section 1. Subdivision 3 of section 2853 of the education law is amended by adding a new paragraph (f) to read as follows:

(F) IN DISTRICTS WITH AN EXISTING CHARTER SCHOOL AS OF SEPTEMBER FIRST, TWO THOUSAND SIXTEEN, EXCEPT THOSE LYING IN OR COTERMINOUS WITH CITIES HAVING A POPULATION OF ONE MILLION OR MORE, AND IN ALL OTHER SMALL CITY SCHOOL DISTRICTS OPERATING PURSUANT TO ARTICLE FIFTY-ONE OF THIS CHAPTER, CHARTER SCHOOLS AND CHARTER SCHOOL APPLICANTS SHALL BE GRANTED THE RIGHT OF FIRST REFUSAL PRIOR TO ANY SALE, LEASE, TRANSFER, OR OTHER DISPOSITION OF SCHOOL FACILITIES, PROPERTY OR LAND. ADDITIONALLY CHARTER SCHOOLS AND CHARTER SCHOOL APPLICANTS SHALL BE GRANTED ACCESS TO UNUSED SCHOOL FACILITIES, PROPERTY OR LAND.

NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE RIGHT OF FIRST REFUSAL SHALL BE GRANTED PRIOR TO COMMENCING ANY ACTION IN ACCORDANCE WITH SECTIONS FOUR HUNDRED TWO, FOUR HUNDRED THREE-A, FOUR HUNDRED THREE-B, AND FOUR HUNDRED FIVE OF THIS CHAPTER. A PARTY CONCEIVING ITSELF AGGRIEVED BY A DISPUTE OVER THE APPLICATION OF THIS PARAGRAPH, INCLUDING PROCEDURES PERTAINING TO AND ULTIMATE DECISIONS OVER GRANTING ACCESS, SHALL BE SETTLED BY APPEAL TO THE COMMISSIONER OF EDUCATION PURSUANT TO SECTION THREE HUNDRED TEN OF THIS CHAPTER.

(1) A CITY, MUNICIPALITY OR BOARD OF EDUCATION OF A SCHOOL DISTRICT SHALL IMPLEMENT AND ADMINISTER THE PROVISIONS OF THIS PARAGRAPH IN A PUBLIC AND TRANSPARENT MANNER.

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

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(2) THE USE OF SCHOOL FACILITIES, PROPERTY OR LAND SHALL BE OFFERED TO CHARTER SCHOOLS OR CHARTER SCHOOL APPLICANTS AT NO COST OR FOR A NOMINAL FEE OF ONE DOLLAR PER YEAR. A CITY, MUNICIPALITY OR BOARD OF EDUCATION OF A SCHOOL DISTRICT AND A CHARTER SCHOOL SHALL NEGOTIATE AN AGREEMENT FOR ACCESS TO AND USE OF SCHOOL FACILITIES, PROPERTY OR LAND. THE AGREEMENT SHALL IDENTIFY THE PARTY RESPONSIBLE FOR MAINTENANCE AND OPERATIONS AND ASSOCIATED COSTS.

(3) A CHARTER SCHOOL THAT HAS BEEN GRANTED ACCESS TO A SCHOOL FACILITY, PROPERTY OR LAND IN ACCORDANCE WITH THIS PARAGRAPH SHALL BE ALLOWED UNINTERRUPTED ACCESS FOR AS LONG AS THE SCHOOL HAS AN ACTIVE CHARTER AGREEMENT.

(4) IF A CHARTER SCHOOL OR CHARTER SCHOOL APPLICANT HAS BEEN GRANTED ACCESS TO A SCHOOL FACILITY, PROPERTY OR LAND AND HAS NOT BEGUN USING IT FOR THE PURPOSE OF EDUCATING STUDENTS WITHIN ONE YEAR, THE SCHOOL FACILITY, PROPERTY OR LAND SHALL BE DEEMED UNUSED AND THE AGREEMENT MAY BE TERMINATED. IF THE SCHOOL FACILITY, PROPERTY OR LAND REQUIRES SUBSTANTIAL RENOVATION OR OTHER REASONABLE DELAYS IMPEDE ITS USE FOR THE PURPOSE OF EDUCATING STUDENTS, THEN, BY MUTUAL AGREEMENT, AN ADDITIONAL YEAR SHALL BE GRANTED BEFORE SUCH SCHOOL FACILITY, PROPERTY OR LAND IS DEEMED UNUSED.

IF A CHARTER SCHOOL NO LONGER NEEDS OR WANTS THE SCHOOL FACILITY, PROPERTY OR LAND, OR THE CHARTER APPLICANT GROUP IS NOT GRANTED A CHARTER, THE AGREEMENT MAY BE TERMINATED. A CHARTER SCHOOL MAY NOT SELL, LEASE, TRANSFER OR OTHERWISE DISPOSE OF A SCHOOL FACILITY THAT HAS BEEN ACCESSED IN ACCORDANCE WITH THIS PARAGRAPH WITHOUT THE WRITTEN CONSENT OF THE CITY, MUNICIPALITY OR BOARD OF EDUCATION FROM WHICH THE PROPERTY WAS TRANSFERRED.

S 2. This act shall take effect immediately.