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

7663

2015-2016 Regular Sessions

I N A S S E M B L Y

May 21, 2015

Introduced by M. of A. HAWLEY -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to the commission on teacher evaluations and temporary provisions for the implementation of common core learning standards; to repeal certain provisions of chapter 56 of the laws of 2015 amending the education law relating to annual performance reviews of classroom teachers and building principals relating thereto; and to repeal certain provisions of the education law relating to annual teacher and principal evaluations

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

Section 1. Section 1 of subpart E of part EE of chapter 56 of the laws of 2015 amending the education law relating to annual performance reviews of classroom teachers and building principals is REPEALED.

S 2. Section 3012-d of the education law is REPEALED and a new section 3012-d is added to read as follows:

S 3012-D. TEACHER EVALUATION. 1. DEFINITION. "COMMISSION" SHALL MEAN THE COMMISSION ON TEACHER EVALUATIONS ESTABLISHED PURSUANT TO THIS SECTION.

2. COMMISSION ON TEACHER EVALUATIONS. A. THERE IS HEREBY CREATED THE COMMISSION ON TEACHER EVALUATIONS, WHICH SHALL CONSIST OF THE FOLLOWING TWENTY-FOUR MEMBERS WHO SHALL BE APPOINTED NO LESS THAN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION:

(I) TWO MEMBERS SHALL BE APPOINTED BY THE GOVERNOR, ONE OF WHOM SHALL BE THE COMMISSIONER;

(II) TWO MEMBERS SHALL BE APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE;

(III) TWO MEMBERS SHALL BE APPOINTED BY THE SPEAKER OF THE ASSEMBLY;

(IV) TWO MEMBERS SHALL BE APPOINTED BY THE MINORITY LEADER OF THE SENATE;

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

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(V) TWO MEMBERS SHALL BE APPOINTED BY THE MINORITY LEADER OF THE ASSEMBLY;

(VI) TWO MEMBERS SHALL BE APPOINTED BY THE PRESIDENT OF NEW YORK STATE UNITED TEACHERS, ONE OF WHOM MUST HAVE COMPLETED THEIR SPECIAL EDUCATION CERTIFICATION AND ONE OF WHOM MUST PROVIDE INSTRUCTION TO ENGLISH AS A SECOND LANGUAGE STUDENTS;

(VII) TWO MEMBERS SHALL BE APPOINTED BY THE EXECUTIVE DIRECTOR OF THE SCHOOL ADMINISTRATORS ASSOCIATION OF NEW YORK STATE;

(VIII) TWO MEMBERS SHALL BE APPOINTED BY THE PRESIDENT OF THE NEW YORK STATE PARENT TEACHER ASSOCIATION, ONE OF WHOM MUST BE A PARENT OF A STUDENT WITH A CURRENT INDIVIDUAL EDUCATION PLAN;

(IX) TWO MEMBERS SHALL BE APPOINTED BY THE EXECUTIVE DIRECTOR OF THE NEW YORK STATE COUNCIL OF SCHOOL SUPERINTENDENTS;

(X) TWO MEMBERS SHALL BE APPOINTED BY THE PRESIDENT OF THE NEW YORK STATE SCHOOL BOARDS ASSOCIATION;

(XI) TWO MEMBERS SHALL BE APPOINTED BY THE BOARD OF REGENTS;

(XII) TWO MEMBERS SHALL BE APPOINTED BY THE PRESIDENT OF THE NEW YORK STATE ASSOCIATION OF SCHOOL PSYCHOLOGISTS. SUCH MEMBERS SHALL HAVE EXPERIENCE IN A CLINICAL SETTING.

B. NO MEMBER OF THE COMMISSION SHALL BE DISQUALIFIED FROM HOLDING ANY PUBLIC OFFICE OR EMPLOYMENT, NOR SHALL HE OR SHE FORFEIT ANY SUCH OFFICE OR EMPLOYMENT BY VIRTUE OF HIS OR HER APPOINTMENT PURSUANT TO THIS SECTION. MEMBERS OF THE COMMISSION SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES, BUT SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR FUNCTIONS PURSUANT TO THIS SECTION. A MEMBER OF THE COMMISSION MAY BE REMOVED BY THE APPOINTING AUTHORITY ONLY FOR GOOD CAUSE, AFTER NOTICE AND OPPORTUNITY TO BE HEARD. VACANCIES SHALL BE FILLED IN THE SAME MANNER AS ORIGINAL APPOINTMENTS.

C. POWERS AND DUTIES OF THE COMMISSION. (I) THE COMMISSION SHALL HOLD AT LEAST ONE PUBLIC HEARING IN EACH OF THE FOLLOWING REGIONS:

(1) LONG ISLAND;

(2) NEW YORK CITY;

(3) HUDSON VALLEY;

(4) CAPITAL DISTRICT;

(5) NORTH COUNTRY;

(6) CENTRAL NEW YORK;

(7) FINGER LAKES;

(8) WESTERN NEW YORK;

(9) SOUTHERN TIER.

(II) DURING THE PUBLIC HEARINGS, THE COMMISSION SHALL HEAR THE TESTIMONY OF VOLUNTARY WITNESSES, MAY COMPEL THE TESTIMONY OF WITNESSES AND MAY REQUIRE THE PRODUCTION OF ANY DOCUMENTS THE COMMISSION DEEMS REASONABLY NECESSARY TO CARRY OUT ITS RESPONSIBILITIES.

(III) AFTER REVIEW, STUDY, AND RECEIPT OF PUBLIC COMMENT, THE COMMISSION SHALL ISSUE A REPORT AND PROMULGATE RECOMMENDATIONS GOVERNING THE IMPLEMENTATION OF A NEW TEACHER EVALUATION SYSTEM.

(IV) THE COMMISSION SHALL HAVE THE POWER TO:

(1) APPOINT A CHAIRPERSON BY A MAJORITY VOTE;

(2) CALL UPON ANY AGENCY, DEPARTMENT, OFFICE, DIVISION OR PUBLIC AUTHORITY, OR SCHOOL DISTRICT OF THIS STATE TO SUPPLY IT WITH SUCH INFORMATION AND ASSISTANCE AS THE COMMISSION DEEMS NECESSARY TO DISCHARGE ITS RESPONSIBILITIES. EACH AGENCY, DEPARTMENT, OFFICE, DIVISION OR SCHOOL DISTRICT OF THIS STATE SHALL COOPERATE WITH THE COMMISSION AND FURNISH SUCH INFORMATION AND ASSISTANCE AS IT REQUESTS TO ACCOMPLISH ITS PURPOSES;

(3) APPOINT A COUNSEL AND SUCH OTHER STAFF AS THE COMMISSION DEEMS REASONABLY NECESSARY TO CARRY OUT ITS RESPONSIBILITIES;

(4) CONTRACT WITH ANY STATE OR PRIVATE ENTITY FOR THE PROVISION OF SUCH SERVICES AS THE COMMISSION DETERMINES TO BE REASONABLY NECESSARY; AND

(5) TAKE OTHER ACTIONS NOT INCONSISTENT WITH THE PURPOSES OF THIS SECTION AS SHALL ENABLE THE COMMISSION TO CARRY OUT ITS FUNCTIONS.

(V) RECOMMENDATIONS ISSUED BY THE COMMISSION SHALL BE DECIDED BY A MAJORITY VOTE. RECOMMENDATIONS ISSUED BY THE COMMISSION SHALL BE CONTAINED IN A REPORT TO THE GOVERNOR AND LEGISLATURE. THE REPORT SHALL BE ISSUED NO LATER THAN DECEMBER FIRST, TWO THOUSAND FIFTEEN AND SHALL BE REVIEWED AND CONSIDERED BY THE EXECUTIVE IN SUBMISSION OF THE TWO THOUSAND SIXTEEN--SEVENTEEN EXECUTIVE BUDGET.

(VI) MEETINGS OF THE COMMISSION SHALL BE SUBJECT TO THE OPEN MEETINGS LAW ESTABLISHED BY ARTICLE SEVEN OF THE PUBLIC OFFICERS LAW.

3. TEMPORARY PROVISIONS RELATING TO THE IMPLEMENTATION OF COMMON CORE LEARNING STANDARDS IN RELATION TO TEACHER EVALUATION. A. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, IN THE CASE OF ANY CLASSROOM TEACHER OR BUILDING PRINCIPAL WHO RECEIVED AN OVERALL COMPOSITE RATING OF INEFFECTIVE OR DEVELOPING IN AN ANNUAL PROFESSIONAL PERFORMANCE REVIEW CALCULATED PURSUANT TO SECTION THREE THOUSAND TWELVE-C OF THIS ARTICLE FOR THE TWO THOUSAND FOURTEEN--FIFTEEN AND/OR TWO THOUSAND FIFTEEN--SIXTEEN SCHOOL YEARS, IF THE STATE ASSESSMENTS AND OTHER COMPARABLE MEASURES SUBCOMPONENT SCORE AND/OR THE LOCALLY SELECTED MEASURES OF STUDENT ACHIEVEMENT SUBCOMPONENT OF SUCH RATING WAS BASED ON A STATE ASSESSMENT ALIGNED WITH THE COMMON CORE, THE CALCULATION PURSUANT TO SUBDIVISION TWO OF THIS SECTION SHALL BE USED FOR THE PURPOSES OF SUBDIVISION THREE OF THIS SECTION. FOR PURPOSES OF THIS SECTION, A STATE ASSESSMENT ALIGNED WITH THE COMMON CORE SHALL MEAN A STATE ADMINISTERED STANDARDIZED ENGLISH LANGUAGE ARTS AND/OR MATH ASSESSMENT IN GRADES THREE THROUGH EIGHT THAT IS ALIGNED TO THE COMMON CORE LEARNING STANDARDS ADOPTED BY THE BOARD OF REGENTS. PROVIDED, HOWEVER, THAT NOTHING CONTAINED IN THIS SECTION SHALL IMPAIR OR ABRIDGE ANY RIGHTS AND PRIVILEGES OF ANY PARTY PURSUANT TO SECTION THREE THOUSAND TWELVE-C OF THIS ARTICLE, EXCEPT AS SPECIFICALLY PROVIDED HEREIN.

B. CALCULATIONS. (I) THE CALCULATION PURSUANT TO THIS SUBDIVISION SHALL BE BASED UPON THE CLASSROOM TEACHER'S OR BUILDING PRINCIPAL'S SCORES ON THE APPLICABLE APPROVED OR DETERMINED ANNUAL PROFESSIONAL PERFORMANCE REVIEW PLAN FOR THE SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES.

(II) EXCEPT AS PROVIDED IN SUBPARAGRAPHS (III) AND (IV) OF THIS PARAGRAPH, THE CALCULATION SHALL CONSIST OF:

(1) SCALING UP THE NUMERATOR AND THE DENOMINATOR OF THE LOCALLY SELECTED MEASURES OF STUDENT ACHIEVEMENT SUBCOMPONENT SUCH THAT THE DENOMINATOR IS EQUAL TO FORTY POINTS; AND

(2) ADDING THE RESULT TO THE CLASSROOM TEACHER'S OR BUILDING PRINCIPAL'S SCORE ON THE OTHER MEASURES OF TEACHER OR PRINCIPAL EFFECTIVENESS SUBCOMPONENT TO GENERATE AN OVERALL COMPOSITE CALCULATION OUT OF ONE HUNDRED POINTS.

(III) IF THE LOCALLY SELECTED MEASURES OF STUDENT ACHIEVEMENT SUBCOMPONENT RELIES IN WHOLE OR IN PART ON A STATE ASSESSMENT ALIGNED WITH THE COMMON CORE, THE FOLLOWING PROVISIONS SHALL APPLY:

(1) IF THE STATE ASSESSMENT ALIGNED WITH THE COMMON CORE IS USED IN SUCH SUBCOMPONENT AMONG MULTIPLE MEASURES INCLUDING MEASURES OTHER THAN STATE ASSESSMENTS ALIGNED WITH THE COMMON CORE, THE CALCULATION SHALL CONSIST OF:

(A) EXCLUDING THE PORTION OF SUCH SUBCOMPONENT SCORE THAT RELIES ON STATE ASSESSMENTS ALIGNED WITH THE COMMON CORE FROM BOTH THE NUMERATOR AND DENOMINATOR OF THE RATIO OF THE TEACHER'S OR PRINCIPAL'S SCORE ON THE LOCALLY SELECTED MEASURES OF STUDENT ACHIEVEMENT SUBCOMPONENT;

(B) SCALING UP THE RESULTING RATIO SUCH THAT THE DENOMINATOR IS EQUAL TO FORTY POINTS; AND

(C) ADDING THE RESULT TO THE CLASSROOM TEACHER'S OR BUILDING PRINCIPAL'S SCORE ON THE OTHER MEASURES OF TEACHER OR PRINCIPAL EFFECTIVENESS SUBCOMPONENT TO GENERATE AN OVERALL COMPOSITE CALCULATION OUT OF ONE HUNDRED POINTS.

(2) IF STATE ASSESSMENTS ALIGNED WITH THE COMMON CORE CONSTITUTE THE SOLE MEASURE OF THE LOCALLY SELECTED MEASURES OF STUDENT ACHIEVEMENT SUBCOMPONENT, THE CALCULATION SHALL CONSIST OF SCALING UP THE NUMERATOR AND DENOMINATOR OF THE RATIO OF THE TEACHER'S OR PRINCIPAL'S SCORE ON THE OTHER MEASURES OF TEACHER OR PRINCIPAL EFFECTIVENESS SUBCOMPONENT OUT OF SIXTY POINTS SUCH THAT THE DENOMINATOR IS EQUAL TO ONE HUNDRED POINTS AND AN OVERALL COMPOSITE CALCULATION IS GENERATED.

(IV) NOTWITHSTANDING THE FOREGOING, IN THE CASE OF A CLASSROOM TEACHER OR BUILDING PRINCIPAL (A) WHOSE LOCALLY SELECTED MEASURES OF STUDENT ACHIEVEMENT SUBCOMPONENT IS BASED IN WHOLE OR IN PART ON A STATE ASSESSMENT ALIGNED WITH THE COMMON CORE, AND (B) WHOSE STATE ASSESSMENTS AND OTHER COMPARABLE MEASURES SUBCOMPONENT IS NOT BASED, IN ANY PART, ON A STATE ASSESSMENT ALIGNED WITH THE COMMON CORE, THE CALCULATION SHALL CONSIST OF:

(1) IF THE STATE ASSESSMENT ALIGNED WITH THE COMMON CORE IS USED IN THE LOCALLY SELECTED MEASURES OF STUDENT ACHIEVEMENT SUBCOMPONENT AMONG MULTIPLE MEASURES INCLUDING MEASURES OTHER THAN STATE ASSESSMENTS ALIGNED WITH THE COMMON CORE, THE CALCULATION SHALL CONSIST OF:

(I) EXCLUDING THE PORTION OF SUCH SUBCOMPONENT SCORE THAT RELIES ON STATE ASSESSMENTS ALIGNED WITH THE COMMON CORE FROM BOTH THE NUMERATOR AND DENOMINATOR OF THE RATIO OF THE TEACHER'S OR PRINCIPAL'S SCORE ON THE LOCALLY SELECTED MEASURES OF STUDENT ACHIEVEMENT SUBCOMPONENT;

(II) SCALING UP THE RESULTING RATIO SUCH THAT THE DENOMINATOR IS EQUAL TO TWENTY POINTS, OR FIFTEEN POINTS IF A VALUE-ADDED MODEL IS IN EFFECT; AND

(III) ADDING THE RESULT TO THE CLASSROOM TEACHER'S OR BUILDING PRINCIPAL'S SCORE ON THE STATE ASSESSMENTS AND OTHER COMPARABLE MEASURES SUBCOMPONENT AND THE OTHER MEASURES OF TEACHER OR PRINCIPAL EFFECTIVENESS SUBCOMPONENT TO GENERATE AN OVERALL COMPOSITE CALCULATION OUT OF ONE HUNDRED POINTS.

(2) IF STATE ASSESSMENTS ALIGNED WITH THE COMMON CORE CONSTITUTE THE SOLE MEASURE OF THE LOCALLY SELECTED MEASURES OF STUDENT ACHIEVEMENT SUBCOMPONENT, THE CALCULATION SHALL CONSIST OF:

(I) SCALING UP THE NUMERATOR AND THE DENOMINATOR OF THE STATE ASSESSMENTS AND OTHER COMPARABLE MEASURES SUBCOMPONENT SUCH THAT THE DENOMINATOR IS EQUAL TO FORTY POINTS; AND

(II) ADDING THE RESULT TO THE CLASSROOM TEACHER'S OR BUILDING PRINCIPAL'S SCORE ON THE OTHER MEASURES OF TEACHER OR PRINCIPAL EFFECTIVENESS SUBCOMPONENT TO GENERATE AN OVERALL COMPOSITE CALCULATION OUT OF ONE HUNDRED POINTS.

4. USE. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, IF A CALCULATION MADE PURSUANT TO SUBDIVISION THREE OF THIS SECTION WOULD, COMPARED TO THE RATING PURSUANT TO SECTION THREE THOUSAND TWELVE-C OF THIS ARTICLE AND THE RULES OF THE BOARD OF REGENTS, HAVE RESULTED IN A HIGHER RATING FOR A TEACHER OR PRINCIPAL RATED DEVELOPING OR INEFFECTIVE:

A. THE RATING OF INEFFECTIVE OR DEVELOPING CALCULATED PURSUANT TO SECTION THREE THOUSAND TWELVE-C OF THIS ARTICLE AND THE RULES OF THE BOARD OF REGENTS SHALL NOT APPLY FOR THE FOLLOWING EMPLOYMENT RELATED DECISIONS:

(1) A TERMINATION PURSUANT TO SECTIONS TWENTY-FIVE HUNDRED NINE, TWENTY-FIVE HUNDRED SEVENTY-THREE, THREE THOUSAND TWELVE, THREE THOUSAND FOURTEEN, THREE THOUSAND TWENTY, THREE THOUSAND TWENTY-A, OR THREE THOUSAND THIRTY-ONE OF THIS CHAPTER;

(2) A GRANTING OR DENIAL OF TENURE PURSUANT TO SECTION TWENTY-FIVE HUNDRED NINE, TWENTY-FIVE HUNDRED SEVENTY-THREE, THREE THOUSAND TWELVE, THREE THOUSAND FOURTEEN OR THREE THOUSAND THIRTY-ONE OF THIS CHAPTER;

(3) EXPEDITED HEARINGS PURSUANT TO SECTION THREE THOUSAND TWENTY-A OF THIS ARTICLE; OR

(4) DECISIONS RELATED TO RETENTION.

THE RATING OF INEFFECTIVE OR DEVELOPING CALCULATED PURSUANT TO SECTION THREE THOUSAND TWELVE-C OF THIS CHAPTER AND THE RULES OF THE BOARD OF REGENTS SHALL NOT APPLY AND THE DESIGNATION CALCULATED PURSUANT TO SUBDIVISION THREE OF THIS SECTION SHALL BE USED FOR THE REQUIREMENT FOR TEACHER OR PRINCIPAL IMPROVEMENT PLANS PURSUANT TO SECTION THREE THOUSAND TWELVE-C OF THIS ARTICLE.

PROVIDED, HOWEVER, THAT NOTHING IN THIS SUBDIVISION SHALL BE CONSTRUED TO PREVENT THE USE, FOR THE PURPOSES LISTED ABOVE, OF THE OBSERVATIONS, LOCAL ASSESSMENTS OR OTHER MEASURES OF THE PERFORMANCE OF THE TEACHER OR PRINCIPAL, OTHER THAN THEIR RATING OR A STATE ASSESSMENT ALIGNED WITH THE COMMON CORE, WHETHER OR NOT THEY WERE INCLUDED IN AN ANNUAL PROFESSIONAL PERFORMANCE REVIEW.

B. ON INDIVIDUAL EMPLOYMENT RECORDS, EXCEPT AS PROVIDED UNDER PARAGRAPH A OF THIS SUBDIVISION, AND FOR PURPOSES OF DISCLOSURE TO PARENTS PURSUANT TO PARAGRAPH B OF SUBDIVISION TEN OF SECTION THREE THOUSAND TWELVE-C OF THIS ARTICLE, THE RATING PURSUANT TO SECTION THREE THOUSAND TWELVE-C OF THIS ARTICLE SHALL BE REPORTED WITH (I) THE DESIGNATION CALCULATED PURSUANT TO SUBDIVISION THREE OF THIS SECTION AND (II) AN EXPLANATION OF SUCH ADDITIONAL DESIGNATION.

S 3. Notwithstanding any inconsistent provision of law, a school district shall be eligible for an apportionment of general support for public schools from the funds appropriated for the 2015-16 school year or 2016-17 school year in excess of the amount apportioned to such school district in the base year, as defined in subdivision 1 of section 3602 of the education law as provided in the school aid computed listing produced by the commissioner in support of the enacted budget for the 2015-16 school year and entitled "SA151-6".

S 4. This act shall take effect on the same date and in the same manner as chapter 56 of the laws of 2015 amending the education law relating to annual performance reviews of classroom teachers and building principals took effect, provided that it shall first apply to employment decisions detailed in this act based on annual professional performance review ratings received by classroom teachers and building principals for the 2014-15 and 2015-16 school years.