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

5672

2015-2016 Regular Sessions

I N S E N A T E

May 26, 2015

Introduced by Sens. FLANAGAN, MARCELLINO -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend chapter 91 of the laws of 2002 amending the education law and other laws relating to the reorganization of the New York city school construction authority, board of education and community boards, in relation to the effectiveness of certain provisions of such chapter; to amend chapter 345 of the laws of 2009 amending the education law relating to the New York city board of education, chancellor, community councils and community superintendents, in relation to the effectiveness of certain provisions of such chapter; and to amend the education law, in relation to the New York city community school district system

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

Section 1. Section 34 of chapter 91 of the laws of 2002 amending the education law and other laws relating to the reorganization of the New York city school construction authority, board of education and community boards, as amended by chapter 345 of the laws of 2009, is amended to read as follows:

S 34. This act shall take effect July 1, 2002; provided, that sections one through twenty, twenty-four, and twenty-six through thirty of this act shall expire and be deemed repealed June 30, [2015] 2016; provided, further, that notwithstanding any provision of article 5 of the general construction law, on June 30, [2015] 2016 the provisions of subdivisions 3, 5, and 8, paragraph b of subdivision 13, subdivision 14, paragraphs b, d, and e of subdivision 15, and subdivisions 17 and 21 of section 2554 of the education law as repealed by section three of this act, subdivision 1 of section 2590-b of the education law as repealed by section six of this act, paragraph (a) of subdivision 2 of section 2590-b of the education law as repealed by section seven of this act, section 2590-c of the education law as repealed by section eight of this

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

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act, paragraph c of subdivision 2 of section 2590-d of the education law as repealed by section twenty-six of this act, subdivision 1 of section 2590-e of the education law as repealed by section twenty-seven of this act, subdivision 28 of section 2590-h of the education law as repealed by section twenty-eight of this act, subdivision 30 of section 2590-h of the education law as repealed by section twenty-nine of this act, subdivision 30-a of section 2590-h of the education law as repealed by section thirty of this act shall be revived and be read as such provisions existed in law on the date immediately preceding the effective date of this act; provided, however, that sections seven and eight of this act shall take effect on November 30, 2003; provided further that the amendments to subdivision 25 of section 2554 of the education law made by section two of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 12 of chapter 147 of the laws of 2001, as amended, when upon such date the provisions of section four of this act shall take effect.

S 2. Subdivision 12 of section 17 of chapter 345 of the laws of 2009 amending the education law relating to the New York city board of education, chancellor, community councils, and community superintendents, is amended to read as follows:

12. any provision in sections one, two, three, four, five, six, seven, eight, nine, ten and eleven of this act not otherwise set to expire pursuant to section 34 of chapter 91 of the laws of 2002, as amended, or section 17 of chapter 123 of the laws of 2003, as amended, shall expire and be deemed repealed June 30, [2015] 2016.

S 3. Subdivisions 9 and 9-a of section 2852 of the education law, subdivision 9 as amended and subdivision 9-a as added by chapter 101 of the laws of 2010, paragraph (a) of subdivision 9-a as amended by chapter 221 of the laws of 2010, paragraph (f) of subdivision 9-a as amended by chapter 102 of the laws of 2010, are amended to read as follows:

9. The total number of charters issued pursuant to this article STATEWIDE shall not exceed [four] FIVE hundred sixty. (a) [One hundred of such charters shall be issued on the recommendation of the charter entity described in paragraph (b) of subdivision three of section twenty-eight hundred fifty-one of this article; (b) one hundred of such charters shall be issued on the recommendation of the other charter entities set forth in subdivision three of section twenty-eight hundred fifty-one of this article; (c) up to fifty of the additional charters authorized to be issued by the chapter of the laws of two thousand seven which amended this subdivision effective July first, two thousand seven shall be reserved for a city school district of a city having a population of one million or more; (d) one hundred thirty charters shall be issued by the board of regents pursuant to a competitive process in accordance with subdivision nine-a of this section, provided that no more than fifty-seven of such charters shall be granted to a charter for a school to be located in a city having a population of one million or more; (e) one hundred thirty charters shall be issued by the board of regents on the recommendation of the board of trustees of the state university of New York pursuant to a competitive process in accordance with subdivision nine-a of this section, provided that no more than fifty-seven of such charters shall be granted to a charter for a school to be located in a city having a population of one million or more] ALL CHARTERS ISSUED ON OR AFTER FEBRUARY FIRST, TWO THOUSAND FIFTEEN AND COUNTED TOWARD THE NUMERICAL LIMITS ESTABLISHED BY THIS SUBDIVISION SHALL BE ISSUED BY THE BOARD OF REGENTS UPON APPLICATION DIRECTLY TO THE BOARD OF REGENTS OR ON THE RECOMMENDATION OF THE BOARD OF TRUSTEES OF THE STATE

UNIVERSITY OF NEW YORK PURSUANT TO A COMPETITIVE PROCESS IN ACCORDANCE WITH SUBDIVISION NINE-A OF THIS SECTION. The failure of any body to issue the regulations authorized pursuant to this article shall not affect the authority of a charter entity to propose a charter to the board of regents or the board of regents' authority to grant such charter. A conversion of an existing public school to a charter school or the renewal or extension of a charter APPROVED BY ANY CHARTER ENTITY shall not be counted toward the numerical limits established by this subdivision.

(B) A CHARTER SCHOOL WHOSE CHARTER HAS BEEN SURRENDERED, REVOKED OR TERMINATED, INCLUDING A CHARTER THAT HAS NOT BEEN RENEWED BY ACTION OF ITS CHARTER ENTITY, SHALL NOT BE COUNTED TOWARD THE NUMERICAL LIMITS ESTABLISHED BY THIS SUBDIVISION AND INSTEAD SHALL BE RETURNED TO THE STATEWIDE POOL AND MAY BE REISSUED BY THE BOARD OF REGENTS EITHER UPON APPLICATION DIRECTLY TO THE BOARD OF REGENTS OR ON THE RECOMMENDATION OF THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK PURSUANT TO A COMPETITIVE PROCESS IN ACCORDANCE WITH SUBDIVISION NINE-A OF THIS SECTION.

(C) FOR PURPOSES OF DETERMINING THE TOTAL NUMBER OF CHARTERS ISSUED WITHIN THE NUMERICAL LIMITS ESTABLISHED BY THIS SUBDIVISION, THE APPROVAL DATE OF THE CHARTERING ENTITY SHALL BE THE DETERMINING FACTOR.

9-a. (a) The board of regents is hereby authorized and directed to issue [two] UP TO FIVE hundred sixty charters UPON EITHER APPLICATIONS SUBMITTED DIRECTLY TO THE BOARD OF REGENTS OR APPLICATIONS RECOMMENDED BY THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK pursuant to a competitive request for proposals process.

[(i) Commencing on August first, two thousand ten through September first, two thousand thirteen, the board of regents and the board of trustees of the state university of New York shall each issue a request for proposals in accordance with this subdivision and this subparagraph:

(1) Each request for proposals to be issued by the board of regents and the board of trustees of the state university of New York on August first, two thousand ten shall be for a maximum of thirty-two charters to be issued for charter schools which would commence instructional operation by the September of the next calendar year.

(2) Each request for proposals to be issued by the board of regents and the board of trustees of the state university of New York on January first, two thousand eleven shall be for a maximum of thirty-three charters to be issued for charter schools which would commence instructional operation by the September of the next calendar year.

(3) Each request for proposals to be issued by the board of regents and the board of trustees of the state university of New York on January first, two thousand twelve shall be for a maximum of thirty-two charters to be issued for charter schools which would commence instructional operation by the September of the next calendar year.

(4) Each request for proposals to be issued by the board of regents and the board of trustees of the state university of New York on September first, two thousand thirteen shall be for a maximum of thirty-three charters to be issued for charter schools which would commence instructional operation by the September of the next calendar year.

(ii) If after September first, two thousand thirteen, either the board of regents or the board of trustees of the state university of New York have any charters which have not yet been issued, they may be issued pursuant to requests for proposals issued in each succeeding year, without limitation as to when such requests for proposals may be issued, or a limitation on the number of charters which may be issued.

(iii) Notwithstanding the provisions of clauses one, two, three and four of subparagraph (i) of this paragraph and subparagraph (ii) of this paragraph, if fewer charters are issued than were requested in such request for proposals, the difference may be added to the number of charters requested in the request for proposals issued in each succeeding year.

(iv)] The board of regents shall make a determination to issue a charter pursuant to a request for proposals no later than December thirty-first of each year.

(b) The board of regents and the board of trustees of the state university of New York shall each develop such request for proposals in a manner that facilitates a thoughtful review of charter school applications, considers the demand for charter schools by the community, and seeks to locate charter schools in a region or regions where there may be a lack of alternatives and access to charter schools would provide new alternatives within the local public education system that would offer the greatest educational benefit to students. Applications shall be evaluated in accordance with the criteria and objectives contained within a request for proposals. The board of regents and the board of trustees of the state university of New York shall not consider any applications which do not rigorously demonstrate that they have met the following criteria:

(i) that the proposed charter school would meet or exceed enrollment and retention targets, as prescribed by the board of regents or the board of trustees of the state university of New York, as applicable, of students with disabilities, English language learners, and students who are eligible applicants for the free and reduced price lunch program. When developing such targets, the board of regents and the board of trustees of the state university of New York, shall ensure (1) that such enrollment targets are comparable to the enrollment figures of such categories of students attending the public schools within the school district, or in a city school district in a city having a population of one million or more inhabitants, the community school district, in which the proposed charter school would be located; and (2) that such retention targets are comparable to the rate of retention of such categories of students attending the public schools within the school district, or in a city school district in a city having a population of one million or more inhabitants, the community school district, in which the proposed charter school would be located; and

(ii) that the applicant has conducted public outreach, in conformity with a thorough and meaningful public review process prescribed by the board of regents and the board of trustees of the state university of New York, to solicit community input regarding the proposed charter school and to address comments received from the impacted community concerning the educational and programmatic needs of students.

(c) The board of regents and the board of trustees of the state university of New York shall grant priority based on a scoring rubric to those applications that best demonstrate how they will achieve the following objectives, and any additional objectives the board of regents and the board of trustees of the state university of New York, may prescribe:

(i) increasing student achievement and decreasing student achievement gaps in reading/language arts and mathematics;

(ii) increasing high school graduation rates and focusing on serving specific high school student populations including, but not limited to, students at risk of not obtaining a high school diploma, re-enrolled

high school drop-outs, and students with academic skills below grade level;

(iii) focusing on the academic achievement of middle school students and preparing them for a successful transition to high school;

(iv) utilizing high-quality assessments designed to measure a student's knowledge, understanding of, and ability to apply, critical concepts through the use of a variety of item types and formats;

(v) increasing the acquisition, adoption, and use of local instructional improvement systems that provide teachers, principals, and administrators with the information and resources they need to inform and improve their instructional practices, decision-making, and overall effectiveness;

(vi) partnering with low performing public schools in the area to share best educational practices and innovations;

(vii) demonstrating the management and leadership techniques necessary to overcome initial start-up problems to establish a thriving, financially viable charter school;

(viii) demonstrating the support of the school district in which the proposed charter school will be located and the intent to establish an ongoing relationship with such school district.

(d) No later than November first, two thousand ten, and of each succeeding year, after a thorough review of applications received, the board of trustees of the state university of New York shall recommend for approval to the board of regents the qualified applications that it has determined rigorously demonstrate the criteria and best satisfy the objectives contained within a request for proposals, along with supporting documentation outlining such determination.

(e) Upon receipt of a proposed charter to be issued pursuant to this subdivision submitted by a charter entity, the board of regents or the board of trustees of the state university of New York, shall review, recommend and issue, as applicable, such charters in accordance with the standards established in this subdivision.

(f) The board of regents shall be the only entity authorized to issue a charter pursuant to this article. The board of regents shall consider applications submitted directly to the board of regents and applications recommended by the board of trustees of the state university of New York. Provided, however, that all such recommended applications shall be deemed approved and issued pursuant to the provisions of subdivisions five, five-a and five-b of this section.

(g) Each application submitted in response to a request for proposals pursuant to this subdivision shall also meet the application requirements set out in this article and any other applicable laws, rules and regulations.

(h) During the development of a request for proposals pursuant to this subdivision the board of regents and the board of trustees of the state university of New York shall each afford the public an opportunity to submit comments and shall review and consider the comments raised by all interested parties.

S 4. Section 2590-q of the education law is amended by adding a new subdivision 19 to read as follows:

19. WITH RESPECT TO SPECIAL, FEDERAL, STATE, AND PRIVATE FUNDS, THE CHANCELLOR SHALL REPORT THE DISTRIBUTION OF SUCH FUNDS BY INDIVIDUAL SCHOOL, AND ON A PER PUPIL BASIS FOR EACH INDIVIDUAL SCHOOL TO THE GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE, SPEAKER OF THE ASSEMBLY, AND SPEAKER OF THE CITY COUNCIL ON OR BEFORE MAY FIRST OF EACH YEAR.

S 5. The opening paragraph of section 2590-r of the education law, as amended by chapter 345 of the laws of 2009, is amended to read as follows:

The chancellor shall, in consultation with the city board and community district superintendents, establish in regulations a comprehensive process of school-based budgeting and expenditure reporting no later than November first, nineteen hundred ninety-eight. ANY REPORT PREPARED IN ACCORDANCE WITH THIS SECTION SHALL BE PUBLICLY AVAILABLE ON THE WEBSITE OF THE NEW YORK CITY DEPARTMENT OF EDUCATION. Notwithstanding any provision of section twenty-five hundred ninety-q of this article to the contrary, such regulations shall include provisions for:

S 6. Section 2590-g of the education law is amended by adding a new subdivision 12-a to read as follows:

12-A. PROVIDE INFORMATION, DATA, ESTIMATES AND STATISTICS REGARDING ALL MATTERS RELATING TO THE CITY DISTRICT, AS REQUESTED BY MEMBERS AND OFFICERS OF THE SENATE, ASSEMBLY, AND GOVERNOR'S OFFICE, IN A TIMELY FASHION. SUCH INFORMATION SHALL BE MAINTAINED AND UPDATED IN A TIMELY FASHION AND SHALL AT A MINIMUM INCLUDE DATA RELATING TO: (A) NEW YORK CITY DEPARTMENT OF EDUCATION SCHOOL CHARACTERISTICS INCLUDING GRADES SERVED, NUMBER OF TEACHERS, STUDENT ENROLLMENT, SCHOOL TYPE, SCHOOL CHARACTERISTICS, QUALITY REVIEW SCORES, GRADUATION RATES AND AVERAGE CLASS SIZE; (B) NEW YORK CITY DEPARTMENT OF EDUCATION PRINCIPAL CHARACTERISTICS INCLUDING CURRENT EMPLOYMENT STATUS, EDUCATION LEVEL, YEARS OF EXPERIENCE AND TENURE STATUS; (C) NEW YORK CITY DEPARTMENT OF EDUCATION TEACHER CHARACTERISTICS INCLUDING CURRENT EMPLOYMENT STATUS, EDUCATION LEVEL, YEARS OF TEACHING EXPERIENCE, TENURE STATUS, SUBJECT AREA TAUGHT, NUMBER OF STUDENTS TAUGHT, NUMBER OF CLASSES TAUGHT PER DAY AND ATTRITION RATE; (D) NEW YORK CITY DEPARTMENT OF EDUCATION STUDENT CHARACTERISTICS INCLUDING GRADE LEVEL, SCHOOL ATTENDANCE, AND OTHER DEMOGRAPHICS; (E) GIFTED AND TALENTED PROGRAMS APPLICATION DATA INCLUDING ADMISSION DECISIONS, STUDENT DEMOGRAPHICS AND STUDENT TEST SCORES; (F) PRE-KINDERGARTEN PROGRAMS INCLUDING PROGRAM LOCATIONS, CAPACITY, STUDENT ENROLLMENT, NUMBER OF TEACHERS, TEACHER CHARACTERISTICS, STUDENT ATTENDANCE, STUDENT DEMOGRAPHICS AND EFFECTIVENESS DATA; (G) FUNDING FOR NEW YORK CITY DEPARTMENT OF EDUCATION SCHOOLS INCLUDING DEPARTMENT FUNDING BY DOLLARS, EXPENDITURES BY CATEGORY AND EXTERNAL FUNDING IN DOLLARS; (H) FUNDING FOR NEW YORK CITY DEPARTMENT OF EDUCATION PROGRAMS INCLUDING DEPARTMENT FUNDING IN DOLLARS, AND EXTERNAL FUNDING IN DOLLARS; AND (I) GENERAL NEW YORK CITY DEPARTMENT OF EDUCATION BUDGET. PROVIDED, HOWEVER, THAT ALL INQUIRIES MADE IN ACCORDANCE WITH THIS SUBDIVISION SHALL COMPLY WITH APPLICABLE STATE AND FEDERAL PRIVACY LAWS.

S 7. Pursuant to a schedule to be developed by the director of the budget, the mayor of the city of New York shall submit an education budget plan, including the overall education funding amount and funding distribution policy, in a form to be developed by the director of the budget, demonstrating how the mayor's proposed education budget will target resources at schools serving students with higher needs to improve student achievement city-wide. Such education budget plan must be approved by the director of the budget, the temporary president of the senate, and the speaker of the assembly prior to the mayor's submission of a proposed executive budget to the New York city council. The final adopted budget, as well as any subsequent modifications, shall be consistent with the approved education budget plan unless any changes are approved by the director of the budget, the temporary president of the senate, and the speaker of the assembly.

S 8. Paragraph (b) of subdivision 2 of section 2854 of the education law, as amended by chapter 101 of the laws of 2010, is amended and a new paragraph (b-1) is added to read as follows:

(b) Any child who is qualified under the laws of this state for admission to a public school is qualified for admission to a charter school. Applications for admission to a charter school shall be submitted on a uniform application form created by the department and shall be made available by a charter school in languages predominately spoken in the community in which such charter school is located. The school shall enroll each eligible student who submits a timely application by the first day of April each year, unless the number of applications exceeds the capacity of the grade level or building. In such cases, students shall be accepted from among applicants by a random selection process, provided, however, that an enrollment preference shall be provided to pupils returning to the charter school in the second or any subsequent year of operation and pupils residing in the school district in which the charter school is located, and siblings of pupils already enrolled in the charter school.

(B-1) THE SCHOOL MAY OFFER AN ENROLLMENT PREFERENCE TO PUPILS WHO ARE THE CHILDREN OF EMPLOYEES OF THE CHARTER SCHOOL, THE EDUCATION CORPORATION, OR THE CHARTER MANAGEMENT ORGANIZATION FOR SUCH CHARTER SCHOOL; PROVIDED THAT ANY ENROLLMENT PREFERENCES OFFERED PURSUANT TO THIS PARAGRAPH SHALL NOT TOGETHER EXCEED TWENTY PERCENT OF NEWLY ADMITTED STUDENTS IN THE APPLICABLE SCHOOL YEAR.

(B-2) The commissioner shall establish regulations to require that the random selection process conducted pursuant to this paragraph be performed in a transparent and equitable manner and to require that the time and place of the random selection process be publicized in a manner consistent with the requirements of section one hundred four of the public officers law and be open to the public. For the purposes of this paragraph and paragraph (a) of this subdivision, the school district in which the charter school is located shall mean, for the city school district of the city of New York, the community district in which the charter school is located.

S 9. Paragraph (a-1) of subdivision 3 of section 2854 of the education law, as added by chapter 4 of the laws of 1998, is amended to read as follows:

(a-1) The board of trustees of a charter school shall employ and contract with necessary teachers, administrators and other school personnel. Such teachers shall be certified in accordance with the requirements applicable to other public schools; provided, however, that a charter school may employ as teachers (i) uncertified teachers with at least three years of elementary, middle or secondary classroom teaching experience; (ii) tenured or tenure track college faculty; (iii) individuals with two years of satisfactory experience through the Teach for America program; and (iv) individuals who possess exceptional business, professional, artistic, athletic, or military experience, provided, however, that such teachers described in clauses (i), (ii), (iii), and (iv) of this paragraph shall not in total comprise more than thirty per centum of the teaching staff of a charter school, or five teachers, whichever is [less] GREATER. A teacher certified or otherwise approved by the commissioner shall not be included in the numerical limits established by the preceding sentence.

S 10. This act shall take effect immediately; provided that:

1. The amendments to section 2590-q of the education law made by section four of this act shall be deemed to have been in full force and

effect on and after January 1, 2012, and shall not affect the expiration of such section and shall expire therewith;

2. The amendments to section 2590-r of the education law made by section five of this act shall be deemed to have been in full force and effect on and after January 1, 2012, and shall not affect the expiration of such section and shall expire therewith;

3. The amendments to section 2590-g of the education law made by section six of this act shall be deemed to have been in full force and effect on and after January 1, 2012, and shall not affect the expiration of such section and shall expire therewith.