

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:

1 Section 1. Section 34 of chapter 91 of the laws of 2002 amending the
2 education law and other laws relating to the reorganization of the New
3 York city school construction authority, board of education and communi-
4 ty boards, as amended by chapter 345 of the laws of 2009, is amended to
5 read as follows:
6 S 34. This act shall take effect July 1, 2002; provided, that sections
7 one through twenty, twenty-four, and twenty-six through thirty of this
8 act shall expire and be deemed repealed June 30, [2015] 2016; provided,
9 further, that notwithstanding any provision of article 5 of the general
10 construction law, on June 30, [2015] 2016 the provisions of subdivisions
11 3, 5, and 8, paragraph b of subdivision 13, subdivision 14, paragraphs
12 b, d, and e of subdivision 15, and subdivisions 17 and 21 of section
13 2554 of the education law as repealed by section three of this act,
14 subdivision 1 of section 2590-b of the education law as repealed by
15 section six of this act, paragraph (a) of subdivision 2 of section
16 2590-b of the education law as repealed by section seven of this act,
17 section 2590-c of the education law as repealed by section eight of this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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1 act, paragraph c of subdivision 2 of section 2590-d of the education law
2 as repealed by section twenty-six of this act, subdivision 1 of section
3 2590-e of the education law as repealed by section twenty-seven of this
4 act, subdivision 28 of section 2590-h of the education law as repealed
5 by section twenty-eight of this act, subdivision 30 of section 2590-h of
6 the education law as repealed by section twenty-nine of this act, subdi-
7 vision 30-a of section 2590-h of the education law as repealed by
8 section thirty of this act shall be revived and be read as such
9 provisions existed in law on the date immediately preceding the effec-
10 tive date of this act; provided, however, that sections seven and eight
11 of this act shall take effect on November 30, 2003; provided further
12 that the amendments to subdivision 25 of section 2554 of the education
13 law made by section two of this act shall be subject to the expiration
14 and reversion of such subdivision pursuant to section 12 of chapter 147
15 of the laws of 2001, as amended, when upon such date the provisions of
16 section four of this act shall take effect.

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

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

26 S 3. Subdivisions 9 and 9-a of section 2852 of the education law,
27 subdivision 9 as amended and subdivision 9-a as added by chapter 101 of
28 the laws of 2010, paragraph (a) of subdivision 9-a as amended by chapter
29 221 of the laws of 2010, paragraph (f) of subdivision 9-a as amended by
30 chapter 102 of the laws of 2010, are amended to read as follows:

31 9. The total number of charters issued pursuant to this article STATE-
32 WIDE shall not exceed [four] FIVE hundred sixty. (a) [One hundred of
33 such charters shall be issued on the recommendation of the charter enti-
34 ty described in paragraph (b) of subdivision three of section twenty-
35 eight hundred fifty-one of this article; (b) one hundred of such char-
36 ters shall be issued on the recommendation of the other charter entities
37 set forth in subdivision three of section twenty-eight hundred fifty-one
38 of this article; (c) up to fifty of the additional charters authorized
39 to be issued by the chapter of the laws of two thousand seven which
40 amended this subdivision effective July first, two thousand seven shall
41 be reserved for a city school district of a city having a population of
42 one million or more; (d) one hundred thirty charters shall be issued by
43 the board of regents pursuant to a competitive process in accordance
44 with subdivision nine-a of this section, provided that no more than
45 fifty-seven of such charters shall be granted to a charter for a school
46 to be located in a city having a population of one million or more; (e)
47 one hundred thirty charters shall be issued by the board of regents on
48 the recommendation of the board of trustees of the state university of
49 New York pursuant to a competitive process in accordance with subdivi-
50 sion nine-a of this section, provided that no more than fifty-seven of
51 such charters shall be granted to a charter for a school to be located
52 in a city having a population of one million or more] ALL CHARTERS
53 ISSUED ON OR AFTER FEBRUARY FIRST, TWO THOUSAND FIFTEEN AND COUNTED
54 TOWARD THE NUMERICAL LIMITS ESTABLISHED BY THIS SUBDIVISION SHALL BE
55 ISSUED BY THE BOARD OF REGENTS UPON APPLICATION DIRECTLY TO THE BOARD OF
56 REGENTS OR ON THE RECOMMENDATION OF THE BOARD OF TRUSTEES OF THE STATE

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

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

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

22 9-a. (a) The board of regents is hereby authorized and directed to
23 issue [two] UP TO FIVE hundred sixty charters UPON EITHER APPLICATIONS
24 SUBMITTED DIRECTLY TO THE BOARD OF REGENTS OR APPLICATIONS RECOMMENDED
25 BY THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK pursuant to
26 a competitive request for proposals process.

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

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

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

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

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

51 (ii) If after September first, two thousand thirteen, either the board
52 of regents or the board of trustees of the state university of New York
53 have any charters which have not yet been issued, they may be issued
54 pursuant to requests for proposals issued in each succeeding year, with-
55 out limitation as to when such requests for proposals may be issued, or
56 a limitation on the number of charters which may be issued.

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

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

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

23 (i) that the proposed charter school would meet or exceed enrollment
24 and retention targets, as prescribed by the board of regents or the
25 board of trustees of the state university of New York, as applicable, of
26 students with disabilities, English language learners, and students who
27 are eligible applicants for the free and reduced price lunch program.
28 When developing such targets, the board of regents and the board of
29 trustees of the state university of New York, shall ensure (1) that such
30 enrollment targets are comparable to the enrollment figures of such
31 categories of students attending the public schools within the school
32 district, or in a city school district in a city having a population of
33 one million or more inhabitants, the community school district, in which
34 the proposed charter school would be located; and (2) that such
35 retention targets are comparable to the rate of retention of such cate-
36 gories of students attending the public schools within the school
37 district, or in a city school district in a city having a population of
38 one million or more inhabitants, the community school district, in which
39 the proposed charter school would be located; and

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

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

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

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

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

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

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

8 (v) increasing the acquisition, adoption, and use of local instruc-
9 tional improvement systems that provide teachers, principals, and admin-
10 istrators with the information and resources they need to inform and
11 improve their instructional practices, decision-making, and overall
12 effectiveness;

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

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

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

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

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

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

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

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

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

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

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

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

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

14 12-A. PROVIDE INFORMATION, DATA, ESTIMATES AND STATISTICS REGARDING
15 ALL MATTERS RELATING TO THE CITY DISTRICT, AS REQUESTED BY MEMBERS AND
16 OFFICERS OF THE SENATE, ASSEMBLY, AND GOVERNOR'S OFFICE, IN A TIMELY
17 FASHION. SUCH INFORMATION SHALL BE MAINTAINED AND UPDATED IN A TIMELY
18 FASHION AND SHALL AT A MINIMUM INCLUDE DATA RELATING TO: (A) NEW YORK
19 CITY DEPARTMENT OF EDUCATION SCHOOL CHARACTERISTICS INCLUDING GRADES
20 SERVED, NUMBER OF TEACHERS, STUDENT ENROLLMENT, SCHOOL TYPE, SCHOOL
21 CHARACTERISTICS, QUALITY REVIEW SCORES, GRADUATION RATES AND AVERAGE
22 CLASS SIZE; (B) NEW YORK CITY DEPARTMENT OF EDUCATION PRINCIPAL CHARAC-
23 TERISTICS INCLUDING CURRENT EMPLOYMENT STATUS, EDUCATION LEVEL, YEARS OF
24 EXPERIENCE AND TENURE STATUS; (C) NEW YORK CITY DEPARTMENT OF EDUCATION
25 TEACHER CHARACTERISTICS INCLUDING CURRENT EMPLOYMENT STATUS, EDUCATION
26 LEVEL, YEARS OF TEACHING EXPERIENCE, TENURE STATUS, SUBJECT AREA TAUGHT,
27 NUMBER OF STUDENTS TAUGHT, NUMBER OF CLASSES TAUGHT PER DAY AND ATTRI-
28 TION RATE; (D) NEW YORK CITY DEPARTMENT OF EDUCATION STUDENT CHARACTER-
29 ISTICS INCLUDING GRADE LEVEL, SCHOOL ATTENDANCE, AND OTHER DEMOGRAPHICS;
30 (E) GIFTED AND TALENTED PROGRAMS APPLICATION DATA INCLUDING ADMISSION
31 DECISIONS, STUDENT DEMOGRAPHICS AND STUDENT TEST SCORES; (F) PRE-KINDER-
32 GARTEN PROGRAMS INCLUDING PROGRAM LOCATIONS, CAPACITY, STUDENT ENROLL-
33 MENT, NUMBER OF TEACHERS, TEACHER CHARACTERISTICS, STUDENT ATTENDANCE,
34 STUDENT DEMOGRAPHICS AND EFFECTIVENESS DATA; (G) FUNDING FOR NEW YORK
35 CITY DEPARTMENT OF EDUCATION SCHOOLS INCLUDING DEPARTMENT FUNDING BY
36 DOLLARS, EXPENDITURES BY CATEGORY AND EXTERNAL FUNDING IN DOLLARS; (H)
37 FUNDING FOR NEW YORK CITY DEPARTMENT OF EDUCATION PROGRAMS INCLUDING
38 DEPARTMENT FUNDING IN DOLLARS, AND EXTERNAL FUNDING IN DOLLARS; AND (I)
39 GENERAL NEW YORK CITY DEPARTMENT OF EDUCATION BUDGET. PROVIDED, HOWEVER,
40 THAT ALL INQUIRIES MADE IN ACCORDANCE WITH THIS SUBDIVISION SHALL COMPLY
41 WITH APPLICABLE STATE AND FEDERAL PRIVACY LAWS.

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

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

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

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

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

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

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

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

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

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

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

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