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

6576

I N S E N A T E

January 27, 2016

Introduced by Sen. DeFRANCISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law and the general construction law, in relation to abolishing the board of regents and transferring the power and duties thereof to the commissioner of education and providing for the appointment of such commissioner by the governor; and to repeal certain provisions of the education law relating to the board of regents

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

Section 1. Subdivision 4 of section 2 of the education law is amended to read as follows:

4. Regents. The term "regents" means [board of regents of The University of the State of New York] THE COMMISSIONER.

S 2. Section 101 of the education law is amended to read as follows:

S 101. Education department; regents of the university. There shall continue to be in the state government an education department. The department is charged with the general management and supervision of all public schools and all of the educational work of the state, including the operations of The University of the State of New York and the exercise of all the functions of the education department, of The University of the State of New York, [of the regents of the university] and of the commissioner of education and the performance of all their powers and duties, which were transferred to the education department by section three hundred twelve of the FORMER state departments law or shall have been prescribed by law before March sixteenth, nineteen hundred twenty-seven, whether in terms vested in such department or university or in any sub-department, division or bureau thereof or in such commissioner, board or officer, and such functions, powers and duties shall continue to be vested in the education department continued by this chapter and shall continue to be exercised and performed therein by or through the appropriate officer, sub-department, division or bureau thereof, together with such functions, powers and duties as hereafter may be conferred or imposed upon such department by law. All the provisions of this

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

LBD07224-01-5

chapter, in so far as they are not inconsistent with the provisions of this chapter as hereby amended or may be made applicable, shall apply to the education department continued by this chapter as hereby amended and to The University of the State of New York, [the board of regents of the university,] the commissioner of education and to the divisions, bureaus and officers in such department. The head of the department shall [continue to] be the [regents of The University of the State of New York, who shall appoint, and at pleasure may remove, the] commissioner of education. The commissioner shall continue to be the chief administrative officer of the department. The [regents also] COMMISSIONER may appoint and, at pleasure, remove a deputy commissioner of education, who shall perform such duties as the [regents] COMMISSIONER may assign to him OR HER by rule and who, in the absence or disability of the commissioner or when a vacancy exists in the office of commissioner, shall exercise and perform the functions, powers and duties conferred or imposed on the commissioner by this chapter. [The regents of The University of the State of New York shall continue to constitute a board and The University of the State of New York, which was continued under such name by section two of article eleven of the constitution, shall continue to be governed and all its corporate powers to be exercised by such board.]

S 3. The education law is amended by adding a new section 101-c to read as follows:

S 101-C. REGENTS; ABOLISHED. 1. THE REGENTS OF THE UNIVERSITY OF THE STATE OF NEW YORK IS HEREBY ABOLISHED, AND ALL THE FUNCTIONS AND POWERS POSSESSED BY AND ALL OF THE OBLIGATIONS AND DUTIES OF SUCH REGENTS ARE TRANSFERRED AND ASSIGNED TO, ASSUMED BY AND DEVOLVED UPON THE COMMISSIONER OF EDUCATION.

2. WHEN THE TERM "REGENTS OF THE UNIVERSITY OF THE STATE OF NEW YORK" OR ANY EQUIVALENT EXPRESSION THEREOF IS USED IN THIS CHAPTER, OR ANY OTHER LAW, RULE OR REGULATION, SUCH TERM SHALL BE DEEMED TO MEAN AND REFER TO THE COMMISSIONER OF EDUCATION.

S 4. Section 102 of the education law is amended to read as follows:

S 102. Associate and assistant commissioners. The commissioner [of education] shall appoint[, subject to the approval of the regents,] such associate and assistant commissioners as he OR SHE shall deem necessary for the proper organization and general classification of the work of the department, and assign to such associate and assistant commissioners the work which shall be under their respective supervision.

S 5. Section 103 of the education law is amended to read as follows:

S 103. Divisions of department. By action of the [regents upon the recommendation of the] commissioner [of education] the department may be divided into divisions and bureaus. By like action new divisions and bureaus may be created and divisions and bureaus may be consolidated or abolished, and the administrative work of the department assigned to the several divisions and bureaus.

S 6. Section 104 of the education law is amended to read as follows:

S 104. Other officers and employees. The commissioner [of education, subject to the approval of the regents,] shall have power[, in conformity with their rules,] to appoint all other needed officers and employees and fix their titles, duties and salaries.

S 7. Section 105 of the education law is amended to read as follows:

S 105. Removals and suspensions. [With the approval of the regents, the] THE commissioner [of education] may, at his OR HER pleasure, remove from office any assistant commissioner, or other appointive officer or employee; and[, when the regents are not in session, the commissioner

may, during his pleasure,] suspend, without salary, any such officer or employee[, but not longer than till the adjournment of the succeeding meeting of the regents].

S 8. Section 106 of the education law is amended to read as follows:

S 106. Joint seal. The [regents of the university upon the recommendation of the] commissioner [of education] shall adopt, and may modify at any time, a seal, which shall be used in common as the seal of the education department and of the university; and copies of all records thereof and of all acts, orders, decrees and decisions made by [the regents or by] the commissioner [of education], and of [their] HIS OR HER official papers, and of the drafts or machine copies of any of the foregoing, may be authenticated under the said seal and shall then be evidence equally with and in like manner as the originals.

S 9. Section 108 of the education law is amended to read as follows:

S 108. State education building. The state education building shall be occupied exclusively by the education department, including the university, with the state library, the state museum, and its other divisions and bureaus, together with such other work with which the commissioner [of education and the regents have] HAS official relations[, as the regents may, in their discretion, provide for therein], and such building and the offices of such department shall be maintained at state expense under the charge and care of such department.

S 10. Section 201 of the education law is amended to read as follows:

S 201. Corporate name and objects. The corporation created in the year seventeen hundred eighty-four under the name of The Regents of the University of the State of New York, is hereby continued under the name of The University of the State of New York, AND SHALL BE SUBJECT TO THE SUPERVISION AND CONTROL OF THE COMMISSIONER. Its objects shall be to encourage and promote education, to visit and inspect its several institutions and departments, to distribute to or expand or administer for them such property and funds as the state may appropriate therefor or as the university may own or hold in trust or otherwise, and to perform such other duties as may be intrusted to it. The said corporation shall have power to take, hold and administer real and personal property and the income thereof in trust for any educational, scientific, historical or other purpose within the jurisdiction of the [regents of The University of the State of New York] COMMISSIONER.

S 11. Sections 202, 203, 204, 205, 206 and 207 of the education law are REPEALED.

S 12. Section 301 of the education law is REPEALED.

S 13. Section 302 of the education law is amended to read as follows:

S 302. How chosen. The commissioner [of education] shall be [elected by a majority vote of the regents. Residence without the state of New York shall not disqualify him from election] APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE. THE COMMISSIONER SHALL SERVE AT THE PLEASURE OF THE GOVERNOR.

S 14. Section 303 of the education law is REPEALED.

S 15. The general construction law is amended by adding a new section 42-a to read as follows:

S 42-A. REGENTS. WHEREVER THE TERM "REGENTS OF THE UNIVERSITY OF THE STATE OF NEW YORK" OR ANY EQUIVALENT EXPRESSION THEREOF IS USED IN ANY PROVISION OF LAW, RULE OR REGULATION, SUCH TERM SHALL BE DEEMED TO MEAN AND REFER TO THE COMMISSIONER OF EDUCATION.

S 16. Board of regents abolished. The Regents of the University of the State of New York is abolished. When the term "Regents of the University of the State of New York" or any equivalent expression thereof is used

in the education law or any other law, such regents shall be deemed to mean and refer to the commissioner of education.

S 17. Transfer of functions. All of the functions and powers possessed by all and all of the obligations and duties of the board of regents are transferred and assigned to, assumed by and devolved upon the commissioner of education.

S 18. Continuity of authority. For the purposes of succession to all duties, functions, powers and obligations transferred and assigned to, devolved upon and assumed by the commissioner of education pursuant to this act, such commissioner shall be deemed and held to constitute the continuation of the board of regents.

S 19. Continuance of acts and decisions. All acts and decisions of the board of regents pertaining to the duties and functions transferred and assigned by this act, in force at the time of such transfer, assignment, assumption or devolution shall continue in full force and effect as acts and decisions of the commissioner of education until duly modified or abrogated by such commissioner.

S 20. Continuance of rules and regulations. All rules, regulations, acts, determinations and decisions of the board of regents pertaining to the functions transferred and assigned in this act, in force at the time of such transfer, assignment, assumption or devolution shall continue in force and effect as rules, regulations, acts, determinations and decisions of the commissioner of education in accordance with the context thereof, until duly modified or abrogated by such commissioner.

S 21. Completion of unfinished business. Any business or other matter undertaken or commenced by the board of regents pertaining to or connected with the duties, functions, powers and obligations transferred and assigned by this act to the commissioner of education, and pending on the effective date of this act, may be conducted and completed by the commissioner of education in the same manner and under the same terms and conditions and with the same effect as if conducted and completed by the board of regents.

S 22. Terms occurring in laws, contracts and other documents. Whenever the board of regents is referred to or designated in any law, contract or document pertaining to the duties, functions, powers and obligations transferred and assigned by this act to the commissioner of education, such reference or designation shall be deemed to mean and refer to such commissioner.

S 23. Pending actions and proceedings. No action pending at the time when this act shall take effect, brought by or against the board of regents shall be affected by any provision of this act, but the same may be prosecuted or defended by the education department and the commissioner of education, and the proper party shall, upon application to the court, be substituted as a party.

S 24. Codification of changes. The commissioner of education shall prepare or cause to be prepared for submission to the next regular session of the legislature a bill or bills which amend, add to or repeal appropriate laws so as to make such laws consistent with the provisions of this act.

S 25. This act shall take effect on the same date as a concurrent resolution amending the constitution, entitled "CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY proposing amendments to section 4 of article 5, section 4 of article 8 and section 2 of article 11 of the constitution, in relation to abolishing The Regents of the University of the State of New York".