

STATE OF NEW YORK

2129

2019-2020 Regular Sessions

IN ASSEMBLY

January 22, 2019

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

AN ACT to amend the education law, in relation to the board of education in the city of Rochester; and to repeal certain provisions of such law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The opening paragraph of section 2554 of the education law,
2 as amended by chapter 91 of the laws of 2002, is amended to read as
3 follows:

4 The board of education in a city shall exercise no executive power and
5 perform no executive or administrative function. Subject to the
6 provisions of this chapter, the board of education in a city, except the
7 city board of the city of New York, shall have the power and it shall be
8 its duty:

9 § 1-a. The opening paragraph of section 2554 of the education law,
10 such section as renumbered by chapter 762 of the laws of 1950, is
11 amended to read as follows:

12 The board of education in a city shall exercise no executive power and
13 perform no executive or administrative function. Subject to the
14 provisions of this chapter, the board of education in a city shall have
15 the power and it shall be its duty:

16 § 2. Subdivision 2 of section 2554 of the education law, as amended by
17 chapter 27 of the laws of 2012, is amended to read as follows:

18 2. To create, abolish, maintain and consolidate such positions, divi-
19 sions, boards or bureaus as, in its judgment, may be necessary for the
20 proper and efficient administration of its work; to appoint a super-
21 intendent of schools, such associate, assistant, district and other
22 superintendents, [~~examiners,~~] directors, supervisors, principals, teach-
23 ers, lecturers, special instructors, medical inspectors, nurses, audi-
24 tors, attendance officers, secretaries, clerks, custodians, janitors and

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

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1 other employees and other persons or experts in educational, social or
2 recreational work or in the business management or direction of its
3 affairs as said board shall determine necessary for the efficient
4 management of the schools and other educational, social, recreational
5 and business activities; provided, however, that in the city school
6 districts of the cities of Buffalo[~~, Rochester,~~] and Syracuse appoint-
7 ment of associate, assistant and district superintendents, and other
8 supervising staff who are excluded from the right to bargain collective-
9 ly pursuant to article fourteen of the civil service law shall, within
10 the amounts budgeted for such positions, be by the superintendent of
11 such city school district and those so appointed shall be in the unclas-
12 sified service upon such appointment for civil service and related
13 purposes notwithstanding any other provision of law, and in the city
14 school district of the city of Rochester appointment of associate,
15 assistant, district superintendents and other certified and uncertified
16 supervising staff and related administrative staff who are excluded from
17 the right to bargain collectively pursuant to article fourteen of the
18 civil service law shall, within amounts budgeted for such positions, be
19 by the superintendent of such city school district and those so
20 appointed shall be in the unclassified service upon such appointment for
21 civil service and related purposes notwithstanding any other provision
22 of law; and to determine their duties except as otherwise provided here-
23 in.

24 § 3. Subdivision 2-a of section 2554 of the education law is REPEALED
25 and five new subdivisions 2-a, 2-b, 28, 29 and 30 are added to read as
26 follows:

27 2-a. In its discretion to adopt a resolution establishing the office
28 of auditor, and at any time after the establishment of the office of
29 auditor, to adopt a resolution abolishing the office; provided, however,
30 that the school district of the city of Rochester shall adopt a resol-
31 ution establishing the office of auditor, and shall not abolish such
32 office. A board of education which has established the office of auditor
33 shall appoint an auditor who shall hold such position subject to the
34 pleasure of the board. No person shall be eligible for appointment to
35 the office of auditor who shall be a member of the board of education or
36 the superintendent of schools or who shall hold any other position or
37 perform in any capacity within the school district. When the office of
38 auditor shall have been established and an auditor qualified, the powers
39 and duties of the board of education with respect to auditing accounts,
40 charges, claims or demands against the city school district shall
41 devolve upon and thereafter be exercised by such auditor, during the
42 continuance of the office. The auditor shall have access to and may
43 demand production of any records of the school district, including but
44 not limited to estimates of revenues, expenses, indebtedness and capital
45 needs and plans, whether in draft or final form with all back-up infor-
46 mation and work papers, and whether before or after submission to or
47 approval by the school board.

48 2-b. In its discretion to assign an examiner with power to conduct
49 investigations and hearings on behalf of the board of education. Each
50 examiner shall have access to and may require the production of books,
51 papers and other documents and information material related to any
52 investigation or hearing. Each examiner shall conclude and report the
53 result of any such investigation or hearing to the board of education no
54 later than six months after the date of authorization of such investi-
55 gation or hearing.

1 28. In the city school district of the city of Rochester, to authorize
2 contracts for goods and services in amounts of fifty thousand dollars or
3 more.

4 29. In the city school district of the city of Rochester, upon receipt
5 from the superintendent, to review and either return to the superinten-
6 dent for amendment or approve and file with the mayor, pursuant to
7 section twenty-five hundred seventy-six of this article, the annual
8 itemized estimate and capital plan for the district. Such budget and
9 capital plan shall include multi-year projections of revenues, expenses,
10 indebtedness and capital needs.

11 30. In the city school district of the city of Rochester, to develop
12 jointly, with the superintendent, policies and procedures for the
13 hiring, firing and evaluation of all employees of the district.

14 § 4. Subdivision 3 of section 2565 of the education law, as added by
15 chapter 302 of the laws of 1980, is amended to read as follows:

16 3. Notwithstanding the provisions of subdivisions one and two of this
17 section, the superintendent of schools of the Rochester city school
18 district shall serve [~~at the pleasure of the board of education~~] for a
19 term pursuant to a contract; provided, however, that such term shall, in
20 no event, exceed a period of four years. Further, the superintendent
21 shall not be removed from office except upon the vote of two-thirds of
22 the members of the board.

23 § 5. Subdivision 6 of section 2566 of the education law, as amended by
24 chapter 27 of the laws of 2012, is amended to read as follows:

25 6. To have supervision and direction of associate, assistant, district
26 and other superintendents, directors, supervisors, principals, teachers,
27 lecturers, medical inspectors, nurses, claims auditors, deputy claims
28 auditors, attendance officers, janitors and other persons employed in
29 the management of the schools or the other educational activities of the
30 city authorized by this chapter and under the direction and management
31 of the board of education, except that in the city school districts of
32 the cities of Buffalo[~~, Rochester,~~] and Syracuse to also appoint, within
33 the amounts budgeted therefor, such associate, assistant and district
34 superintendents and all other supervising staff who are excluded from
35 the right to bargain collectively pursuant to article fourteen of the
36 civil service law and those so appointed shall be in the unclassified
37 service upon such appointment for civil service and related purposes
38 notwithstanding any other provision of law, and in the city school
39 district of the city of Rochester to also appoint, within amounts budg-
40 eted therefor, such associate, assistant, district superintendents and
41 all other certified and uncertified supervising staff and related admin-
42 istrative staff who are excluded from the right to bargain collectively
43 pursuant to article fourteen of the civil service law and those so
44 appointed shall be in the unclassified service upon such appointment for
45 civil service and related purposes notwithstanding any other provision
46 of law; to transfer teachers from one school to another, or from one
47 grade of the course of study to another grade in such course, and to
48 report immediately such transfers to said board for its consideration
49 and action; to report to said board of education violations of regu-
50 lations and cases of insubordination, and to suspend an associate,
51 assistant, district or other superintendent, director, supervisor,
52 expert, principal, teacher or other employee until the next regular
53 meeting of the board, when all facts relating to the case shall be
54 submitted to the board for its consideration and action.

55 § 6. Section 2566 of the education law is amended by adding four new
56 subdivisions 10, 11, 12 and 13 to read as follows:

10. In the city school district of the city of Rochester, to prepare and deliver to the board of education for review and approval an annual itemized estimate as provided for in section twenty-five hundred seventy-six of this article and an educational facilities capital plan. Each such estimate and capital plan shall be at such level of detail as necessary so as to enable the board to make an informed review of such estimate and capital. Also, each such estimate and capital plan shall include a four-year projection of estimated revenues, expenses, capital needs, and indebtedness.

11. In the city school district of the city of Rochester, to prepare and submit for every period of two months, in a format approved by the board of education and the mayor, a summary of the district's actual revenues, expenses, and indebtedness, and comparing the same with the annual estimate.

12. In the city school district of the city of Rochester, to authorize contracts for goods and services in amounts less than fifty thousand dollars.

13. In the city school district of the city of Rochester, to develop jointly, with the board of education, policies and procedures for the hiring, firing, and evaluation of all employees of the district.

§ 7. Subdivision 3 of section 2573 of the education law, as amended by chapter 27 of the laws of 2012, is amended to read as follows:

3. Associate superintendents, examiners and all other employees authorized by section twenty-five hundred fifty-four of this article, except as otherwise provided in subdivision one of this section, shall be appointed by the board of education except that in the city school districts of the cities of Buffalo~~[, Rochester,]~~ and Syracuse, the associate, assistant and district superintendents and all other supervising staff who are excluded from the right to bargain collectively pursuant to article fourteen of the civil service law shall be appointed, within amounts budgeted therefor, by the superintendent of such city school district and those so appointed shall be in the unclassified service upon such appointment for civil service and related purposes notwithstanding any other provision of law, and in the city school district of the city of Rochester the associate, assistant, district superintendents and all other certified and uncertified supervising staff and related administrative staff who are excluded from the right to bargain collectively pursuant to article fourteen of the civil service law shall be appointed, within amounts budgeted therefor, by the superintendent of such city school district and those so appointed shall be in the unclassified service upon such appointment for civil service and related purposes notwithstanding any other provision of law. In a city having a population of one million or more, such appointments shall be made on nomination of the superintendent of schools. Notwithstanding any other provision in this chapter to the contrary, whenever an associate superintendent of schools in the employ of the board of education in a city having a population of one million or more fails of reappointment, said person shall be immediately appointed an assistant superintendent of schools with permanent appointment as said term permanent appointment is defined in subdivisions four, five and six of this section. The salary of such assistant superintendent shall be less than the salary of an associate superintendent, but said differential in salary shall not exceed ten per centum of the annual salary of an associate superintendent of schools. When, however, an associate superintendent of schools who fails of reappointment has to his credit thirty or more years of city service including ten or more years of service as such associate

1 superintendent of schools, he shall suffer no reduction of salary or of
2 pension prospects while serving as such assistant superintendent of
3 schools.

4 § 8. This act shall take effect July 1, 2019; provided, further, that
5 the amendments to the opening paragraph of section 2554 of the education
6 law made by section one of this act shall be subject to the expiration
7 and reversion of such paragraph pursuant to section 34 of chapter 91 of
8 the laws of 2002, as amended, when upon such date the provisions of
9 section one-a of this act shall take effect.