

HOUSE No. 3764

A message from His Excellency the Governor recommending legislation relative to strengthening oversight of education collaboratives. Education.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

AN ACT RELATIVE TO STRENGTHENING OVERSIGHT OF EDUCATION COLLABORATIVES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 4E of chapter 40 of the General Laws, as most recently amended
2 by section 2 of chapter 12 of the acts of 2010, is hereby amended by striking out the section in its
3 entirety and inserting in place thereof the following:-

4 Section 4E. (a) 2 or more school committees of cities, towns and regional school districts
5 and boards of trustees of charter schools may enter into a written agreement to conduct education
6 programs and services which shall complement and strengthen the school programs of member
7 school committees and charter schools and increase educational opportunities for students. The
8 school committees and boards of trustees of charter schools shall collaborate to offer the
9 programs and services; provided, however, the association of school committees and board of
10 trustees of charter schools which is formed to deliver the programs and services shall be known
11 as an education collaborative.

12 The education collaborative shall be managed by a board of directors which shall be
13 comprised of 1 person appointed by each member school committee or member charter board of
14 trustees. All appointed persons shall be either a school committee member, the superintendent of
15 schools or a member of the charter board of trustees. Members of the board of directors shall be
16 entitled to a vote according to the terms of the education collaborative agreement. The
17 commissioner of elementary and secondary education shall appoint an individual to serve as a
18 voting member of the education collaborative board of directors. No member of said board shall
19 receive a salary or a stipend for their service as a board member. No member of said board shall
20 serve as a member of a board of directors or as an officer or employee of any for-profit or non-
21 profit entity that conducts business with or is affiliated with the collaborative. Each collaborative
22 board member shall attend training developed by the department of elementary and secondary
23 education. Each collaborative board shall meet not fewer than 6 times annually.

24 The written agreement which shall form the basis of the education collaborative shall set
25 forth the purposes of the program or service, the financial terms and conditions of membership of
26 the education collaborative, the method of termination of the education collaborative and of the
27 withdrawal of member school committees and charter schools, the procedure for admitting new
28 members and for amending the collaborative agreement, the powers and duties of the board of
29 directors of the education collaborative to operate and manage the education collaborative and
30 any other matter not incompatible with law which the member committees and charter schools
31 consider advisable. The agreement, and all subsequent amendments, shall be subject to the
32 approval of the member school committees, member charter schools and the commissioner of
33 elementary and secondary education. The commissioner may suspend or revoke such approval
34 for cause.

35 Each board of directors of an education collaborative shall establish and manage a trust
36 fund, to be known as an Education Collaborative Trust Fund, and each such fund shall be
37 designated by an appropriate name. All monies contributed by the member municipalities and
38 charter schools and all grants or gifts from the federal government, state government, charitable
39 foundations, private corporations or any other source shall be paid to the board of directors of the
40 education collaborative and deposited in the fund.

41 The board of directors of the education collaborative shall appoint a treasurer who may
42 be a treasurer of a city, town or regional school district belonging to the collaborative. The
43 treasurer may, subject to the direction of the board of directors of the education collaborative,
44 receive and disburse all monies of the trust fund without further appropriation. The treasurer
45 shall give bond annually for the faithful performance of his duties as collaborative treasurer in a
46 form approved by the department of revenue and in a sum not less than the amount established
47 by the department, as shall be fixed by the board of directors of the education collaborative. The
48 board of directors of the education collaborative in its discretion may pay compensation to the
49 treasurer for his services. No member of the board of directors of the education collaborative
50 shall be eligible to serve as treasurer of the collaborative.

51 The treasurer of the education collaborative board of directors shall have the authority to
52 make appropriate investments of the monies of the Education Collaborative Trust Fund
53 consistent with section 54 of chapter 44.

54 (b) Each board of directors of an education collaborative shall keep an accurate account
55 of all its activities and all its receipts and expenditures and shall annually cause an independent
56 audit to be made of its accounts consistent with generally accepted governmental auditing

57 standards. Such audit and all management letters shall be filed annually on or before January 1
58 with the department of elementary and secondary education and the state auditor and shall be in a
59 form prescribed by the state auditor; provided, however, that the purchase by a government unit
60 of social service programs, as defined in section 22N of chapter 7, from a collaborative, shall
61 require the collaborative to adhere to the uniform system of financial accounting, allocation,
62 reporting and auditing requirements of the bureau of purchased services of the operational
63 services division, in accordance with the requirements of section 22N of chapter 7. Copies of
64 such audits shall also be sent to each member school committee or member charter school and
65 shall be posted on the collaborative's website. The state auditor may investigate the budget and
66 finances of education collaboratives and their financial dealings, transactions and relationships,
67 and shall have the power to examine the records of education collaboratives and to prescribe
68 methods of accounting and the rendering of periodic reports.

69 The board of directors of an education collaborative may borrow money, enter into long-
70 term or short-term loan agreements or mortgages and apply for state, federal or corporate grants
71 or contracts to obtain funds necessary to carry out the purpose for which such collaborative is
72 established; provided, however, that the board of directors has determined that any borrowing,
73 loan or mortgage is cost-effective and in the best interest of the collaborative and its member
74 municipalities and charter schools. The borrowing, loans or mortgages shall be consistent with
75 the written agreement and articles of incorporation, if any, of the education collaborative and
76 shall be consistent with standard lending practices.

77 (c) The board of directors of the education collaborative may employ an executive officer
78 who shall serve under the general direction of the board and who shall be responsible for the care
79 and supervision of the education collaborative. Said executive officer shall not serve as a board

80 member, officer or employee of any for-profit or non-profit entity that conducts business with or
81 is affiliated with the collaborative.

82 The board of directors of the education collaborative shall be considered to be a public
83 employer and have the authority to employ personnel, including teachers, to carry out the
84 purposes and functions of the education collaborative. No person shall be eligible for
85 employment by the education collaborative in a position that is covered by section 38G of
86 chapter 71 unless the person has been granted a certificate by the commissioner of elementary
87 and secondary education under section 38G of chapter 71 or an approval under the regulations
88 promulgated by the board of elementary and secondary education under chapter 74 with respect
89 to the type of position for which he seeks employment; provided, however, that nothing herein
90 shall be construed to prevent a board of directors of an education collaborative from prescribing
91 additional qualifications. A board of directors of an education collaborative may, upon its
92 request, be exempted by the commissioner of elementary and secondary education for any 1
93 school year from the requirements of this section to employ certified or approved personnel
94 when compliance therewith would in the opinion of the commissioner constitute a great
95 hardship.

96 The education collaborative shall be considered to be a public entity and shall have
97 standing to sue and be sued to the same extent as a city, town or regional school district. An
98 education collaborative, acting through its board of directors, may, subject to chapter 30B, enter
99 into contracts for the purchase of supplies, materials and services and for the purchase or leasing
100 of land, buildings and equipment as considered necessary by the board of directors.

101 A school committee of a city, town or regional school district or board of trustees of a
102 charter school may authorize the prepayment of monies for an educational program or service of
103 the education collaborative to the treasurer of an education collaborative, and the city, town or
104 regional school district or charter school treasurer shall be required to approve and pay the
105 monies in accordance with the authorization of such school committee or charter school board of
106 trustees.

107 (d) Upon receipt of information by the commissioner of elementary and secondary
108 education regarding an education collaborative which, in the opinion of the commissioner,
109 indicates the presence of circumstances at the collaborative that impede its viability or
110 demonstrate significant malfeasance, financial or otherwise, by any board member or employee
111 of such collaborative, the commissioner may remove the offending board member or members,
112 after a hearing. Upon receipt of such information, the commissioner may also direct school
113 districts and charter schools to withhold payments of public funds to such collaborative, and the
114 commissioner may, in consultation with the secretary of administration and finance, withhold
115 state funds being directed to the collaborative. Any withholding of funds that occurs under this
116 paragraph shall conclude when the commissioner of elementary and secondary education
117 acknowledges in writing to the member school districts and member charter schools that
118 sufficient corrective actions are being taken by the collaborative to address the concerns that
119 resulted in the withholding of funds. If the commissioner removes a board member or members
120 under this paragraph, the commissioner shall develop a plan to ensure the continuity of the
121 services of the collaborative as appropriate.

122 (e) The board of elementary and secondary education shall have the authority to
123 promulgate, amend and rescind such reporting requirements, rules and regulations as may be
124 necessary to carry out the provisions of this section.

125 SECTION 2. Any education collaborative formed under section 4E of chapter 40 of the
126 General Laws before the enactment of this act shall revise its agreement to conform to the
127 provisions of this section, as amended by this act, within 18 months of its enactment.

128 SECTION 3. There shall be a commission to examine the future of education
129 collaboratives. The commission shall consist of 14 members: 1 of whom shall be the chair of the
130 commission, to be appointed by the governor; 2 of whom shall be the co-chairs of the joint
131 committee on education; 1 of whom shall be a member of the house of representatives appointed
132 by the minority leader; 1 of whom shall be a member of the senate appointed by the minority
133 leader; 1 of whom shall be the secretary of education, or his designee; 1 of whom shall be the
134 secretary of health and human services, or her designee; 1 of whom shall be the commissioner of
135 the department of elementary and secondary education, or his designee; 6 of whom shall be
136 appointed by the secretary of education, 1 of whom shall be selected from a list of 3 nominees
137 offered by a representative of the Massachusetts Association of School Superintendents, 1 of
138 whom shall be selected from a list of 3 nominees offered by a representative of the
139 Massachusetts Association of School Committees, 1 of whom shall be selected from a list of 3
140 nominees offered by the Massachusetts Teachers Association, 1 of whom shall be selected from
141 a list of 3 nominees offered by the American Federation of Teachers of Massachusetts, 1 of
142 whom shall be selected from a list of 3 nominees offered by the Massachusetts Business Alliance
143 for Education, and 1 of whom shall be selected from a list of 3 nominees offered by the
144 Massachusetts Organization of Educational Collaboratives.

145 The commission shall examine and make recommendations on topics including, but not
146 limited to, the following: (1) developing efficient and effective strategies for creating a statewide
147 network of regional education service agencies to implement new programs and provide
148 technical assistance in partnership with the department of elementary and secondary education;
149 (2) identifying a funding stream to support regional activities; (3) maximizing the capacity of
150 collaboratives and aligning their respective missions with the commonwealth’s educational goals
151 and priorities; (4) the relationship between education collaboratives and affiliated for-profit and
152 non-profit organizations, in consultation with the attorney general, the inspector general and the
153 state auditor; (5) reviewing the compensation levels of collaborative employees; (6) assessing the
154 merits of merging or consolidating existing collaboratives, including the effect on collective
155 bargaining agreements, staff, operational systems and debt obligations; (7) reviewing the
156 provision of adult services, in consultation with the executive office of health and human
157 services; and (8) adopting appropriate time frames for implementation.

158 The commission shall conduct its first meeting not less than 45 days after the date of
159 enactment of this act and shall issue a final report containing recommendations within 12 months
160 of such enactment. The commissioner of elementary and secondary education shall consider
161 such recommendations in implementing the provisions of this act. The commission shall report
162 to the general court the results of its study and its recommendations, if any, together with drafts
163 of legislation necessary to carry out such recommendations, by filing the same with the clerks of
164 the senate and house of representatives who shall forward the same to the chairs of the joint
165 committee on education and the chairs of the senate and house committees on ways and means.