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I N   S E N A T E

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Introduced by Sens. O'MARA, MARCELLINO, ADDABBO, AMEDORE, AVELLA, BONACIC, CARLUCCI, FUNKE, LATIMER, MARCHIONE, MURPHY, RANZENHOFER, SERINO, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law and the education law, in relation to potable water testing and standards in schools

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

1     Section 1. The public health law is amended by adding a new section  
2     1110 to read as follows:  
3     S 1110. SCHOOL POTABLE WATER TESTING AND STANDARDS. 1. IN ADDITION TO  
4     SCHOOL DISTRICTS ALREADY CLASSIFIED AS A PUBLIC WATER SYSTEM UNDER PARTS  
5     141 AND 142 OF TITLE 40 OF THE CODE OF FEDERAL REGULATIONS, AS SUCH  
6     REGULATIONS MAY, FROM TIME TO TIME, BE AMENDED, EVERY SCHOOL DISTRICT  
7     AND BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL CONDUCT PERIODIC  
8     FIRST-DRAWN TAP TESTING OF POTABLE WATER SYSTEMS TO MONITOR FOR LEAD  
9     CONTAMINATION IN EACH OCCUPIED SCHOOL BUILDING UNDER ITS JURISDICTION AS  
10    REQUIRED BY REGULATIONS PROMULGATED PURSUANT TO THIS SECTION. THE TEST-  
11    ING SHALL BE CONDUCTED AND THE RESULTS ANALYZED BY AN ENTITY OR ENTITIES  
12    APPROVED BY THE COMMISSIONER.  
13    2. WHERE PERIODIC FIRST-DRAW TAP TESTING RESULTS IN FINDINGS OF NO  
14    CONTAMINATION FOR A PERIOD TO BE DETERMINED BY THE COMMISSIONER, FIRST-  
15    DRAWN TAP WATER TESTING SHALL BE CONDUCTED PERIODICALLY AT A FREQUENCY  
16    TO BE DETERMINED BY THE COMMISSIONER.  
17    3. WHERE A FINDING OF LEAD CONTAMINATION IS MADE, THE AFFECTED SCHOOL  
18    DISTRICT SHALL: (A) CONTINUE FIRST-DRAWN TAP WATER TESTING PURSUANT TO  
19    REGULATIONS PROMULGATED PURSUANT TO THIS SECTION; (B) PROVIDE SCHOOL  
20    OCCUPANTS WITH AN ADEQUATE SUPPLY OF SAFE, POTABLE WATER FOR DRINKING AS  
21    REQUIRED BY RULES AND REGULATIONS OF THE DEPARTMENT UNTIL FUTURE TESTS

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

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1 INDICATE LEAD LEVELS PURSUANT TO REGULATIONS PROMULGATED PURSUANT TO  
2 THIS SECTION; AND (C) PROVIDE PARENTS OR PERSONS IN PARENTAL RELATION TO  
3 A CHILD ATTENDING SAID SCHOOL WITH WRITTEN NOTIFICATION OF TEST RESULTS  
4 AS WELL AS POSTING SUCH TEST RESULTS ON THE SCHOOL DISTRICT'S WEBSITE.

5 4. POTABLE TAP WATER TESTING SHALL NOT BE REQUIRED FOR SCHOOL BUILD-  
6 INGS BUILT AFTER TWO THOUSAND FOURTEEN.

7 5. THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF EDUCA-  
8 TION, SHALL PROMULGATE REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS  
9 SECTION. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY,  
10 THE REGULATIONS PROMULGATED WITH REGARD TO LEAD LEVELS SHALL BE CONSIST-  
11 ENT WITH THE REQUIREMENTS FOR THOSE SCHOOL DISTRICTS CLASSIFIED AS A  
12 PUBLIC WATER SYSTEM UNDER PARTS 141 AND 142 OF TITLE 40 OF THE CODE OF  
13 FEDERAL REGULATIONS AS SUCH REGULATIONS MAY, FROM TIME TO TIME, BE  
14 AMENDED.

15 6. THE COMMISSIONER MAY GRANT A WAIVER FROM THE TESTING REQUIREMENTS  
16 OF THIS SECTION FOR CERTAIN SCHOOL BUILDINGS, PROVIDED THAT, THE SCHOOL  
17 DISTRICT HAS SUBSTANTIALLY COMPLIED WITH THE TESTING REQUIREMENTS AND  
18 HAS BEEN FOUND TO BE BELOW LEAD LEVELS AS DETERMINED BY REGULATIONS  
19 PROMULGATED PURSUANT TO THIS SECTION FOR SUCH BUILDINGS.

20 7. EACH SCHOOL DISTRICT AND BOARD OF COOPERATIVE EDUCATIONAL SERVICES  
21 CONDUCTING TESTING PURSUANT TO SUBDIVISION ONE OF THIS SECTION AND EACH  
22 SCHOOL DISTRICT CLASSIFIED AS A PUBLIC WATER SYSTEM UNDER PARTS 141 AND  
23 142 OF TITLE 40 OF THE CODE OF FEDERAL REGULATIONS, AS SUCH REGULATIONS  
24 MAY, FROM TIME TO TIME, BE AMENDED, SHALL MAKE A COPY OF THE RESULTS OF  
25 ALL SUCH TESTING AND ANY LEAD REMEDIATION PLANS AVAILABLE TO THE PUBLIC  
26 ON ITS WEBSITE AND ANY ADDITIONAL MEANS AS CHOSEN BY SUCH DISTRICT. A  
27 COPY OF THE RESULTS OF ALL TESTING SHALL ALSO BE IMMEDIATELY TRANSMITTED  
28 TO THE DEPARTMENT AND STATE EDUCATION DEPARTMENT IN A FORMAT TO BE  
29 DETERMINED BY THE COMMISSIONER AND TO THE COUNTY DEPARTMENT OF HEALTH IN  
30 THE LOCAL JURISDICTION OF THE SCHOOL BUILDING. THE COMMISSIONER, IN  
31 CONJUNCTION WITH THE COMMISSIONER OF EDUCATION, SHALL PUBLISH A REPORT  
32 BI-ANNUALLY BASED ON THE FINDINGS FROM THE TAP WATER TESTING CONDUCTED  
33 ACCORDING TO THE PROVISIONS OF THIS SECTION. SUCH REPORT SHALL BE SENT  
34 TO THE COMMISSIONER OF EDUCATION, THE GOVERNOR, THE TEMPORARY PRESIDENT  
35 OF THE SENATE, AND THE SPEAKER OF THE ASSEMBLY AND SHALL BE MADE AVAIL-  
36 ABLE ON THE DEPARTMENT'S AND STATE EDUCATION DEPARTMENT'S WEBSITES.

37 S 2. Section 3602 of the education law is amended by adding a new  
38 subdivision 6-h to read as follows:

39 6-H. BUILDING AID FOR TESTING AND REMEDIATION OF POTABLE WATER  
40 SYSTEMS. IN ADDITION TO THE APPORTIONMENTS PAYABLE TO A SCHOOL DISTRICT  
41 PURSUANT TO SUBDIVISION SIX OF THIS SECTION, THE COMMISSIONER IS HEREBY  
42 AUTHORIZED TO APPORTION TO ANY SCHOOL DISTRICT ADDITIONAL BUILDING AID  
43 PURSUANT TO THIS SUBDIVISION FOR ITS APPROVED EXPENDITURES IN THE BASE  
44 YEAR FOR THE TESTING AND REMEDIATION OF POTABLE WATER SYSTEMS REQUIRED  
45 PURSUANT TO SECTION ELEVEN HUNDRED TEN OF THE PUBLIC HEALTH LAW. SUCH  
46 AID SHALL EQUAL THE PRODUCT OF THE BUILDING AID RATIO DEFINED PURSUANT  
47 TO PARAGRAPH C OF SUBDIVISION SIX OF THIS SECTION AND THE ACTUAL  
48 APPROVED EXPENDITURES INCURRED IN THE BASE YEAR PURSUANT TO THIS SUBDI-  
49 VISION, PROVIDED THAT THE LIMITATIONS ON COST ALLOWANCES PRESCRIBED BY  
50 PARAGRAPH A OF SUBDIVISION SIX OF THIS SECTION SHALL NOT APPLY. THE  
51 COMMISSIONER SHALL PRESCRIBE A SPECIAL COST ALLOWANCE FOR THE TESTING OF  
52 POTABLE WATER SYSTEMS AND THE APPROVED EXPENDITURES SHALL NOT EXCEED  
53 SUCH COST ALLOWANCE. THE COMMISSIONER SHALL DETERMINE WHAT QUALIFIES AS  
54 AN APPROVED EXPENSE FOR THE REMEDIATION OF POTABLE WATER SYSTEMS  
55 REQUIRED AS A RESULT OF WATER TESTING CONDUCTED PURSUANT TO SECTION  
56 ELEVEN HUNDRED TEN OF THE PUBLIC HEALTH LAW.

1 S 3. Paragraph b of subdivision 5 of section 1950 of the education  
2 law, as amended by section 80-a of part A of chapter 58 of the laws of  
3 2011, is amended to read as follows:

4 b. The cost of services herein referred to shall be the amount allo-  
5 cated to each component school district by the board of cooperative  
6 educational services to defray expenses of such board, INCLUDING  
7 APPROVED EXPENSES FROM THE TESTING OF POTABLE WATER SYSTEMS REQUIRED  
8 PURSUANT TO SECTION ELEVEN HUNDRED TEN OF THE PUBLIC HEALTH LAW, except  
9 that that part of the salary paid any teacher, supervisor or other  
10 employee of the board of cooperative educational services which is in  
11 excess of thirty thousand dollars shall not be such an approved expense,  
12 and except also that administrative and clerical expenses shall not  
13 exceed ten percent of the total expenses for purposes of this computa-  
14 tion. Any gifts, donations or interest earned by the board of cooper-  
15 ative educational services or on behalf of the board of cooperative  
16 educational services by the dormitory authority or any other source  
17 shall not be deducted in determining the cost of services allocated to  
18 each component school district. Any payments made to a component school  
19 district by the board of cooperative educational services pursuant to  
20 subdivision eleven of section six-p of the general municipal law attrib-  
21 utable to an approved cost of service computed pursuant to this subdivi-  
22 sion shall be deducted from the cost of services allocated to such  
23 component school district. The expense of transportation provided by  
24 the board of cooperative educational services pursuant to paragraph q of  
25 subdivision four of this section shall be eligible for aid apportioned  
26 pursuant to subdivision seven of section thirty-six hundred two of this  
27 chapter and no board of cooperative educational services transportation  
28 expense shall be an approved cost of services for the computation of aid  
29 under this subdivision. Transportation expense pursuant to paragraph q  
30 of subdivision four of this section shall be included in the computation  
31 of the ten percent limitation on administrative and clerical expenses.

32 S 4. Subdivision 6-f of section 3602 of the education law, as added by  
33 section 19 of part H of chapter 83 of the laws of 2002, is amended to  
34 read as follows:

35 6-f. Additional apportionment of building aid for certain projects. a.  
36 In addition to the apportionment payable to a school district pursuant  
37 to subdivision six of this section, the commissioner is hereby author-  
38 ized to apportion to any school district additional building aid in the  
39 amount equal to the product of its approved expenditures in the base  
40 year for capital outlays from the district's general fund, capital fund  
41 or reserved funds that are incurred on or after July first, two thousand  
42 two for an eligible school construction project as defined in paragraph  
43 b of this subdivision, and the district's applicable building aid ratio  
44 as defined pursuant to paragraph c of subdivision six of this section.  
45 Approved expenditures for capital outlays for eligible school  
46 construction projects that are eligible for an apportionment pursuant to  
47 this subdivision shall not be eligible for aid pursuant to subdivision  
48 six of this section.

49 b. For the purposes of this subdivision, an "eligible school  
50 construction project" shall mean a school construction project that is  
51 entirely funded from capital outlays and:

52 (1) has a total project cost of one hundred thousand dollars or less;  
53 provided however, that for any district, no more than one project shall  
54 be eligible pursuant to this subparagraph for an apportionment within  
55 the same school year; and/or

1 (2) is a construction emergency project to remediate emergency situ-  
2 ations which arise in public school buildings and threaten the health  
3 and/or safety of building occupants, as a result of the unanticipated  
4 discovery of asbestos or other hazardous substances during construction  
5 work on a school or significant damage caused by a fire, snow storm, ice  
6 storm, excessive rain, high winds, flood or a similar catastrophic event  
7 which results in the necessity for immediate repair. APPROVED EXPENDI-  
8 TURES PURSUANT TO THIS SECTION SHALL INCLUDE EXPENDITURES THE COMMIS-  
9 SIONER APPROVES FOR THE IMMEDIATE REMEDIATION OF POTABLE WATER SYSTEMS  
10 DUE TO LEAD CONTAMINATION, REQUIRED AS A RESULT OF WATER TESTING  
11 CONDUCTED PURSUANT TO SECTION ELEVEN HUNDRED TEN OF THE PUBLIC HEALTH  
12 LAW; and/or

13 (3) if bonded pursuant to paragraph j of subdivision six of this  
14 section, would cause a city school district in a city having a popu-  
15 lation of less than one hundred twenty-five thousand inhabitants to  
16 exceed ninety-five percent of its constitutional debt limit provided,  
17 however, that any debt issued pursuant to paragraph c of section 104.00  
18 of the local finance law shall not be included in such calculation.

19 S 5. This act shall take effect on the sixtieth day after it shall  
20 have become a law; provided, however, that effective immediately, the  
21 commissioner of health shall be authorized to promulgate any and all  
22 rules and regulations necessary to implement the provisions of this act  
23 on its effective date.