

STATE OF NEW YORK

4550--B

2023-2024 Regular Sessions

IN SENATE

February 10, 2023

Introduced by Sens. MAY, BORRELLO, BRISPORT, HOYLMAN-SIGAL, JACKSON, MANNION, MYRIE, RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- recommitted to the Committee on Education in accordance with Senate Rule 6, sec. 8 -- 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 education law, in relation to enacting the "schools impacted by gross highways (SIGH) act"

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

1 Section 1. This act shall be known and may be cited as the "schools
2 impacted by gross highways (SIGH) act".

3 § 2. Section 408 of the education law is amended by adding a new
4 subdivision 3-a to read as follows:

5 3-a. (a) The commissioner shall not approve the plans for the erection
6 of any new schoolhouse within five hundred feet of a controlled-access
7 highway as defined in this subdivision unless the commissioner deter-
8 mines that (i) space is so limited that there is no other appropriate
9 site to erect such schoolhouse; (ii) plans for such schoolhouse include
10 adequate engineering controls to address air quality; and (iii) the
11 school district has demonstrated that other potential sites would pose
12 equal or greater hazards to health and safety.

13 (b) For purposes of this subdivision, the construction of a new
14 schoolhouse upon the site of an existing schoolhouse, or the
15 construction of an addition or annex constructed to serve an existing
16 schoolhouse, shall not be considered erection of a new schoolhouse.

17 (c) For purposes of this subdivision, a "controlled-access highway"
18 shall mean: (i) a controlled-access highway as defined by section one
19 hundred nine of the vehicle and traffic law under the jurisdiction of

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

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1 the commissioner of transportation which has been functionally classi-
2 fied by the department of transportation as principal arterial - inter-
3 state or principal arterial - other freeway/expressway on official func-
4 tional classification maps approved by the federal highway
5 administration pursuant to part 470.105 of title 23 of the code of
6 federal regulations, as amended from time to time; and (ii) a divided
7 highway under the jurisdiction of the New York state thruway authority
8 for mixed traffic with access limited as the authority may determine and
9 generally with grade separations at intersections.

10 (d) Nothing in this subdivision shall be construed to create a private
11 right of action to enforce the terms of this subdivision.

12 § 3. Section 2556 of the education law is amended by adding a new
13 subdivision 5-a to read as follows:

14 5-a. (a) Notwithstanding subdivision three-a of section four hundred
15 eight of this chapter, it shall be unlawful for a new schoolhouse to be
16 constructed in the city of New York within five hundred feet of a cont-
17 rolled-access highway unless (i) the president of the New York city
18 school construction authority determines that there is no other appro-
19 priate site to erect such schoolhouse; (ii) if such schoolhouse is
20 planned to contain a secondary school, the community district, as such
21 term is defined in section twenty-five hundred ninety-a of this title,
22 in which the site of such schoolhouse is to be located has a projected
23 enrollment rate for secondary school education greater than seventy
24 percent of its capacity, based on the most recent report issued pursuant
25 to section 21-988 of the administrative code of the city of New York;
26 (iii) if such schoolhouse is planned to contain an elementary school or
27 a middle school, the subdistrict, as such term is defined in section
28 21-989 of the administrative code of the city of New York, in which the
29 site of such schoolhouse is to be located has a projected enrollment
30 rate for elementary school education or middle school education, as
31 applicable, greater than seventy percent of capacity, based on the most
32 recent report issued pursuant to section 21-988 of the administrative
33 code of the city of New York; (iv) the site of such schoolhouse is
34 located on a property a portion of which is used or is planned to be
35 used for residential or commercial purposes; or (v) plans for such
36 schoolhouse include adequate engineering controls to address air quali-
37 ty, based on regulations promulgated by the New York city department of
38 environmental protection.

39 (b) For purposes of this subdivision, neither the construction of a
40 new schoolhouse upon the site of an existing schoolhouse nor an addition
41 nor an annex constructed to serve an existing schoolhouse shall be
42 considered construction of a new schoolhouse.

43 (c) For purposes of this subdivision, a "controlled-access highway"
44 shall mean: (i) a controlled-access highway as defined by section one
45 hundred nine of the vehicle and traffic law under the jurisdiction
46 of the commissioner of transportation which has been functionally clas-
47 sified by the department of transportation as principal arterial -
48 interstate or principal arterial - other freeway/expressway on official
49 functional classification maps approved by the federal highway
50 administration pursuant to part 470.105 of title 23 of the code of
51 federal regulations, as amended from time to time; and (ii) a divided
52 highway under the jurisdiction of the New York state thruway authority
53 for mixed traffic with access limited as the authority may deter-
54 mine and generally with grade separations at intersections.

55 (d) Nothing in this subdivision shall be construed to create a private
56 right of action to enforce the terms of this subdivision.

1 § 4. This act shall take effect on the first of July next succeeding
2 the date upon which it shall have become a law; provided, however, that
3 sections two and three of this act shall take effect five years after it
4 shall have become a law; and provided, further, that school districts
5 which have a new schoolhouse construction project with advertisements
6 for bids or requests for proposals issued prior to such effective date,
7 or which have acquired real property to construct a new schoolhouse as
8 approved by the board of education or trustees of a school district, or
9 which have had a building permit issued by the state education depart-
10 ment shall be exempt from the provisions of this act with respect to
11 construction on such a project; and provided further that in a city
12 school district in a city having a million inhabitants or more, a new
13 schoolhouse construction project for which an advertisement for bids or
14 requests for proposals for the planning, design or construction of such
15 project was issued prior to such effective date or for which a site was
16 selected pursuant to section 1732 of the public authorities law prior to
17 such effective date shall be exempt from the provisions of this act.