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

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2009-2010 Regular Sessions

I N A S S E M B L Y

January 9, 2009

Introduced by M. of A. ENGLEBRIGHT, KOON, EDDINGTON, GALEF -- Multi-Sponsored by -- M. of A. CAHILL, COLTON, JOHN, McENENY, TOWNS -- read once and referred to the Committee on Education

AN ACT to amend the education law, the environmental conservation law and the public health law, in relation to plans and specifications of school buildings

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

Section 1. Legislative intent. The legislature finds and declares that it shall be the policy of the state of New York to provide every child with an environmentally safe and healthy learning environment in which to grow, learn and mature into productive and healthy adults. To ensure that schools provide this setting for our children, the legislature finds that standards for school buildings being purchased, remodeled or built must be protective of children's environmental health and safety. Children are uniquely vulnerable to and may be severely affected by exposure to chemicals, hazardous wastes and other environmental hazards, which affect their learning abilities as well as create chemical-based responses and sensitivities. It is the purpose of this legislation to reduce as much as possible such exposures for children and school staff.

S 2. Subdivisions 2 and 3 of section 408 of the education law, subdivision 2 as amended by chapter 414 of the laws of 1972 and subdivision 3 as amended by section 2 of part A1 of chapter 58 of the laws of 2006, are amended to read as follows:

2. The commissioner [of education] shall not approve the plans for the erection, LEASE or purchase of any school building or addition thereto or remodeling thereof unless the same shall provide for THE FOLLOWING WHERE APPLICABLE: heating, ventilation, AND AIR CONDITIONING SYSTEMS CONSTRUCTED, MAINTAINED OR UPGRADED TO MEET CURRENTLY ACCEPTED INDUSTRY VENTILATION STANDARDS; PLACEMENT OF AIR INTAKE VENTS SO AS TO MAXIMIZE HEALTHFUL INDOOR AIR QUALITY; DESIGN PRACTICES THAT MINIMIZE INGRESS OF

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

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AND CONDITIONS FAVORABLE TO PEST POPULATIONS; CONSTRUCTION TECHNIQUES AND VENTILATION SYSTEMS DESIGNED TO CONTROL RADON LEVELS IN INDOOR AIR; lighting[,]; sanitation[,]; storm drainage and health, fire and accident protection adequate to maintain healthful, safe and comfortable conditions therein and unless the county superintendent of highways or commissioner of public works has been advised of the location of all temporary and permanent entrances and exits upon all public highways and the storm drainage plan which is to be used.

3. (A) The commissioner shall approve the plans and specifications, heretofore or hereafter submitted pursuant to this section, for the erection or purchase of any school building or addition thereto or remodeling thereof on the site or sites selected therefor pursuant to this chapter, if such plans conform to the requirements and provisions of this chapter and the regulations of the commissioner adopted pursuant to this chapter in all other respects; provided, however, that the commissioner [of education] shall not approve the plans for the erection or purchase of any school building or addition thereto unless the site has been selected with reasonable consideration of the following factors; its place in a comprehensive, long-term school building program; area required for outdoor educational activities; educational adaptability, environment, AND accessibility; soil conditions; AND initial and ultimate cost. In developing such plans and specifications, school districts are encouraged to review the energy conservation and saving best practices available from the department and the New York state energy research and development authority.

(B) SUCH PLANS SHALL DEMONSTRATE THAT THE SCHOOL DISTRICT HAS IN ITS SELECTION OF THE SITE OR SITES FOR THE ERECTION, LEASE OR PURCHASE OF ANY SCHOOL BUILDING OR ADDITION THERETO OR REMODELING THEREOF TAKEN INTO CONSIDERATION THE PROXIMITY OF SUCH SITE OR SITES TO EXISTING AND KNOWN ENVIRONMENTAL HAZARDS, INCLUDING INDUSTRIAL FACILITIES, COMBUSTION FACILITIES, INACTIVE HAZARDOUS WASTE SITES, AND MUNICIPAL LANDFILLS, AND OTHER ENVIRONMENTAL HAZARDS AS DETERMINED BY THE DEPARTMENTS OF ENVIRONMENTAL CONSERVATION AND HEALTH, AND AVOIDANCE OF SUCH WHERE PRUDENT.

S 3. Section 408 of the education law is amended by adding a new subdivision 7 to read as follows:

7. NOTWITHSTANDING THE REQUIREMENTS OF THIS SECTION, THE PROVISIONS OF SUBDIVISIONS TWO AND THREE OF THIS SECTION SHALL APPLY TO ALL SCHOOL DISTRICTS, INCLUDING CITY SCHOOL DISTRICTS, REGARDLESS OF POPULATION AND BOARDS OF COOPERATIVE EDUCATIONAL SERVICES.

S 4. Subdivision 1 of section 409-d of the education law, as added by section 1 of part B of chapter 56 of the laws of 1998, is amended to read as follows:

1. Program establishment. The commissioner is authorized and directed to establish, develop and monitor a comprehensive public school building safety program which shall include a uniform inspection, safety rating and monitoring system. Such program shall require the annual inspection of all public school buildings throughout New York state; establish a safety rating system for such school buildings to assess the need for maintenance, repairs, rehabilitation, reconstruction, construction and other improvements related to the structural integrity and overall safety of public school buildings including but not limited to building systems related to electrical, plumbing, heating, ventilation, and air conditioning, sanitation and health, ENVIRONMENTAL HEALTH AND SAFETY, fire and accident protection; and require that such ratings be used for the purpose of developing a buildings condition survey as required pursuant to subdivision four of section thirty-six hundred forty-one of

this chapter and a five year CAPITAL facilities plan as required pursuant to [clause (i) of subparagraph two of paragraph b of] subdivision six of section thirty-six hundred two of this chapter.

S 5. Subdivision 3 of section 409-e of the education law, as added by section 1 of part B of chapter 56 of the laws of 1998, is amended to read as follows:

3. Safety rating system. The commissioner shall develop pursuant to regulations a safety rating system to be used by all school districts and boards of cooperative educational services keyed to the structural integrity and overall safety of the building and shall be developed using data obtained from the building's annual inspection as required by this article. Such safety rating system shall identify and assess the condition of every major system component of every school building including interior structures; building systems such as heating, ventilation, plumbing and electrical systems; exterior structures including but not limited to roofs, masonry, stairs, and chimneys; and develop a system which rates each building component based on at least the following factors: overall safety INCLUDING ENVIRONMENTAL HEALTH AND SAFETY; structural integrity; probable useful life; need for repair or replacement; and maintenance. Such safety rating shall include mechanisms which facilitate more frequent inspections and repairs as determined necessary to protect the welfare and safety of students and staff residing in such school buildings. This information shall be used for purposes of developing a buildings condition survey as required pursuant to section thirty-six hundred forty-one of this chapter and a five year CAPITAL facilities plan as required pursuant to [clause (i) of subparagraph two of paragraph (b) of] subdivision six of section thirty-six hundred two of this chapter.

S 6. The environmental conservation law is amended by adding a new section 3-0319 to read as follows:

S 3-0319. INFORMATION FOR EDUCATION DEPARTMENT AND SCHOOL DISTRICTS.

PURSUANT TO SUBDIVISION THREE OF SECTION FOUR HUNDRED EIGHT OF THE EDUCATION LAW, THE DEPARTMENT SHALL ANNUALLY PROVIDE ALL NECESSARY INFORMATION TO THE EDUCATION DEPARTMENT, REGARDING EXISTING AND KNOWN LOCATIONS OF INDUSTRIAL FACILITIES, COMBUSTION FACILITIES, INACTIVE HAZARDOUS WASTE SITES, MUNICIPAL LANDFILLS, AND OTHER ENVIRONMENTAL HAZARDS. WHENEVER SCHOOL DISTRICTS REQUEST THIS INFORMATION FROM THE DEPARTMENT, SUCH INFORMATION SHALL BE PROVIDED WITHIN THIRTY DAYS OF RECEIPT OF SUCH REQUEST.

S 7. The public health law is amended by adding a new section 201-a to read as follows:

S 201-A. INFORMATION FOR EDUCATION DEPARTMENT AND SCHOOL DISTRICTS. PURSUANT TO SUBDIVISION THREE OF SECTION FOUR HUNDRED EIGHT OF THE EDUCATION LAW, THE DEPARTMENT SHALL ANNUALLY PROVIDE ALL NECESSARY INFORMATION TO THE EDUCATION DEPARTMENT, REGARDING EXISTING AND KNOWN LOCATIONS OF ENVIRONMENTAL HAZARDS SUCH AS RADON, LEAD, AND OTHER TOXIC CONTAMINANTS. WHENEVER SCHOOL DISTRICTS REQUEST THIS INFORMATION FROM THE DEPARTMENT, SUCH INFORMATION SHALL BE PROVIDED WITHIN THIRTY DAYS OF RECEIPT OF SUCH REQUEST.

S 8. This act shall take effect on the sixtieth day after it shall have become a law.