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

1741--A

2009-2010 Regular Sessions

I N A S S E M B L Y

January 9, 2009

Introduced by M. of A. ENGLEBRIGHT, EDDINGTON, GALEF, PERRY -- Multi-Sponsored by -- M. of A. CAHILL, CLARK, COLTON, HOOPER, McENENY, J. RIVERA -- read once and referred to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to requiring that the siting, erection, purchase, repair, enlargement and remodeling of school buildings meet the requirements of healthy and high performance schools

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

Section 1. Section 408 of the education law, subdivisions 1 and 2 as amended by chapter 414 of the laws of 1972, the opening paragraph of subdivision 1 as amended by chapter 315 of the laws of 1990, subdivision 3 as amended by section 2 of part A-1 of chapter 58 of the laws of 2006, subdivision 4 as amended by chapter 801 of the laws of 1951 and subdivision 6 as amended by chapter 385 of the laws of 1994, is amended to read as follows:

S 408. [Plans] APPROVAL OF PLANS and specifications of school buildings [must be approved by commissioner of education]. 1. THE LEGISLATURE HEREBY DECLARES IT TO BE THE POLICY OF THE STATE TO REQUIRE THE SITING, CONSTRUCTION, REHABILITATION AND MAINTENANCE OF HEALTHY AND HIGH PERFORMANCE SCHOOL BUILDINGS IN THIS STATE IN SUCH A MANNER AS TO:

A. PROMOTE BETTER ENVIRONMENTAL STANDARDS FOR THE SITING, CONSTRUCTION, REHABILITATION AND MAINTENANCE OF SCHOOL BUILDINGS IN THE STATE;

B. IMPROVE ENERGY EFFICIENCY AND INCREASE GENERATION OF ENERGY THROUGH RENEWABLE AND CLEAN ENERGY TECHNOLOGIES;

C. INCREASE THE DEMAND FOR ENVIRONMENTALLY PREFERABLE BUILDING MATERIALS, FINISHES AND FURNISHINGS;

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

LBD03463-04-9

D. IMPROVE THE ENVIRONMENT BY DECREASING THE DISCHARGE OF POLLUTANTS INTO AND FROM SCHOOL BUILDINGS;

E. CREATE INDUSTRY AND PUBLIC AWARENESS OF NEW TECHNOLOGIES THAT CAN ASSURE THAT ALL SCHOOLS ARE HEALTHY AND HIGH PERFORMANCE; AND

F. IMPROVE THE HEALTH AND PRODUCTIVITY OF STUDENTS, TEACHERS AND SCHOOL EMPLOYEES.

IN ORDER TO FACILITATE SUCH POLICIES, THE LEGISLATURE HEREBY DIRECTS SCHOOL DISTRICTS TO SITE, CONSTRUCT, REHABILITATE AND MAINTAIN SCHOOL BUILDINGS IN ACCORDANCE WITH SUCH POLICIES.

2. No [schoolhouse] SCHOOL BUILDING shall [hereafter] be SITED, erected, purchased, repaired, enlarged or remodeled nor shall the advertisement for bids for the execution of the plans and specifications for such [schoolhouses] SCHOOL BUILDINGS be placed, in any school district [except in a city school district in a city having seventy thousand inhabitants or more, at an expense which shall exceed one hundred thousand dollars,] until the plans and specifications shall have been submitted to the commissioner [of education] and his OR HER approval endorsed thereon. Such plans and specifications shall show in detail the ventilation, heating and lighting of such buildings, AND ANY OTHER DETAILS THE COMMISSIONER SHALL DETERMINE TO BE NECESSARY.

In the case of a school district in a city having seventy thousand inhabitants or more, all the provisions previously set forth in this subdivision shall apply, except that the commissioner may waive the requirement for submission of plans and specifications and substitute therefor the requirement for submission of an outline of such plans and specifications for his OR HER review. Such outline shall be in a form which he OR SHE may prescribe from time to time.

[In either case, the commissioner may, in his discretion, review plans and specifications for projects estimated at an expense of less than one hundred thousand dollars.]

In the case of a school district in a city having a million inhabitants or more, all of the provisions previously set forth in this subdivision shall apply, except that such school district shall only be required to submit an outline of the plans and specifications to the commissioner [of education] for his OR HER information where a schoolhouse is to be erected in conjunction with the development of a project to be developed under the provisions of article two or five of the private housing finance law and where both the school and the project are to have rights or interests in the same land, regardless of the similarity or equality thereof, including fee interests, easements, space rights or other rights or interests. NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS PARAGRAPH, EVERY SUCH SCHOOL BUILDING SHALL COMPLY WITH THE REQUIREMENTS FOR GREEN BUILDINGS AND HEALTHY AND HIGH PERFORMANCE SCHOOLS AS DEFINED IN SUBDIVISION FOUR OF THIS SECTION.

[2] 3. The commissioner [of education] shall not approve the plans for the erection or purchase of any school building or addition thereto or remodeling thereof unless the same shall provide for [heating, ventilation, 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] 4. The commissioner shall NOT 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] UNLESS 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] FOR GREEN BUILDINGS, AS DEFINED IN PARAGRAPH TEN OF SUBDIVISION (B) OF SECTION NINETEEN OF THE TAX LAW, AND ANY RULES AND REGULATIONS ADOPTED PURSUANT THERETO, AND TO THE REQUIREMENTS AND PROVISIONS FOR HEALTHY AND HIGH PERFORMANCE SCHOOLS AS ESTABLISHED IN SUBDIVISION ONE OF THIS SECTION, AND ANY RULES, REGULATIONS, STANDARDS AND GUIDELINES ADOPTED PURSUANT THERETO. FURTHERMORE, the commissioner [of education], IN CONSULTATION WITH THE COMMISSIONERS OF ENVIRONMENTAL CONSERVATION AND HEALTH, 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, accessibility; PROXIMITY TO KNOWN ENVIRONMENTAL AND PUBLIC RISK FACTORS; soil conditions; 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. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE ENFORCEMENT OF THE PROVISIONS OF THIS SUBDIVISION SHALL BE WITHIN THE SOLE JURISDICTION AND AT THE SOLE DISCRETION OF THE DEPARTMENT.

[4] 5. No funds voted by a district meeting or other competent authority in any school district [to which the provisions of subdivision one of this section are applicable, exceeding the amounts specified in such subdivision,] shall be expended by the trustees or board of education until the commissioner [of education] shall certify that the plans and specifications for the same comply with the provisions of this section.

[5] 6. In a city having a population of one million or more, all designing, draughting and inspecting necessary in connection with the construction, additions to, alterations and maintenance of [schoolhouses] SCHOOL BUILDINGS shall be performed by a bureau established and maintained for this purpose under the board of education. The work of this bureau shall be performed by civil service employees in the classified civil service under the direction of the superintendent of school buildings, design and construction, except that repairs, betterment and maintenance of heating and ventilating plants and equipment, elevators and mechanical equipment shall remain under the direction of the superintendent of plant operation and maintenance. In a special case upon approval of the board of estimate, such designing, draughting or inspecting may be otherwise performed.

[6] 7. The commissioner [may], IN CONSULTATION WITH THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, SHALL promulgate regulations relating to the purchase AND RENOVATION of existing school buildings. Such regulations shall provide for an appraisal of such buildings as school buildings and the land on which they are situated as school sites by the state board of real property services, such estimates of the cost of renovation and construction as may be necessary TO MEET THE REQUIREMENTS OF SUBDIVISION ONE OF THIS SECTION and limitations on the cost of acquisition and renovation, in taking into consideration the age and condition of such existing buildings, in relation to the estimated cost of constructing a new building containing comparable facilities. [Such regulations may also require the prior approval of the

commissioner of any renovations proposed to be made to such existing school buildings.]

S 2. Subdivision 1 of section 408-a of the education law, as amended by chapter 420 of the laws of 1968, is amended to read as follows:

1. The commissioner of general services, after consultation with the commissioner [of education], and subject to the approval of the director of the budget, AND IN ACCORDANCE WITH THE STANDARDS ESTABLISHED FOR GREEN BUILDINGS, AS DEFINED IN PARAGRAPH TEN OF SUBDIVISION (B) OF SECTION NINETEEN OF THE TAX LAW, AND THE STANDARDS AND GUIDELINES FOR HEALTHY AND HIGH PERFORMANCE SCHOOLS ESTABLISHED BY SUBDIVISION ONE OF SECTION FOUR HUNDRED EIGHT OF THIS ARTICLE, shall promptly prepare or acquire as many master sets of complete plans and specifications for the construction of new school buildings and appurtenant facilities as shall be sufficient to provide at least six different master sets each for elementary, junior high and high schools, based on the number of pupils to be accommodated therein. [Such plans and specifications shall be prepared so as to provide adequate classrooms and other necessary space and facilities at the lowest cost consistent with sound construction principles and practices, and the attainment of educational objectives, and shall provide for heating, ventilation, lighting, sanitation and health, fire and accident protection adequate to maintain healthful, safe, and comfortable conditions therein. Such plans and specifications shall be so prepared that any possible future addition to any such school building may be economically effectuated.] In addition, the commissioner of general services shall, as often as he OR SHE deems advisable but at least annually, review such master sets and, after consultation with the commissioner [of education], and subject to approval of the director of the budget, may revise or cancel any of such sets or prepare new sets.

S 3. This act shall take effect immediately, except that section one of this act shall take effect on the first of August next succeeding the date on which it shall have become a law and such section shall apply to school buildings sited, erected, purchased, repaired, enlarged or remodeled on or after such date.