

2009-2010 Regular Sessions

I N S E N A T E

January 15, 2009

Introduced by Sen. ALESI -- read twice and ordered printed, and when printed to be committed to the Committee on Education

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:

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

8 S 408. [Plans] APPROVAL OF PLANS and specifications of school build-
9 ings [must be approved by commissioner of education]. 1. THE LEGISLA-
10 TURE HEREBY DECLARES IT TO BE THE POLICY OF THE STATE TO REQUIRE THE
11 SITING, CONSTRUCTION, REHABILITATION AND MAINTENANCE OF HEALTHY AND HIGH
12 PERFORMANCE SCHOOL BUILDINGS IN THIS STATE IN SUCH A MANNER AS TO:

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

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

18 C. INCREASE THE DEMAND FOR ENVIRONMENTALLY PREFERABLE BUILDING MATERI-
19 ALS, FINISHES AND FURNISHINGS;

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

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

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

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

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

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

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

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

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

41 [2] 3. The commissioner [of education] shall not approve the plans
42 for the erection or purchase of any school building or addition thereto
43 or remodeling thereof unless the same shall provide for [heating, venti-
44 lation, lighting,] sanitation, storm drainage and health, fire and acci-
45 dent protection adequate to maintain healthful, safe and comfortable
46 conditions therein and unless the county superintendent of highways or
47 commissioner of public works has been advised of the location of all
48 temporary and permanent entrances and exits upon all public highways and
49 the storm drainage plan which is to be used.

50 [3] 4. The commissioner shall NOT approve the plans and specifica-
51 tions, [heretofore or hereafter] submitted pursuant to this section, for
52 the erection or purchase of any school building or addition thereto or
53 remodeling thereof on the site or sites selected therefor pursuant to
54 this chapter, [if] UNLESS such plans conform to the requirements and
55 provisions [of this chapter and the regulations of the commissioner
56 adopted pursuant to this chapter in all other respects; provided, howev-

1 er, that] FOR GREEN BUILDINGS, AS DEFINED IN PARAGRAPH TEN OF SUBDIVI-
2 SION (B) OF SECTION NINETEEN OF THE TAX LAW, AND ANY RULES AND REGU-
3 LATIONS ADOPTED PURSUANT THERETO, AND TO THE REQUIREMENTS AND PROVISIONS
4 FOR HEALTHY AND HIGH PERFORMANCE SCHOOLS AS ESTABLISHED IN SUBDIVISION
5 ONE OF THIS SECTION, AND ANY RULES, REGULATIONS, STANDARDS AND GUIDE-
6 LINES ADOPTED PURSUANT THERETO. FURTHERMORE, the commissioner [of educa-
7 tion], IN CONSULTATION WITH THE COMMISSIONERS OF ENVIRONMENTAL CONSERVA-
8 TION AND HEALTH, shall not approve the plans for the erection or
9 purchase of any school building or addition thereto unless the site has
10 been selected with reasonable consideration of the following factors;
11 its place in a comprehensive, long-term school building program; area
12 required for outdoor educational activities; educational adaptability,
13 environment, accessibility; PROXIMITY TO KNOWN ENVIRONMENTAL AND PUBLIC
14 RISK FACTORS; soil conditions; initial and ultimate cost. In developing
15 such plans and specifications, school districts are encouraged to review
16 the energy conservation and saving best practices available from the
17 department and the New York state energy research and development
18 authority. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY,
19 THE ENFORCEMENT OF THE PROVISIONS OF THIS SUBDIVISION SHALL BE WITHIN
20 THE SOLE JURISDICTION AND AT THE SOLE DISCRETION OF THE DEPARTMENT.

21 [4] 5. No funds voted by a district meeting or other competent author-
22 ity in any school district [to which the provisions of subdivision one
23 of this section are applicable, exceeding the amounts specified in such
24 subdivision,] shall be expended by the trustees or board of education
25 until the commissioner [of education] shall certify that the plans and
26 specifications for the same comply with the provisions of this section.

27 [5] 6. In a city having a population of one million or more, all
28 designing, draughting and inspecting necessary in connection with the
29 construction, additions to, alterations and maintenance of [schoolhous-
30 es] SCHOOL BUILDINGS shall be performed by a bureau established and
31 maintained for this purpose under the board of education. The work of
32 this bureau shall be performed by civil service employees in the classi-
33 fied civil service under the direction of the superintendent of school
34 buildings, design and construction, except that repairs, betterment and
35 maintenance of heating and ventilating plants and equipment, elevators
36 and mechanical equipment shall remain under the direction of the super-
37 intendent of plant operation and maintenance. In a special case upon
38 approval of the board of estimate, such designing, draughting or
39 inspecting may be otherwise performed.

40 [6] 7. The commissioner [may], IN CONSULTATION WITH THE NEW YORK
41 STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, SHALL promulgate regu-
42 lations relating to the purchase AND RENOVATION of existing school
43 buildings. Such regulations shall provide for an appraisal of such
44 buildings as school buildings and the land on which they are situated as
45 school sites by the state board of real property services, such esti-
46 mates of the cost of renovation and construction as may be necessary TO
47 MEET THE REQUIREMENTS OF SUBDIVISION ONE OF THIS SECTION and limitations
48 on the cost of acquisition and renovation, in taking into consideration
49 the age and condition of such existing buildings, in relation to the
50 estimated cost of constructing a new building containing comparable
51 facilities. [Such regulations may also require the prior approval of the
52 commissioner of any renovations proposed to be made to such existing
53 school buildings.]

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

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

26 S 3. This act shall take effect immediately, except that section one
27 of this act shall take effect on the first of July next succeeding the
28 date on which it shall have become a law and such section shall apply to
29 school buildings sited, erected, purchased, repaired, enlarged or remod-
30 eled on or after such date.