

3757

2011-2012 Regular Sessions

I N   A S S E M B L Y

January 27, 2011

---

Introduced by M. of A. ENGLEBRIGHT -- read once and referred 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 ASSEM-  
BLY, 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.

LBD06008-01-1

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 August 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.