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

7103--A

I N S E N A T E

March 28, 2016

Introduced by Sens. O'MARA, MARCELLINO, ADDABBO, AMEDORE, AVELLA, BONACIC, CARLUCCI, FUNKE, LATIMER, MARCHIONE, MURPHY, RANZENHOFER, SERINO, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law and the education law, in relation to potable water testing and standards in schools

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

Section 1. The public health law is amended by adding a new section 1110 to read as follows:

S 1110. SCHOOL POTABLE WATER TESTING AND STANDARDS. 1. UNLESS CLASSIFIED AS A PUBLIC WATER SYSTEM UNDER THE FEDERAL 1991 LEAD AND COPPER RULE 40 CFR PARTS 141 AND 142, EVERY SCHOOL DISTRICT AND BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL CONDUCT PERIODIC FIRST-DRAWN TAP TESTING FOR POTABLE WATER SYSTEMS TO MONITOR FOR LEAD CONTAMINATION IN EACH OCCUPIED SCHOOL BUILDING UNDER ITS JURISDICTION AS REQUIRED BY REGULATIONS PROMULGATED PURSUANT TO THIS SECTION. THE TESTING SHALL BE CONDUCTED AND THE RESULTS ANALYZED BY AN ENTITY OR ENTITIES APPROVED BY THE COMMISSIONER. TESTING SHALL BE CONDUCTED AT A TIME WHEN THE COMMISSIONER HAS DETERMINED THAT LEAD LEVELS ARE ANTICIPATED TO BE AT THEIR HIGHEST. THE COMMISSIONER SHALL ESTABLISH STANDARDS FOR ALLOWABLE LEAD LEVELS IN SCHOOL POTABLE WATER SYSTEMS.

2. WHERE PERIODIC FIRST-DRAW TAP TESTING RESULTS IN FINDINGS OF NO CONTAMINATION FOR A PERIOD TO BE DETERMINED BY THE COMMISSIONER, FIRST-DRAWN TAP WATER TESTING SHALL BE CONDUCTED PERIODICALLY AT A FREQUENCY TO BE DETERMINED BY THE COMMISSIONER.

3. WHERE A FINDING OF CONTAMINATION IS MADE, THE AFFECTED SCHOOL SHALL: (A) CONTINUE FIRST-DRAWN TAP WATER TESTING AT LEAST EVERY SIX MONTHS UNTIL TEST RESULTS INDICATE ACCEPTABLE LEAD LEVELS PURSUANT TO SUBDIVISION ONE OF THIS SECTION; (B) PROVIDE SCHOOL OCCUPANTS WITH AN ADEQUATE SUPPLY OF SAFE, POTABLE WATER FOR DRINKING AS REQUIRED BY RULES AND REGULATIONS OF THE DEPARTMENT UNTIL FUTURE TESTS INDICATE ACCEPTABLE

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

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LEVELS PURSUANT TO SUBDIVISION ONE OF THIS SECTION; AND (C) PROVIDE PARENTS OR PERSONS IN PARENTAL RELATION TO A CHILD ATTENDING SAID SCHOOL WITH WRITTEN NOTIFICATION OF TEST RESULTS AS WELL AS POSTING SUCH TEST RESULTS ON THE SCHOOL DISTRICT'S WEBSITE.

4. POTABLE TAP WATER TESTING SHALL NOT BE REQUIRED FOR SCHOOL BUILDINGS BUILT AFTER TWO THOUSAND FOURTEEN OR AS DETERMINED BY THE COMMISSIONER THROUGH REGULATIONS PROMULGATED PURSUANT TO THIS SECTION.

5. EACH SCHOOL DISTRICT AND BOARD OF COOPERATIVE EDUCATIONAL SERVICES CONDUCTING TESTING PURSUANT TO SUBDIVISION ONE OF THIS SECTION AND EACH SCHOOL CLASSIFIED AS A PUBLIC WATER SYSTEM UNDER THE FEDERAL 1991 LEAD AND COPPER RULE 40 C.F.R. PARTS 141 AND 142 WHICH IS REQUIRED TO CONDUCT TESTING UNDER SUCH FEDERAL LAW SHALL MAKE A COPY OF THE RESULTS OF ALL SUCH TESTING AVAILABLE TO THE PUBLIC ON ITS WEBSITE AND ANY ADDITIONAL MEANS AS CHOSEN BY SUCH DISTRICT, SCHOOL OR BOARD AND MAY MAKE ANY LEAD REMEDIATION PLANS AVAILABLE BY SUCH MEANS. EACH SCHOOL DISTRICT, BOARD OF COOPERATIVE EDUCATIONAL SERVICES, AND SCHOOLS CLASSIFIED AS A PUBLIC WATER SYSTEM UNDER THE FEDERAL 1991 LEAD AND COPPER RULE 40 C.F.R. PARTS 141 AND 142 SHALL NOTIFY PARENTS OR PERSONS IN RELATION TO A CHILD, TEACHERS, SCHOOL ADMINISTRATORS, EMPLOYEE ORGANIZATIONS AND ANY OTHER RELEVANT PARTY THAT SUCH TEST RESULTS AND ANY LEAD REMEDIATION PLANS ARE AVAILABLE. A COPY OF THE RESULTS OF ALL TESTING SHALL ALSO BE TRANSMITTED TO THE STATE DEPARTMENT OF HEALTH IN A FORMAT TO BE DETERMINED BY THE COMMISSIONER AND TO THE COUNTY DEPARTMENT OF HEALTH IN THE LOCAL JURISDICTION OF THE SCHOOL BUILDING. THE COMMISSIONER, IN CONJUNCTION WITH THE COMMISSIONER OF EDUCATION, SHALL PUBLISH A REPORT BASED ON THE FINDINGS FROM THE TAP WATER TESTING CONDUCTED ACCORDING TO THE PROVISIONS OF THIS ARTICLE. SUCH REPORT SHALL BE SENT TO THE COMMISSIONER OF EDUCATION, THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE ASSEMBLY AND SHALL BE MADE AVAILABLE TO THE PARENTS OR PERSONS IN PARENTAL RELATION OF ANY CHILD ATTENDING THE AFFECTED SCHOOL DISTRICT ON THE DISTRICT'S WEBSITE.

6. THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF EDUCATION, SHALL PROMULGATE REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION.

S 2. Section 3602 of the education law is amended by adding a new subdivision 6-h to read as follows:

6-H. BUILDING AID FOR POTABLE WATER SOURCES AND SYSTEMS TESTING. IN ADDITION TO THE APPORTIONMENTS PAYABLE TO A SCHOOL DISTRICT PURSUANT TO SUBDIVISION SIX OF THIS SECTION, THE COMMISSIONER IS HEREBY AUTHORIZED TO APPORTION TO ANY SCHOOL DISTRICT ADDITIONAL BUILDING AID PURSUANT TO THIS SUBDIVISION FOR ITS APPROVED EXPENDITURES IN THE BASE YEAR FOR THE TESTING OF POTABLE WATER SYSTEMS REQUIRED PURSUANT TO SECTION ELEVEN HUNDRED TEN OF THE PUBLIC HEALTH LAW. SUCH AID SHALL EQUAL THE PRODUCT OF THE BUILDING AID RATIO COMPUTED FOR USE IN THE CURRENT YEAR PURSUANT TO PARAGRAPH C OF SUBDIVISION SIX OF THIS SECTION AND THE ACTUAL APPROVED EXPENDITURES INCURRED IN THE BASE YEAR PURSUANT TO THIS SUBDIVISION, PROVIDED THAT THE LIMITATIONS ON COST ALLOWANCES PRESCRIBED BY PARAGRAPH A OF SUBDIVISION SIX OF THIS SECTION SHALL NOT APPLY. THE COMMISSIONER SHALL PRESCRIBE A SPECIAL COST ALLOWANCE FOR THE TESTING OF POTABLE WATER SOURCES AND SYSTEMS AND THE APPROVED EXPENDITURES SHALL NOT EXCEED SUCH COST ALLOWANCE.

S 3. Paragraph b of subdivision 5 of section 1950 of the education law, as amended by section 80-a of part A of chapter 58 of the laws of 2011, is amended to read as follows:

b. The cost of services herein referred to shall be the amount allocated to each component school district by the board of cooperative

educational services to defray expenses of such board, INCLUDING APPROVED EXPENSES FROM THE TESTING OF POTABLE WATER SYSTEMS REQUIRED PURSUANT TO SECTION ELEVEN HUNDRED TEN OF THE PUBLIC HEALTH LAW, except that that part of the salary paid any teacher, supervisor or other employee of the board of cooperative educational services which is in excess of thirty thousand dollars shall not be such an approved expense, and except also that administrative and clerical expenses shall not exceed ten percent of the total expenses for purposes of this computation. Any gifts, donations or interest earned by the board of cooperative educational services or on behalf of the board of cooperative educational services by the dormitory authority or any other source shall not be deducted in determining the cost of services allocated to each component school district. Any payments made to a component school district by the board of cooperative educational services pursuant to subdivision eleven of section six-p of the general municipal law attributable to an approved cost of service computed pursuant to this subdivision shall be deducted from the cost of services allocated to such component school district. The expense of transportation provided by the board of cooperative educational services pursuant to paragraph q of subdivision four of this section shall be eligible for aid apportioned pursuant to subdivision seven of section thirty-six hundred two of this chapter and no board of cooperative educational services transportation expense shall be an approved cost of services for the computation of aid under this subdivision. Transportation expense pursuant to paragraph q of subdivision four of this section shall be included in the computation of the ten percent limitation on administrative and clerical expenses.

S 4. This act shall take effect immediately.