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

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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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- 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. IN ADDITION TO SCHOOL DISTRICTS ALREADY CLASSIFIED AS A PUBLIC WATER SYSTEM UNDER PARTS 141 AND 142 OF TITLE 40 OF THE CODE OF FEDERAL REGULATIONS, AS SUCH REGULATIONS MAY, FROM TIME TO TIME, BE AMENDED, EVERY SCHOOL DISTRICT AND BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL CONDUCT PERIODIC FIRST-DRAWN TAP TESTING OF 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.

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 LEAD CONTAMINATION IS MADE, THE AFFECTED SCHOOL DISTRICT SHALL: (A) CONTINUE FIRST-DRAWN TAP WATER TESTING PURSUANT TO REGULATIONS PROMULGATED PURSUANT TO 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

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

LBD14805-10-6

INDICATE LEAD LEVELS PURSUANT TO REGULATIONS PROMULGATED PURSUANT TO 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.

5. THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF EDUCATION, SHALL PROMULGATE REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE REGULATIONS PROMULGATED WITH REGARD TO LEAD LEVELS SHALL BE CONSISTENT WITH THE REQUIREMENTS FOR THOSE SCHOOL DISTRICTS CLASSIFIED AS A PUBLIC WATER SYSTEM UNDER PARTS 141 AND 142 OF TITLE 40 OF THE CODE OF FEDERAL REGULATIONS AS SUCH REGULATIONS MAY, FROM TIME TO TIME, BE AMENDED.

6. THE COMMISSIONER MAY GRANT A WAIVER FROM THE TESTING REQUIREMENTS OF THIS SECTION FOR CERTAIN SCHOOL BUILDINGS, PROVIDED THAT, THE SCHOOL DISTRICT HAS SUBSTANTIALLY COMPLIED WITH THE TESTING REQUIREMENTS AND HAS BEEN FOUND TO BE BELOW LEAD LEVELS AS DETERMINED BY REGULATIONS PROMULGATED PURSUANT TO THIS SECTION FOR SUCH BUILDINGS.

7. EACH SCHOOL DISTRICT AND BOARD OF COOPERATIVE EDUCATIONAL SERVICES CONDUCTING TESTING PURSUANT TO SUBDIVISION ONE OF THIS SECTION AND EACH SCHOOL DISTRICT CLASSIFIED AS A PUBLIC WATER SYSTEM UNDER PARTS 141 AND 142 OF TITLE 40 OF THE CODE OF FEDERAL REGULATIONS, AS SUCH REGULATIONS MAY, FROM TIME TO TIME, BE AMENDED, SHALL MAKE A COPY OF THE RESULTS OF ALL SUCH TESTING AND ANY LEAD REMEDIATION PLANS AVAILABLE TO THE PUBLIC ON ITS WEBSITE AND ANY ADDITIONAL MEANS AS CHOSEN BY SUCH DISTRICT. A COPY OF THE RESULTS OF ALL TESTING SHALL ALSO BE IMMEDIATELY TRANSMITTED TO THE DEPARTMENT AND STATE EDUCATION DEPARTMENT 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 BI-ANNUALLY BASED ON THE FINDINGS FROM THE TAP WATER TESTING CONDUCTED ACCORDING TO THE PROVISIONS OF THIS SECTION. 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 ON THE DEPARTMENT'S AND STATE EDUCATION DEPARTMENT'S WEBSITES.

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 TESTING AND REMEDIATION OF POTABLE WATER SYSTEMS. 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 AND REMEDIATION 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 DEFINED 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 SYSTEMS AND THE APPROVED EXPENDITURES SHALL NOT EXCEED SUCH COST ALLOWANCE. THE COMMISSIONER SHALL DETERMINE WHAT QUALIFIES AS AN APPROVED EXPENSE FOR THE REMEDIATION OF POTABLE WATER SYSTEMS REQUIRED AS A RESULT OF WATER TESTING CONDUCTED PURSUANT TO SECTION ELEVEN HUNDRED TEN OF THE PUBLIC HEALTH LAW.

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. Subdivision 6-f of section 3602 of the education law, as added by section 19 of part H of chapter 83 of the laws of 2002, is amended to read as follows:

6-f. Additional apportionment of building aid for certain projects. a. In addition to the apportionment 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 in the amount equal to the product of its approved expenditures in the base year for capital outlays from the district's general fund, capital fund or reserved funds that are incurred on or after July first, two thousand two for an eligible school construction project as defined in paragraph b of this subdivision, and the district's applicable building aid ratio as defined pursuant to paragraph c of subdivision six of this section. Approved expenditures for capital outlays for eligible school construction projects that are eligible for an apportionment pursuant to this subdivision shall not be eligible for aid pursuant to subdivision six of this section.

b. For the purposes of this subdivision, an "eligible school construction project" shall mean a school construction project that is entirely funded from capital outlays and:

(1) has a total project cost of one hundred thousand dollars or less; provided however, that for any district, no more than one project shall be eligible pursuant to this subparagraph for an apportionment within the same school year; and/or

(2) is a construction emergency project to remediate emergency situations which arise in public school buildings and threaten the health and/or safety of building occupants, as a result of the unanticipated discovery of asbestos or other hazardous substances during construction work on a school or significant damage caused by a fire, snow storm, ice storm, excessive rain, high winds, flood or a similar catastrophic event which results in the necessity for immediate repair. APPROVED EXPENDITURES PURSUANT TO THIS SECTION SHALL INCLUDE EXPENDITURES THE COMMISSIONER APPROVES FOR THE IMMEDIATE REMEDIATION OF POTABLE WATER SYSTEMS DUE TO LEAD CONTAMINATION, REQUIRED AS A RESULT OF WATER TESTING CONDUCTED PURSUANT TO SECTION ELEVEN HUNDRED TEN OF THE PUBLIC HEALTH LAW; and/or

(3) if bonded pursuant to paragraph j of subdivision six of this section, would cause a city school district in a city having a population of less than one hundred twenty-five thousand inhabitants to exceed ninety-five percent of its constitutional debt limit provided, however, that any debt issued pursuant to paragraph c of section 104.00 of the local finance law shall not be included in such calculation.

S 5. This act shall take effect on the sixtieth day after it shall have become a law; provided, however, that effective immediately, the commissioner of health shall be authorized to promulgate any and all rules and regulations necessary to implement the provisions of this act on its effective date.