

8158

I N S E N A T E

June 17, 2016

Introduced by Sens. O'MARA, MARCELLINO, AKSHAR, AMEDORE, BONACIC, BOYLE, DeFRANCISCO, FARLEY, FELDER, FLANAGAN, FUNKE, GALLIVAN, GOLDEN, GRIFFO, HANNON, LANZA, LARKIN, LAVALLE, LITTLE, MARCHIONE, MARTINS, MURPHY, NOZZOLIO, ORTT, RANZENHOFER, RITCHIE, ROBACH, SERINO, SEWARD, VENDITTO, YOUNG -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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:

1 Section 1. The public health law is amended by adding a new section  
2 1110 to read as follows:  
3 S 1110. SCHOOL POTABLE WATER TESTING AND STANDARDS. 1. IN ADDITION TO  
4 SCHOOL DISTRICTS ALREADY CLASSIFIED AS A PUBLIC WATER SYSTEM UNDER PARTS  
5 141 AND 142 OF TITLE 40 OF THE CODE OF FEDERAL REGULATIONS, AS SUCH  
6 REGULATIONS MAY, FROM TIME TO TIME, BE AMENDED, EVERY SCHOOL DISTRICT  
7 AND BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL CONDUCT PERIODIC  
8 FIRST-DRAWN TAP TESTING OF POTABLE WATER SYSTEMS TO MONITOR FOR LEAD  
9 CONTAMINATION IN EACH OCCUPIED SCHOOL BUILDING UNDER ITS JURISDICTION AS  
10 REQUIRED BY REGULATIONS PROMULGATED PURSUANT TO THIS SECTION. THE TEST-  
11 ING SHALL BE CONDUCTED AND THE RESULTS ANALYZED BY AN ENTITY OR ENTITIES  
12 APPROVED BY THE COMMISSIONER.  
13 2. WHERE A FINDING OF LEAD CONTAMINATION IS MADE, THE AFFECTED SCHOOL  
14 DISTRICT SHALL: (A) CONTINUE FIRST-DRAWN TAP WATER TESTING PURSUANT TO  
15 REGULATIONS PROMULGATED PURSUANT TO THIS SECTION; (B) PROVIDE SCHOOL  
16 OCCUPANTS WITH AN ADEQUATE SUPPLY OF SAFE, POTABLE WATER FOR DRINKING AS  
17 REQUIRED BY RULES AND REGULATIONS OF THE DEPARTMENT UNTIL FUTURE TESTS  
18 INDICATE LEAD LEVELS PURSUANT TO REGULATIONS PROMULGATED PURSUANT TO  
19 THIS SECTION; AND (C) PROVIDE PARENTS OR PERSONS IN PARENTAL RELATION TO  
20 A CHILD ATTENDING SAID SCHOOL WITH WRITTEN NOTIFICATION OF TEST RESULTS  
21 AS WELL AS POSTING SUCH TEST RESULTS ON THE SCHOOL DISTRICT'S WEBSITE.

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

LBD12093-02-6

1 3. FIRST-DRAWN TAP TESTING SHALL NOT BE REQUIRED FOR SCHOOL BUILDINGS  
2 THAT HAVE BEEN DEEMED "LEAD-FREE" AS DEFINED BY SECTION 1417 OF THE  
3 FEDERAL SAFE DRINKING WATER ACT.

4 4. THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF EDUCA-  
5 TION, SHALL PROMULGATE REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS  
6 SECTION. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY,  
7 THE REGULATIONS PROMULGATED WITH REGARD TO LEAD LEVELS SHALL BE CONSIST-  
8 ENT WITH THE REQUIREMENTS FOR THOSE SCHOOL DISTRICTS CLASSIFIED AS A  
9 PUBLIC WATER SYSTEM UNDER PARTS 141 AND 142 OF TITLE 40 OF THE CODE OF  
10 FEDERAL REGULATIONS AS SUCH REGULATIONS MAY, FROM TIME TO TIME, BE  
11 AMENDED.

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

17 6. EACH SCHOOL DISTRICT AND BOARD OF COOPERATIVE EDUCATIONAL SERVICES  
18 CONDUCTING TESTING PURSUANT TO SUBDIVISION ONE OF THIS SECTION AND EACH  
19 SCHOOL DISTRICT CLASSIFIED AS A PUBLIC WATER SYSTEM UNDER PARTS 141 AND  
20 142 OF TITLE 40 OF THE CODE OF FEDERAL REGULATIONS, AS SUCH REGULATIONS  
21 MAY, FROM TIME TO TIME, BE AMENDED, SHALL MAKE A COPY OF THE RESULTS OF  
22 ALL SUCH TESTING AND ANY LEAD REMEDIATION PLANS AVAILABLE TO THE PUBLIC  
23 ON ITS WEBSITE AND ANY ADDITIONAL MEANS AS CHOSEN BY SUCH DISTRICT. A  
24 COPY OF THE RESULTS OF ALL TESTING SHALL ALSO BE IMMEDIATELY TRANSMITTED  
25 TO THE DEPARTMENT AND STATE EDUCATION DEPARTMENT IN A FORMAT TO BE  
26 DETERMINED BY THE COMMISSIONER AND TO THE COUNTY DEPARTMENT OF HEALTH IN  
27 THE LOCAL JURISDICTION OF THE SCHOOL BUILDING. THE COMMISSIONER OF  
28 EDUCATION, IN CONJUNCTION WITH THE COMMISSIONER, SHALL PUBLISH A REPORT  
29 BIENNIALLY BASED ON THE FINDINGS FROM THE TAP WATER TESTING CONDUCTED  
30 ACCORDING TO THE PROVISIONS OF THIS SECTION. SUCH REPORT SHALL BE SENT  
31 TO THE COMMISSIONER, THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE  
32 SENATE, AND THE SPEAKER OF THE ASSEMBLY AND SHALL BE MADE AVAILABLE ON  
33 THE DEPARTMENT'S AND STATE EDUCATION DEPARTMENT'S WEBSITES.

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

36 6-H. BUILDING AID FOR TESTING AND FILTERING OF POTABLE WATER SYSTEMS  
37 FOR LEAD CONTAMINATION. IN ADDITION TO THE APPORTIONMENTS PAYABLE TO A  
38 SCHOOL DISTRICT PURSUANT TO SUBDIVISION SIX OF THIS SECTION, THE COMMIS-  
39 SIONER IS HEREBY AUTHORIZED TO APPORTION TO ANY SCHOOL DISTRICT ADDI-  
40 TIONAL BUILDING AID PURSUANT TO THIS SUBDIVISION FOR ITS APPROVED  
41 EXPENDITURES, OTHERWISE INELIGIBLE FOR BUILDING AID, IN THE BASE YEAR  
42 FOR THE TESTING OF POTABLE WATER SYSTEMS REQUIRED PURSUANT TO SECTION  
43 ELEVEN HUNDRED TEN OF THE PUBLIC HEALTH LAW AND FOR THE INSTALLATION OF  
44 FILTERS AND/OR OTHER EFFECTIVE REMEDIAL MEASURES FOR IMMEDIATE REMEDI-  
45 ATION IN CASES WHERE A FINDING OF LEAD CONTAMINATION IS MADE PURSUANT TO  
46 SUCH SECTION AND VERIFIED BY CONFIRMATORY SAMPLING, PROVIDED THAT THE  
47 COST OF INSTALLATION OF SUCH FILTERS AND/OR OTHER EFFECTIVE REMEDIAL  
48 MEASURES SHALL BE DEEMED AN APPROVED EXPENDITURE ONLY IF (I) SUCH  
49 INSTALLATION AND/OR OTHER EFFECTIVE REMEDIAL MEASURES HAVE BEEN APPROVED  
50 OR REVIEWED BY A PROFESSIONAL WITH EXPERTISE IN THE FIELD OF WATER QUAL-  
51 ITY AND REMEDIATION AND (II) SUCH COST IS INCURRED PRIOR TO JULY FIRST,  
52 TWO THOUSAND NINETEEN. SUCH AID SHALL EQUAL THE PRODUCT OF THE BUILDING  
53 AID RATIO DEFINED PURSUANT TO PARAGRAPH C OF SUBDIVISION SIX OF THIS  
54 SECTION AND THE ACTUAL APPROVED EXPENDITURES INCURRED IN THE BASE YEAR  
55 PURSUANT TO THIS SUBDIVISION.

1 S 3. Subdivision 6-e of section 3602 of the education law, as amended  
2 by section 10 of part A-1 of chapter 58 of the laws of 2006, is amended  
3 to read as follows:

4 6-e. Additional apportionment of building aid for building condition  
5 surveys of school buildings. In addition to the apportionments payable  
6 to a school district pursuant to subdivision six of this section, the  
7 commissioner is hereby authorized to apportion to any school district  
8 additional building aid in accordance with this subdivision for its  
9 approved expenses in the base year for building condition surveys of  
10 school buildings that are conducted pursuant to this subdivision and  
11 subdivision four of section thirty-six hundred forty-one of this arti-  
12 cle. The amount of such apportionment shall equal the product of the  
13 building aid ratio defined pursuant to paragraph c of subdivision six of  
14 this section and the actual approved expenses incurred by the district  
15 in the base year for each school building so inspected, provided that  
16 the amount of such apportionment shall not exceed the building condition  
17 survey aid ceiling, AND PROVIDED FURTHER THAT SUCH APPROVED EXPENSES  
18 SHALL INCLUDE APPROVED EXPENSES FOR TESTING OF POTABLE WATER SYSTEMS FOR  
19 LEAD CONTAMINATION PURSUANT TO SECTION ELEVEN HUNDRED TEN OF THE PUBLIC  
20 HEALTH LAW. For surveys conducted in the nineteen hundred ninety-eight-  
21 -ninety-nine school year, the building condition aid ceiling shall be  
22 twenty cents gross per square foot of floor area. For surveys conducted  
23 in the nineteen hundred ninety-nine--two thousand school year and there-  
24 after, the inspection aid ceiling shall be twenty cents gross per square  
25 foot of floor area, plus an amount computed by the commissioner in  
26 accordance with regulations adopted for such purpose, on the basis of an  
27 index number reflecting changes in the costs of labor and materials from  
28 July first, nineteen hundred ninety-eight.

29 S 4. The commissioner of health and the commissioner of education  
30 shall by December 1, 2016, submit to the governor, the temporary presi-  
31 dent of the senate and the speaker of the assembly a joint report on the  
32 initial results of the tap water testing of public school buildings  
33 conducted pursuant to section 1110 of the public health law. Such report  
34 shall identify the most common sources of lead contamination of the  
35 potable water systems of such buildings and shall recommend specific  
36 appropriate short- and long-term remediation measures to address such  
37 contamination.

38 S 5. Paragraph b of subdivision 5 of section 1950 of the education  
39 law, as amended by section 80-a of part A of chapter 58 of the laws of  
40 2011, is amended to read as follows:

41 b. The cost of services herein referred to shall be the amount allo-  
42 cated to each component school district by the board of cooperative  
43 educational services to defray expenses of such board, INCLUDING  
44 APPROVED EXPENSES FROM THE TESTING OF POTABLE WATER SYSTEMS OF OCCUPIED  
45 SCHOOL BUILDINGS UNDER THE BOARD'S JURISDICTION AS REQUIRED PURSUANT TO  
46 SECTION ELEVEN HUNDRED TEN OF THE PUBLIC HEALTH LAW, except that that  
47 part of the salary paid any teacher, supervisor or other employee of the  
48 board of cooperative educational services which is in excess of thirty  
49 thousand dollars shall not be such an approved expense, and except also  
50 that administrative and clerical expenses shall not exceed ten percent  
51 of the total expenses for purposes of this computation. Any gifts,  
52 donations or interest earned by the board of cooperative educational  
53 services or on behalf of the board of cooperative educational services  
54 by the dormitory authority or any other source shall not be deducted in  
55 determining the cost of services allocated to each component school  
56 district. Any payments made to a component school district by the board

1 of cooperative educational services pursuant to subdivision eleven of  
2 section six-p of the general municipal law attributable to an approved  
3 cost of service computed pursuant to this subdivision shall be deducted  
4 from the cost of services allocated to such component school district.  
5 The expense of transportation provided by the board of cooperative  
6 educational services pursuant to paragraph q of subdivision four of this  
7 section shall be eligible for aid apportioned pursuant to subdivision  
8 seven of section thirty-six hundred two of this chapter and no board of  
9 cooperative educational services transportation expense shall be an  
10 approved cost of services for the computation of aid under this subdivi-  
11 sion. Transportation expense pursuant to paragraph q of subdivision four  
12 of this section shall be included in the computation of the ten percent  
13 limitation on administrative and clerical expenses.

14 S 6. This act shall take effect on the ninetieth day after it shall  
15 have become a law; provided, however, that effective immediately, the  
16 commissioner of health shall be authorized to promulgate any and all  
17 rules and regulations necessary to implement the provisions of this act  
18 on its effective date.