

10740

I N A S S E M B L Y

June 17, 2016

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Lupardo, Nolan) -- (at request of the Governor) -- read once and referred to the Committee on Ways and Means

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.
22 3. FIRST-DRAWN TAP TESTING SHALL NOT BE REQUIRED FOR SCHOOL BUILDINGS
23 THAT HAVE BEEN DEEMED "LEAD-FREE" AS DEFINED BY SECTION 1417 OF THE
24 FEDERAL SAFE DRINKING WATER ACT.
25 4. THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF EDUCA-
26 TION, SHALL PROMULGATE REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS
27 SECTION. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY,

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

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1 THE REGULATIONS PROMULGATED WITH REGARD TO LEAD LEVELS SHALL BE CONSIST-
2 ENT WITH THE REQUIREMENTS FOR THOSE SCHOOL DISTRICTS CLASSIFIED AS A
3 PUBLIC WATER SYSTEM UNDER PARTS 141 AND 142 OF TITLE 40 OF THE CODE OF
4 FEDERAL REGULATIONS AS SUCH REGULATIONS MAY, FROM TIME TO TIME, BE
5 AMENDED.

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

11 6. EACH SCHOOL DISTRICT AND BOARD OF COOPERATIVE EDUCATIONAL SERVICES
12 CONDUCTING TESTING PURSUANT TO SUBDIVISION ONE OF THIS SECTION AND EACH
13 SCHOOL DISTRICT CLASSIFIED AS A PUBLIC WATER SYSTEM UNDER PARTS 141 AND
14 142 OF TITLE 40 OF THE CODE OF FEDERAL REGULATIONS, AS SUCH REGULATIONS
15 MAY, FROM TIME TO TIME, BE AMENDED, SHALL MAKE A COPY OF THE RESULTS OF
16 ALL SUCH TESTING AND ANY LEAD REMEDIATION PLANS AVAILABLE TO THE PUBLIC
17 ON ITS WEBSITE AND ANY ADDITIONAL MEANS AS CHOSEN BY SUCH DISTRICT. A
18 COPY OF THE RESULTS OF ALL TESTING SHALL ALSO BE IMMEDIATELY TRANSMITTED
19 TO THE DEPARTMENT AND STATE EDUCATION DEPARTMENT IN A FORMAT TO BE
20 DETERMINED BY THE COMMISSIONER AND TO THE COUNTY DEPARTMENT OF HEALTH IN
21 THE LOCAL JURISDICTION OF THE SCHOOL BUILDING. THE COMMISSIONER OF
22 EDUCATION, IN CONJUNCTION WITH THE COMMISSIONER, SHALL PUBLISH A REPORT
23 BIENNIALLY BASED ON THE FINDINGS FROM THE TAP WATER TESTING CONDUCTED
24 ACCORDING TO THE PROVISIONS OF THIS SECTION. SUCH REPORT SHALL BE SENT
25 TO THE COMMISSIONER, THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE
26 SENATE, AND THE SPEAKER OF THE ASSEMBLY AND SHALL BE MADE AVAILABLE ON
27 THE DEPARTMENT'S AND STATE EDUCATION DEPARTMENT'S WEBSITES.

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

30 6-H. BUILDING AID FOR TESTING AND FILTERING OF POTABLE WATER SYSTEMS
31 FOR LEAD CONTAMINATION. IN ADDITION TO THE APPORTIONMENTS PAYABLE TO A
32 SCHOOL DISTRICT PURSUANT TO SUBDIVISION SIX OF THIS SECTION, THE COMMIS-
33 SIONER IS HEREBY AUTHORIZED TO APPORTION TO ANY SCHOOL DISTRICT ADDI-
34 TIONAL BUILDING AID PURSUANT TO THIS SUBDIVISION FOR ITS APPROVED
35 EXPENDITURES, OTHERWISE INELIGIBLE FOR BUILDING AID, IN THE BASE YEAR
36 FOR THE TESTING OF POTABLE WATER SYSTEMS REQUIRED PURSUANT TO SECTION
37 ELEVEN HUNDRED TEN OF THE PUBLIC HEALTH LAW AND FOR THE INSTALLATION OF
38 FILTERS AND/OR OTHER EFFECTIVE REMEDIAL MEASURES FOR IMMEDIATE REMEDI-
39 ATION IN CASES WHERE A FINDING OF LEAD CONTAMINATION IS MADE PURSUANT TO
40 SUCH SECTION AND VERIFIED BY CONFIRMATORY SAMPLING, PROVIDED THAT THE
41 COST OF INSTALLATION OF SUCH FILTERS AND/OR OTHER EFFECTIVE REMEDIAL
42 MEASURES SHALL BE DEEMED AN APPROVED EXPENDITURE ONLY IF (I) SUCH
43 INSTALLATION AND/OR OTHER EFFECTIVE REMEDIAL MEASURES HAVE BEEN APPROVED
44 OR REVIEWED BY A PROFESSIONAL WITH EXPERTISE IN THE FIELD OF WATER QUAL-
45 ITY AND REMEDIATION AND (II) SUCH COST IS INCURRED PRIOR TO JULY FIRST,
46 TWO THOUSAND NINETEEN. SUCH AID SHALL EQUAL THE PRODUCT OF THE BUILDING
47 AID RATIO DEFINED PURSUANT TO PARAGRAPH C OF SUBDIVISION SIX OF THIS
48 SECTION AND THE ACTUAL APPROVED EXPENDITURES INCURRED IN THE BASE YEAR
49 PURSUANT TO THIS SUBDIVISION.

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

53 6-e. Additional apportionment of building aid for building condition
54 surveys of school buildings. In addition to the apportionments payable
55 to a school district pursuant to subdivision six of this section, the
56 commissioner is hereby authorized to apportion to any school district

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

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

31 S 5. Paragraph b of subdivision 5 of section 1950 of the education
32 law, as amended by section 80-a of part A of chapter 58 of the laws of
33 2011, is amended to read as follows:

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

1 seven of section thirty-six hundred two of this chapter and no board of
2 cooperative educational services transportation expense shall be an
3 approved cost of services for the computation of aid under this subdivi-
4 sion. Transportation expense pursuant to paragraph q of subdivision four
5 of this section shall be included in the computation of the ten percent
6 limitation on administrative and clerical expenses.
7 S 6. This act shall take effect on the ninetieth day after it shall
8 have become a law; provided, however, that effective immediately, the
9 commissioner of health shall be authorized to promulgate any and all
10 rules and regulations necessary to implement the provisions of this act
11 on its effective date.