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I N A S S E M B L Y

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Introduced by M. of A. LUPARDO, GOTTFRIED, ROSENTHAL, GALEF, CAHILL, DINOWITZ, LAVINE, JAFFEE, SANTABARBARA, SOLAGES, HOOPER, MOSLEY, BLAKE, JOYNER, MAYER, LINARES, JEAN-PIERRE, FAHY, PALMESANO, ROZIC, BARRON, BARRETT, CANCEL, ARROYO, HAWLEY, ZEBROWSKI, RUSSELL, CASTORINA, WALKER, SKOUFIS, ORTIZ, LIFTON, McDONALD, OTIS, BUCHWALD, PEOPLES-STOKES, MURRAY, McLAUGHLIN, RAIA, GIGLIO, KAVANAGH, MAGNARELLI, SEAWRIGHT -- Multi-Sponsored by -- M. of A. ABBATE, COOK, CROUCH, ENGLEBRIGHT, GLICK, McDONOUGH, McKEVITT, PICHARDO, SIMON, THIELE -- read once and referred to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, 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:

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 PERIODIC FIRST-DRAW TAP TESTING RESULTS IN FINDINGS OF NO
14 CONTAMINATION FOR A PERIOD TO BE DETERMINED BY THE COMMISSIONER, FIRST-
15 DRAWN TAP WATER TESTING SHALL BE CONDUCTED PERIODICALLY AT A FREQUENCY
16 TO BE DETERMINED BY THE COMMISSIONER.
17 3. WHERE A FINDING OF LEAD CONTAMINATION IS MADE, THE AFFECTED SCHOOL
18 DISTRICT SHALL: (A) CONTINUE FIRST-DRAWN TAP WATER TESTING AT LEAST

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

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1 EVERY SIX MONTHS UNTIL TEST RESULTS INDICATE LEAD LEVELS BELOW ACTION
2 LEVELS ESTABLISHED PURSUANT TO REGULATIONS PROMULGATED PURSUANT TO THIS
3 SECTION; (B) PROVIDE SCHOOL OCCUPANTS WITH AN ADEQUATE SUPPLY OF SAFE,
4 POTABLE WATER FOR DRINKING AS REQUIRED BY RULES AND REGULATIONS OF THE
5 DEPARTMENT UNTIL FUTURE TESTS INDICATE ACCEPTABLE LEVELS PURSUANT TO
6 REGULATIONS PROMULGATED PURSUANT TO THIS SECTION; AND (C) PROVIDE
7 PARENTS OR PERSONS IN PARENTAL RELATION TO A CHILD ATTENDING SAID SCHOOL
8 WITH WRITTEN NOTIFICATION OF TEST RESULTS AS WELL AS POSTING SUCH TEST
9 RESULTS ON THE SCHOOL DISTRICT'S WEBSITE.

10 4. POTABLE TAP WATER TESTING SHALL NOT BE REQUIRED FOR SCHOOL BUILD-
11 INGS BUILT AFTER TWO THOUSAND FOURTEEN.

12 5. THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF EDUCA-
13 TION, SHALL PROMULGATE REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS
14 SECTION. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY,
15 THE REGULATIONS PROMULGATED WITH REGARD TO ACCEPTABLE LEAD LEVELS AND
16 TESTING FREQUENCY SHALL BE CONSISTENT WITH THE REQUIREMENTS FOR THOSE
17 SCHOOL DISTRICTS CLASSIFIED AS A PUBLIC WATER SYSTEM UNDER PARTS 141 AND
18 142 OF TITLE 40 OF THE CODE OF FEDERAL REGULATIONS AS SUCH REGULATIONS
19 MAY, FROM TIME TO TIME, BE AMENDED.

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

26 7. EACH SCHOOL DISTRICT AND BOARD OF COOPERATIVE EDUCATIONAL SERVICES
27 CONDUCTING TESTING PURSUANT TO SUBDIVISION ONE OF THIS SECTION AND EACH
28 SCHOOL DISTRICT CLASSIFIED AS A PUBLIC WATER SYSTEM UNDER PARTS 141 AND
29 142 OF TITLE 40 OF THE CODE OF FEDERAL REGULATIONS, AS SUCH REGULATIONS
30 MAY, FROM TIME TO TIME, BE AMENDED, SHALL MAKE A COPY OF THE RESULTS OF
31 ALL SUCH TESTING AVAILABLE TO THE PUBLIC ON ITS WEBSITE AND ANY ADDI-
32 TIONAL MEANS AS CHOSEN BY SUCH DISTRICT AND SHALL MAKE ANY LEAD REMEDI-
33 ATION PLANS AVAILABLE BY SUCH MEANS. A COPY OF THE RESULTS OF ALL TEST-
34 ING SHALL ALSO BE TRANSMITTED TO THE DEPARTMENT'S AND STATE EDUCATION
35 DEPARTMENT'S WEBSITES IN A FORMAT TO BE DETERMINED BY THE COMMISSIONER
36 AND TO THE COUNTY DEPARTMENT OF HEALTH IN THE LOCAL JURISDICTION OF THE
37 SCHOOL BUILDING. THE COMMISSIONER, IN CONJUNCTION WITH THE COMMISSIONER
38 OF EDUCATION, SHALL PUBLISH A REPORT BASED ON THE FINDINGS FROM THE TAP
39 WATER TESTING CONDUCTED ACCORDING TO THE PROVISIONS OF THIS SECTION.
40 SUCH REPORT SHALL BE SENT TO THE COMMISSIONER OF EDUCATION, THE GOVER-
41 NOR, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE
42 ASSEMBLY AND SHALL BE MADE AVAILABLE ON THE DEPARTMENT'S AND STATE
43 EDUCATION DEPARTMENT'S WEBSITES.

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

46 6-H. BUILDING AID FOR TESTING AND REMEDIATION OF POTABLE WATER
47 SYSTEMS. IN ADDITION TO THE APPORTIONMENTS PAYABLE TO A SCHOOL DISTRICT
48 PURSUANT TO SUBDIVISION SIX OF THIS SECTION, THE COMMISSIONER IS HEREBY
49 AUTHORIZED TO APPORTION TO ANY SCHOOL DISTRICT ADDITIONAL BUILDING AID
50 PURSUANT TO THIS SUBDIVISION FOR ITS APPROVED EXPENDITURES IN THE BASE
51 YEAR FOR THE TESTING AND REMEDIATION OF POTABLE WATER SYSTEMS REQUIRED
52 PURSUANT TO SECTION ELEVEN HUNDRED TEN OF THE PUBLIC HEALTH LAW. SUCH
53 AID SHALL EQUAL THE PRODUCT OF THE BUILDING AID RATIO DEFINED PURSUANT
54 TO PARAGRAPH C OF SUBDIVISION SIX OF THIS SECTION AND THE ACTUAL
55 APPROVED EXPENDITURES INCURRED IN THE BASE YEAR PURSUANT TO THIS SUBDI-
56 VISION, PROVIDED THAT THE LIMITATIONS ON COST ALLOWANCES PRESCRIBED BY

1 PARAGRAPH A OF SUBDIVISION SIX OF THIS SECTION SHALL NOT APPLY. THE
2 COMMISSIONER SHALL PRESCRIBE A SPECIAL COST ALLOWANCE FOR THE TESTING OF
3 POTABLE WATER SYSTEMS AND THE APPROVED EXPENDITURES SHALL NOT EXCEED
4 SUCH COST ALLOWANCE. THE COMMISSIONER SHALL DETERMINE WHAT QUALIFIES AS
5 AN APPROVED EXPENSE FOR THE REMEDIATION OF POTABLE WATER SYSTEMS
6 REQUIRED AS A RESULT OF WATER TESTING CONDUCTED PURSUANT TO SECTION
7 ELEVEN HUNDRED TEN OF THE PUBLIC HEALTH LAW.

8 S 3. Paragraph b of subdivision 5 of section 1950 of the education
9 law, as amended by section 80-a of part A of chapter 58 of the laws of
10 2011, is amended to read as follows:

11 b. The cost of services herein referred to shall be the amount allo-
12 cated to each component school district by the board of cooperative
13 educational services to defray expenses of such board, INCLUDING
14 APPROVED EXPENSES FROM THE TESTING OF POTABLE WATER SYSTEMS REQUIRED
15 PURSUANT TO SECTION ELEVEN HUNDRED TEN OF THE PUBLIC HEALTH LAW, except
16 that that part of the salary paid any teacher, supervisor or other
17 employee of the board of cooperative educational services which is in
18 excess of thirty thousand dollars shall not be such an approved expense,
19 and except also that administrative and clerical expenses shall not
20 exceed ten percent of the total expenses for purposes of this computa-
21 tion. Any gifts, donations or interest earned by the board of cooper-
22 ative educational services or on behalf of the board of cooperative
23 educational services by the dormitory authority or any other source
24 shall not be deducted in determining the cost of services allocated to
25 each component school district. Any payments made to a component school
26 district by the board of cooperative educational services pursuant to
27 subdivision eleven of section six-p of the general municipal law attrib-
28 utable to an approved cost of service computed pursuant to this subdivi-
29 sion shall be deducted from the cost of services allocated to such
30 component school district. The expense of transportation provided by
31 the board of cooperative educational services pursuant to paragraph q of
32 subdivision four of this section shall be eligible for aid apportioned
33 pursuant to subdivision seven of section thirty-six hundred two of this
34 chapter and no board of cooperative educational services transportation
35 expense shall be an approved cost of services for the computation of aid
36 under this subdivision. Transportation expense pursuant to paragraph q
37 of subdivision four of this section shall be included in the computation
38 of the ten percent limitation on administrative and clerical expenses.

39 S 4. Subdivision 6-f of section 3602 of the education law, as added by
40 section 19 of part H of chapter 83 of the laws of 2002, is amended to
41 read as follows:

42 6-f. Additional apportionment of building aid for certain projects. a.
43 In addition to the apportionment payable to a school district pursuant
44 to subdivision six of this section, the commissioner is hereby author-
45 ized to apportion to any school district additional building aid in the
46 amount equal to the product of its approved expenditures in the base
47 year for capital outlays from the district's general fund, capital fund
48 or reserved funds that are incurred on or after July first, two thousand
49 two for an eligible school construction project as defined in paragraph
50 b of this subdivision, and the district's applicable building aid ratio
51 as defined pursuant to paragraph c of subdivision six of this section.
52 Approved expenditures for capital outlays for eligible school
53 construction projects that are eligible for an apportionment pursuant to
54 this subdivision shall not be eligible for aid pursuant to subdivision
55 six of this section.

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

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

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

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

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