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

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:

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 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 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.

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

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

4. 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.

5. 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.

6. 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 OF EDUCATION, IN CONJUNCTION WITH THE COMMISSIONER, SHALL PUBLISH A REPORT BIENNIALLY 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, 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 FILTERING OF POTABLE WATER SYSTEMS FOR LEAD CONTAMINATION. 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, OTHERWISE INELIGIBLE FOR BUILDING AID, IN THE BASE YEAR FOR THE TESTING OF POTABLE WATER SYSTEMS REQUIRED PURSUANT TO SECTION ELEVEN HUNDRED TEN OF THE PUBLIC HEALTH LAW AND FOR THE INSTALLATION OF FILTERS AND/OR OTHER EFFECTIVE REMEDIAL MEASURES FOR IMMEDIATE REMEDIATION IN CASES WHERE A FINDING OF LEAD CONTAMINATION IS MADE PURSUANT TO SUCH SECTION AND VERIFIED BY CONFIRMATORY SAMPLING, PROVIDED THAT THE COST OF INSTALLATION OF SUCH FILTERS AND/OR OTHER EFFECTIVE REMEDIAL MEASURES SHALL BE DEEMED AN APPROVED EXPENDITURE ONLY IF (I) SUCH INSTALLATION AND/OR OTHER EFFECTIVE REMEDIAL MEASURES HAVE BEEN APPROVED OR REVIEWED BY A PROFESSIONAL WITH EXPERTISE IN THE FIELD OF WATER QUALITY AND REMEDIATION AND (II) SUCH COST IS INCURRED PRIOR TO JULY FIRST, TWO THOUSAND NINETEEN. 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.

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

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

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

S 5. 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 OF OCCUPIED SCHOOL BUILDINGS UNDER THE BOARD'S JURISDICTION AS 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 6. This act shall take effect on the ninetieth 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.