STATE OF NEW YORK

4462

2019-2020 Regular Sessions

IN SENATE

March 12, 2019

Introduced by Sen. MAYER -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law, in relation to building condition surveys; and to repeal sections 409-d and 409-e of such law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph c of subdivision 4 of section 3641 of the education law, as amended by section 48 of part C of chapter 58 of the laws of 1998, is amended to read as follows:

c. Powers and duties of the commissioner. (1) The commissioner shall develop a building condition survey matrix which would be used to assist public school districts to develop long range facilities plans in a consistent format.

(2) The commissioner is hereby authorized to enter into the necessary contractual agreements with architects and/or engineers to state-wide contracts to provide building construction surveys on a regional basis for a fixed fee per square foot. Such building condition surveys shall be used to assist school districts with the development of their five-year capital facilities plan.

(3) Commencing with the two thousand nineteen--two thousand twenty school year, the commissioner shall require school districts to conduct building condition surveys pursuant to this paragraph in accordance with a staggered schedule as assigned by the commissioner and every five years thereafter. In assigning school districts to a scheduled year, the commissioner shall ensure that no region of the state is over represented in a given scheduled year. The commissioner shall assign school districts to conduct building condition surveys in the following manner:

(i) Schedule A: One-fifth of all school districts, as assigned by the commissioner, shall conduct a building condition survey in the two thousand nineteen--two thousand twenty school year. The remaining school

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

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districts shall conduct a visual inspection as required by sections four hundred nine-d and four hundred nine-e of this chapter in the two thousand nineteen--two thousand twenty school year;

(ii) Schedule B: One-fifth of all school districts, as assigned by the commissioner and excluding those school districts that shall conduct their building condition survey pursuant to schedule A pursuant to item (i) of this subparagraph, shall conduct a building condition survey in the two thousand twenty--two thousand twenty-one school year. The remaining school districts, other than those assigned to schedule A pursuant to item (i) of this subparagraph, shall conduct a visual inspection as required pursuant to sections four hundred nine-d and four hundred nine-e of this chapter in the two thousand twenty--two thousand twenty-one school year;

(iii) Schedule C: One-fifth of all school districts, as assigned by the commissioner and excluding those school districts that shall conduct their building condition survey pursuant to schedule A or schedule B pursuant to items (i) and (ii) of this subparagraph, shall conduct a building condition survey in the two thousand twenty-one--two thousand twenty-two school year. The remaining school districts, other than those assigned to schedule A and schedule B pursuant to items (i) and (ii) of this subparagraph , shall conduct a visual inspection as required pursuant to sections four hundred nine-d and four hundred nine-e of this chapter in the two thousand twenty-one--two thousand twenty-two school year;

(iv) Schedule D: One-fifth of all school districts, as assigned by the commissioner and excluding those school districts that shall conduct their building condition survey pursuant to schedule A, schedule B, or schedule C pursuant to items (i), (ii), and (iii) of this subparagraph, shall conduct a building condition survey in the two thousand twenty-two--two thousand twenty-three school year. The remaining school districts, other than those assigned to schedule A, schedule B, or schedule C pursuant to items (i), (ii), and (iii) of this subparagraph, shall conduct a visual inspection as required pursuant to sections four hundred nine-d and four hundred nine-e of this chapter in the two thousand twenty-two--two thousand twenty-three school year;

(v) Schedule E: One-fifth of all school districts, as assigned by the commissioner and excluding those school districts that shall conduct their building condition survey pursuant to schedule A, schedule B, schedule C, or schedule D pursuant to items (i), (ii), (iii), and (iv) of this subparagraph, shall conduct a building condition survey in the two thousand twenty-three--two thousand twenty-four school year.

§ 2. Subdivision 6-e of section 3602 of the education law, as amended by chapter 296 of the laws of 2016, 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.

§ 3. Subdivision 6-h of section 3602 of the education law, as added by chapter 296 of the laws of 2016, is amended 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. **Commencing with the two thousand nineteen--two thousand twenty school year and every year thereafter, additional building aid pursuant to this subdivision shall include approved expenses for testing of potable water systems for lead contamination pursuant to section eleven hundred ten of the public health law.**

§ 4. Section 3602 of the education law is amended by adding a new subdivision 6-i to read as follows:

6-i. Building aid for periodic inspections of public 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 periodic inspections of public school buildings that are conducted pursuant to sections four hundred nine-d and section four hundred nine-e of this chapter which are otherwise ineligible for building aid, provided that any such inspections shall be completed prior to June thirtieth, two thousand twenty-three.

§ 5. Paragraph (a) of subdivision 2 of section 409-e of the education law, as added by section 1 of part B of chapter 56 of the laws of 1998, is amended to read as follows:

(a) [~~Every public school building shall be inspected annually in accordance with the code, provided however, the~~] **The** commissioner may require [~~more frequent~~] **periodic** inspections **of public school buildings**

as deemed necessary to maintain the safety of school buildings and the welfare of their occupants.

§ 6. Subdivision 1 of section 409-d of the education law, as amended by chapter 437 of the laws of 2014, is amended to read as follows:

1. Program establishment. The commissioner is authorized and directed to establish, develop and monitor a comprehensive public school building safety program which shall include a uniform inspection, safety rating and monitoring system. [~~Such~~] **Under such program, the commissioner may require periodic inspections of public school buildings as deemed necessary to maintain the safety of school buildings and the welfare of the occupants, and such** program shall establish a safety rating system for such school buildings to assess the need for maintenance, repairs, rehabilitation, reconstruction, construction and other improvements related to the structural integrity and overall safety of public school buildings including but not limited to building systems related to electrical, plumbing, heating, ventilation, and air conditioning, sanitation and health, fire and accident protection; and require that such ratings be used for the purpose of developing a buildings condition survey as required pursuant to subdivision four of section thirty-six hundred forty-one of this chapter and a five year facilities plan as required pursuant to clause (i) of subparagraph two of paragraph b of subdivision six of section thirty-six hundred two of this chapter.

§ 7. Section 409-d of the education law is REPEALED.

§ 8. Section 409-e of the education law is REPEALED.

§ 9. This act shall take effect immediately; provided, however, that sections five and six of this act shall take effect July 1, 2019; provided, further, that sections seven and eight of this act shall take effect July 1, 2023; provided, further, that the amendments to subdivision 1 of section 409-d of the education law made by section six of this act shall not affect the expiration of such subdivision and shall be deemed expired therewith. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.