AN ACT to amend the labor law, in relation to requiring public employers to adopt a plan for operations in the event of a declared public health emergency involving a communicable disease; and to amend the education law, in relation to certain protocols for responding to a declared public health emergency involving a communicable disease

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

Section 1. The labor law is amended by adding a new section 27-c to read as follows:

§ 27-c. Duty of public employers to develop operation plans in the event of certain declared public health emergencies. 1. Definitions. For the purposes of this section:

a. "Personal protective equipment" shall mean all equipment worn to minimize exposure to hazards, including gloves, masks, face shields, foot and eye protection, protective hearing devices, respirators, hard hats, and disposable gowns and aprons.

b. "Public employer" or "employer" shall mean the state of New York, a county, city, town, village or any other political subdivision or civil division of the state, a public authority, commission or public benefit corporation, or any other public corporation, agency, instrumentality or unit of government which exercises governmental power under the laws of this state, provided, however, that this subdivision shall not include any employer as defined in section twenty-eight hundred one-a of the education law.

c. "Contractor" shall mean an individual performing services as party to a contract awarded by the state of New York or any other public employer defined in paragraph b of this subdivision.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [−] is old law to be omitted.
d. "Essential" shall refer to a designation made that a public employee or contractor is required to be physically present at a work site to perform his or her job.

e. "Non-essential" shall refer to a designation made that a public employee or contractor is not required to be physically present at a work site to perform his or her job.

f. "Communicable disease" shall mean an illness caused by an infectious agent or its toxins that occurs through the direct or indirect transmission of the infectious agent or its products from an infected individual or via an animal, vector or the inanimate environment to a susceptible animal or human host.

g. "Retaliatory action" shall mean the discharge, suspension, demotion, penalization, or discrimination against any employee, or other adverse employment action taken against an employee in the terms and conditions of employment.

2. Each public employer in the state of New York shall prepare a plan for the continuation of operations in the event that the governor declares a public health emergency involving a communicable disease. Such plans shall follow the provisions for review and publication as prescribed in subdivision four of this section.

3. The operations plan required by this section shall include, but not be limited to:

a. A list and description of positions and titles considered essential in the event of a state-ordered reduction of in-person workforce, and a justification of such consideration for each position and title included.

b. A specific description of protocols the employer will follow in order to enable all non-essential employees and contractors to telecommute including, but not limited to, facilitating or requesting the procurement, distribution, downloading and installation of any needed devices or technology, including software, data, office laptops or cell phones, and the transferring of office phone lines to work or personal cell phones as practicable or applicable to the workplace.

c. A description of how the employer will, to the extent possible, stagger work shifts of essential employees and contractors in order to reduce overcrowding on public transportation systems and at worksites.

d. A description of the protocol the employer will implement in order to procure the appropriate personal protective equipment for essential employees and contractors, based upon the various tasks and needs of such employees and contractors in a quantity sufficient to provide at least two pieces of each type of personal protective equipment to each essential employee and contractor during any given work shift over at least six months. Such description shall also include a plan for storage of such equipment to prevent degradation and permit immediate access in the event of an emergency declaration.

e. A description of the protocol in the event an employee or contractor is exposed to a known case of the communicable disease that is the subject of the public health emergency, exhibits symptoms of such disease, or tests positive for such disease in order to prevent the spread or contraction of such disease in the workplace. Such protocol shall also detail actions to be taken to immediately and thoroughly disinfect the work area of any employee or contractor known or suspected to be infected with the communicable disease as well as any common area surface and shared equipment such employee or contractor may have touched, and the employer policy on available leave in the event of the need of an employee to receive testing, treatment, isolation, or quaran-
tine. Such protocol shall not involve any action that would violate any
existing federal, state, or local law, including regarding sick leave or
health information privacy.

f. A protocol for documenting precise hours and work locations,
including off-site visits, for essential employees and contractors. Such
protocol shall be designed only to aid in tracking of the disease and to
identify the population of exposed employees and contractors in order to
facilitate the provision of any benefits which may be available to
certain employees and contractors on that basis.

g. A protocol for how the public employer will work with such employ-
er's locality to identify sites for emergency housing for essential
employees in order to further contain the spread of the communicable
disease that is the subject of the declared emergency, to the extent
applicable to the needs of the workplace.

4. Once drafted, each public employer shall present the plan described
in this section to all applicable duly recognized or certified represen-
tatives of the employer's employees, who shall then be granted an oppor-
tunity to review the plan and make recommendations, if any, provided
that nothing shall preclude such representatives from making such recom-
mendations prior to the draft being completed. The employer must consid-
er and respond to such recommendations in writing within a reasonable
timeframe. A copy of the final version of such plan shall then be
published in a clear and conspicuous location, and in the employee hand-
book, to the extent that the employer provides such handbook to its
employees, and in a location accessible on either the employer's website
or on the internet accessible by employees. No employer shall take
retaliatory action or otherwise discriminate against any employee for
making suggestions or recommendations regarding the content of the plan.

5. The department shall establish procedures to allow for public
employees or contract workers to contact and inform the department of
any alleged or believed violations of any of the provisions described in
this section.

6. Nothing in this section shall be deemed to impede, infringe, dimin-
ish or impair the rights of a public employee or employer under any law,
rule, regulation or collectively negotiated agreement, or the rights and
benefits which accrue to employees through collective bargaining agree-
ments, or otherwise diminish the integrity of the existing collective
bargaining relationship.

§ 2. Section 27-a of the labor law is amended by adding a new subdivi-
sion 6-a to read as follows:

6-a. Form of complaints. The department shall establish a dedicated
webpage and hotline through which any public employee under the juris-
diction of this section or contractor as defined by the chapter which
added this subdivision may report alleged or believed violations of any
state law, regulation, rule or guidance related to occupational health
and safety involving a communicable disease, including but not limited
to the novel coronavirus COVID-19. Such webpage and hotline shall allow
individuals to report alleged or believed violations anonymously.

§ 3. Paragraphs k and l of subdivision 2 of section 2801-a of the
education law, as amended by section 1 of part B of chapter 56 of the
laws of 2016, are amended to read as follows:

k. a description of the duties of hall monitors and any other school
safety personnel, the training required of all personnel acting in a
school security capacity, and the hiring and screening process for all
personnel acting in a school security capacity; [and]
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1. the designation of the superintendent, or superintendent's designee, as the district chief emergency officer responsible for coordinating communication between school staff and law enforcement and first responders, and ensuring staff understanding of the district-level safety plan. The chief emergency officer shall also be responsible for ensuring the completion and yearly updating of building-level emergency response plans; or

m. protocols for responding to a declared public health emergency involving a communicable disease that are substantially consistent with the provisions of section twenty-seven-c of the labor law.

§ 4. This act shall take effect immediately; provided, however that the operation plans in the event of certain declared public health emergencies established pursuant to section 27-c of the labor law shall be finalized and published, the hotline and webpage established pursuant to section 27-a of the labor law shall be functional, and the protocols for responding to a declared public health emergency involving a communicable disease pursuant to paragraph m of subdivision 2 of section 2801-a of the education law shall be established and functional within 30 days of the effective date of this act.