

# STATE OF NEW YORK

8833

## IN ASSEMBLY

January 13, 2022

Introduced by M. of A. GOTTFRIED -- read once and referred to the Committee on Health

AN ACT to amend the public health law and the education law, in relation to expenses for potable water testing

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

1 Section 1. Section 1110 of the public health law, as amended by a  
2 chapter of the laws of 2021 amending the public health law relating to  
3 school potable water testing, as proposed in legislative bills numbers  
4 S. 2122-A and A. 160-B, is amended to read as follows:

5 § 1110. School potable water testing and standards. 1. In addition to  
6 school districts already classified as a public water system under parts  
7 141 and 142 of title 40 of the code of federal regulations, as such  
8 regulations may, from time to time, be amended, every school district  
9 and board of cooperative educational services shall conduct triennial  
10 first-drawn tap testing of potable water systems to monitor for lead  
11 contamination in each occupied school building under its jurisdiction as  
12 required by regulations promulgated pursuant to this section. The test-  
13 ing shall be conducted and the results analyzed by an entity or entities  
14 approved by the commissioner.

15 2. Where a finding of lead contamination is made, the affected school  
16 district shall: (a) continue first-drawn tap water testing pursuant to  
17 regulations promulgated pursuant to this section; (b) provide school  
18 occupants with an adequate supply of safe, free to the school occupants,  
19 potable water for drinking as required by rules and regulations of the  
20 department until future tests indicate lead levels pursuant to regu-  
21 lations promulgated pursuant to this section; and (c) provide parents or  
22 persons in parental relation to a child attending said school with writ-  
23 ten notification of test results.

24 3. The commissioner, in consultation with the commissioner of educa-  
25 tion, shall promulgate regulations to carry out the provisions of this  
26 section. Notwithstanding any other provision of law to the contrary, the  
27 regulations promulgated with regard to lead levels shall be consistent  
28 with the requirements for those school districts classified as a public

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

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1 water system under parts 141 and 142 of title 40 of the code of federal  
2 regulations as such regulations may, from time to time, be amended;  
3 provided, however, that the lead action level is exceeded if the concen-  
4 tration of lead is greater than 0.005 milligrams per liter.

5 4. The commissioner may grant a waiver from the testing requirements  
6 of this section for certain school buildings, provided that the school  
7 district has substantially complied with the testing requirements and  
8 has been found to be below lead levels as determined by regulations  
9 promulgated pursuant to this section, as amended, for such buildings.

10 5. Each school district and board of cooperative educational services  
11 conducting testing pursuant to subdivision one of this section and each  
12 school district classified as a public water system under parts 141 and  
13 142 of title 40 of the code of federal regulations, as such regulations  
14 may, from time to time, be amended, shall make a copy of the results of  
15 all such testing, including laboratory reports, and any lead remediation  
16 plans available to the public on its website and any additional means as  
17 chosen by such district. A copy of the results of all testing shall also  
18 be immediately transmitted to the department and state education depart-  
19 ment in a format to be determined by the commissioner and to the county  
20 department of health in the local jurisdiction of the school building.  
21 The commissioner of education, in conjunction with the commissioner,  
22 shall publish a report triennially based on the findings from the tap  
23 water testing conducted according to the provisions of this section.  
24 Such report shall be sent to the commissioner, the governor, the tempo-  
25 rary president of the senate, and the speaker of the assembly and shall  
26 be made available on the department's and state education department's  
27 websites.

28 [~~5.~~] 6. Expenses for remediation under this section and any regu-  
29 lations promulgated thereto shall be fully reimbursable from funds  
30 appropriated through the department of environmental conservation for  
31 clean water infrastructure projects.

32 § 2. Paragraph b of subdivision 5 of section 1950 of the education  
33 law, as amended by chapter 296 of the laws of 2016, is amended to read  
34 as follows:

35 b. The cost of services herein referred to shall be the amount allo-  
36 cated to each component school district by the board of cooperative  
37 educational services to defray expenses of such board, including  
38 approved expenses from the testing of potable water systems of occupied  
39 school buildings under the board's jurisdiction as required pursuant to  
40 section eleven hundred ten of the public health law provided that such  
41 expenses for testing of potable water systems are not reimbursable from  
42 another state or federal source, except that that part of the salary  
43 paid any teacher, supervisor or other employee of the board of cooper-  
44 ative educational services which is in excess of thirty thousand dollars  
45 shall not be such an approved expense, and except also that administra-  
46 tive and clerical expenses shall not exceed ten percent of the total  
47 expenses for purposes of this computation. Any gifts, donations or  
48 interest earned by the board of cooperative educational services or on  
49 behalf of the board of cooperative educational services by the dormitory  
50 authority or any other source shall not be deducted in determining the  
51 cost of services allocated to each component school district. Any  
52 payments made to a component school district by the board of cooperative  
53 educational services pursuant to subdivision eleven of section six-p of  
54 the general municipal law attributable to an approved cost of service  
55 computed pursuant to this subdivision shall be deducted from the cost of  
56 services allocated to such component school district. The expense of

1 transportation provided by the board of cooperative educational services  
2 pursuant to paragraph q of subdivision four of this section shall be  
3 eligible for aid apportioned pursuant to subdivision seven of section  
4 thirty-six hundred two of this chapter and no board of cooperative  
5 educational services transportation expense shall be an approved cost of  
6 services for the computation of aid under this subdivision. Transporta-  
7 tion expense pursuant to paragraph q of subdivision four of this section  
8 shall be included in the computation of the ten percent limitation on  
9 administrative and clerical expenses.

10 § 3. Subparagraph 1 of paragraph b of subdivision 6 of section 3602 of  
11 the education law, as amended by section 12 of part C of chapter 57 of  
12 the laws of 2004, is amended to read as follows:

13 (1) The apportionment for school building purposes to any district  
14 shall be determined by adding the amount of its current year approved  
15 expenditures for lease or other annual payments under the provisions of  
16 section four hundred three-b, subdivision eight of section twenty-five  
17 hundred three, or subdivision six of section twenty-five hundred fifty-  
18 four of this chapter, other than payments under a lease-purchase agree-  
19 ment or an equivalent agreement, plus the amount of its current year  
20 approved expenditures under an assumed amortization for capital outlays  
21 for school building purposes from its general fund, capital fund or from  
22 a reserve fund to the amount of its current year approved expenditures  
23 for debt service for such purposes and multiplying the sum by its aid  
24 ratio. Expenditures made for computer equipment, including original  
25 purchase and installation of hardware, conduit, wiring, and powering of  
26 hardware installations in computer classrooms, or for building or  
27 campuswide local area network systems and in-building elements of other  
28 wide area networks, including the original purchase and installation of  
29 conduit, wiring, and powering of hardware installations, may be included  
30 in approved expenditures for building aid pursuant to this paragraph on  
31 the approval of the commissioner regardless of any minimum cost require-  
32 ment that may be applied to other approved expenditures pursuant to this  
33 section. Such equipment expenses claimed for aid under this subdivision  
34 shall not be claimed for aid under any other provisions of this chapter.  
35 Provided further that any lead remediation expense required pursuant to  
36 section eleven hundred ten of the public health law, where such expense  
37 is reimbursable from another state or federal source, shall not be an  
38 approved expenditure for purposes of this subdivision.

39 § 4. Subdivision 6-h of section 3602 of the education law, as amended  
40 by section 52-d of part YYY of chapter 59 of the laws of 2019, is  
41 amended to read as follows:

42 6-h. Building aid for testing and filtering of potable water systems  
43 for lead contamination. In addition to the apportionments payable to a  
44 school district pursuant to subdivision six of this section, the commis-  
45 sioner is hereby authorized to apportion to any school district addi-  
46 tional building aid pursuant to this subdivision for its approved  
47 expenditures, otherwise ineligible for building aid, in the base year  
48 for the testing of potable water systems required pursuant to section  
49 eleven hundred ten of the public health law ~~[and]~~, provided that such  
50 expenses for testing of potable water systems are not reimbursable from  
51 another state or federal source. The commissioner is also authorized to  
52 apportion to any school district additional building aid pursuant to  
53 this subdivision for its approved expenditures, otherwise ineligible for  
54 building aid, in the base year for the installation of filters and/or  
55 other effective remedial measures for immediate remediation in cases  
56 where a finding of lead contamination is made pursuant to such section

1 and verified by confirmatory sampling, provided that the cost of instal-  
2 lation of such filters and/or other effective remedial measures shall be  
3 deemed an approved expenditure only if (i) such installation and/or  
4 other effective remedial measures have been approved or reviewed by a  
5 professional with expertise in the field of water quality and remedi-  
6 ation and (ii) such cost is incurred prior to July first, two thousand  
7 nineteen. Such aid shall equal the product of the building aid ratio  
8 defined pursuant to paragraph c of subdivision six of this section and  
9 the actual approved expenditures incurred in the base year pursuant to  
10 this subdivision. Commencing in the two thousand nineteen--two thousand  
11 twenty school year and every year thereafter, additional building aid  
12 pursuant to this subdivision shall include approved expenses for testing  
13 of potable water systems for lead contamination pursuant to section  
14 eleven hundred ten of the public health law, provided that such expenses  
15 for testing of potable water systems are not reimbursable from another  
16 state or federal source.

17 § 5. This act shall take effect immediately; provided, however that  
18 section one of this act shall take effect on the same date and in the  
19 same manner as a chapter of the laws of 2021 amending the public health  
20 law relating to school potable water testing, as proposed in legislative  
21 bills numbers S. 2122-A and A. 160-B, takes effect.