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:

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

§ 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 triennial 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, free to the school occupants, 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.

3. 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

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

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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; provided, however, that the lead action level is exceeded if the concentration of lead is greater than 0.005 milligrams per liter.

4. **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, as amended, for such buildings.**

5. 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, including laboratory reports, 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 triennially 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.

[~~5.~~] **6.** Expenses for remediation under this section and any regulations promulgated thereto shall be fully reimbursable from funds appropriated through the department of environmental conservation for clean water infrastructure projects.

§ 2. Paragraph b of subdivision 5 of section 1950 of the education law, as amended by chapter 296 of the laws of 2016, 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 **provided that such expenses for testing of potable water systems are not reimbursable from another state or federal source**, 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.

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

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

§ 4. Subdivision 6-h of section 3602 of the education law, as amended by section 52-d of part YYY of chapter 59 of the laws of 2019, 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~~]**, provided that such expenses for testing of potable water systems are not reimbursable from another state or federal source. The commissioner is also 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 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 in 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**, provided that such expenses for testing of potable water systems are not reimbursable from another state or federal source**.

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