STATE OF NEW YORK

8998--B

IN ASSEMBLY

February 1, 2024

Introduced by M. of A. TAPIA, STIRPE, HEVESI, EPSTEIN, RAGA, MAHER, BURGOS, SEPTIMO -- read once and referred to the Committee on Transportation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to enacting the "schools impacted by gross highways (SIGH) act"

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

Section 1. This act shall be known and may be cited as the "schools impacted by gross highways (SIGH) act".

§ 2. Section 408 of the education law is amended by adding a new subdivision 3-a to read as follows:

3-a. (a) The commissioner shall not approve the plans for the erection of any new schoolhouse within five hundred feet of a controlled-access highway as defined in this subdivision unless the commissioner determines that (i) space is so limited that there is no other appropriate site to erect such schoolhouse; (ii) plans for such schoolhouse include adequate engineering controls to address air quality; and (iii) the school district has demonstrated that other potential sites would pose equal or greater hazards to health and safety.

(b) For purposes of this subdivision, the construction of a new schoolhouse upon the site of an existing schoolhouse, or the construction of an addition or annex constructed to serve an existing schoolhouse, shall not be considered erection of a new schoolhouse.

(c) For purposes of this subdivision, a "controlled-access highway" shall mean: (i) a controlled-access highway as defined by section one hundred nine of the vehicle and traffic law under the jurisdiction of the commissioner of transportation which has been functionally classified by the department of transportation as principal arterial - interstate or principal arterial - other freeway/expressway on official functional classification maps approved by the federal highway administration pursuant to part 470.105 of title 23 of the code of

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

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federal regulations, as amended from time to time; and (ii) a divided highway under the jurisdiction of the New York state thruway authority for mixed traffic with access limited as the authority may determine and generally with grade separations at intersections.

(d) Nothing in this subdivision shall be construed to create a private right of action to enforce the terms of this subdivision.

§ 3. Section 2556 of the education law is amended by adding a new subdivision 5-a to read as follows:

5-a. (a) Notwithstanding subdivision three-a of section four hundred eight of this chapter, it shall be unlawful for a new schoolhouse to be constructed in the city of New York within five hundred feet of a controlled-access highway unless (i) the president of the New York city school construction authority determines that there is no other appropriate site to erect such schoolhouse; (ii) if such schoolhouse is planned to contain a secondary school, the community district, as such term is defined in section twenty-five hundred ninety-a of this title, in which the site of such schoolhouse is to be located has a projected enrollment rate for secondary school education greater than seventy percent of its capacity, based on the most recent report issued pursuant to section 21-988 of the administrative code of the city of New York; (iii) if such schoolhouse is planned to contain an elementary school or a middle school, the subdistrict, as such term is defined in section 21-989 of the administrative code of the city of New York, in which the site of such schoolhouse is to be located has a projected enrollment rate for elementary school education or middle school education, as applicable, greater than seventy percent of capacity, based on the most recent report issued pursuant to section 21-988 of the administrative code of the city of New York; (iv) the site of such schoolhouse is located on a property a portion of which is used or is planned to be used for residential or commercial purposes; or (v) plans for such schoolhouse include adequate engineering controls to address air quality, based on regulations promulgated by the New York city department of environmental protection.

(b) For purposes of this subdivision, neither the construction of a new schoolhouse upon the site of an existing schoolhouse nor an addition nor an annex constructed to serve an existing schoolhouse shall be considered construction of a new schoolhouse.

(c) For purposes of this subdivision, a "controlled-access highway" shall mean: (i) a controlled-access highway as defined by section one hundred nine of the vehicle and traffic law under the jurisdiction of the commissioner of transportation which has been functionally classified by the department of transportation as principal arterial - interstate or principal arterial - other freeway/expressway on official functional classification maps approved by the federal highway administration pursuant to part 470.105 of title 23 of the code of federal regulations, as amended from time to time; and (ii) a divided highway under the jurisdiction of the New York state thruway authority for mixed traffic with access limited as the authority may determine and generally with grade separations at intersections.

(d) Nothing in this subdivision shall be construed to create a private right of action to enforce the terms of this subdivision.

§ 4. This act shall take effect on the first of July next succeeding the date upon which it shall have become a law; provided, however, that sections two and three of this act shall take effect five years after it shall have become a law; and provided, further, that school districts which have a new schoolhouse construction project with advertisements

for bids or requests for proposals issued prior to such effective date, or which have acquired real property to construct a new schoolhouse as approved by the board of education or trustees of a school district, or which have had a building permit issued by the state education department shall be exempt from the provisions of this act with respect to construction on such a project; and provided further that in a city school district in a city having a million inhabitants or more, a new schoolhouse construction project for which an advertisement for bids or requests for proposals for the planning, design or construction of such project was issued prior to such effective date or for which a site was selected pursuant to section 1732 of the public authorities law prior to such effective date shall be exempt from the provisions of this act.