

STATE OF NEW YORK

3394

2023-2024 Regular Sessions

IN ASSEMBLY

February 3, 2023

Introduced by M. of A. PRETLOW -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to apportionment for capital outlays and debt service for school building purposes to certain high need school districts

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

1 Section 1. Subparagraphs 1 and 3 of paragraph a of subdivision 6 of
2 section 3602 of the education law, as amended by section 5 of part A of
3 chapter 60 of the laws of 2000, are amended to read as follows:

4 (1) For new construction and the purchase of existing structures, the
5 cost allowances shall be based upon the rated capacity of the building
6 or addition and a basic per pupil allowance of up to six thousand three
7 hundred seventy-five dollars adjusted monthly by a statewide index
8 reflecting changes in the cost of labor and materials since July first,
9 nineteen hundred ninety-two, established by the commissioner of labor,
10 modified by an annual county or multi-county labor market composite wage
11 rate, established by the commissioner of labor in consultation with the
12 commissioner, for July first of the base year, commencing July first,
13 nineteen hundred ninety-seven for general construction contracts awarded
14 on or after July first, nineteen hundred ninety-eight, indexed to the
15 median of such county or multi-county rates, but not less than one. For
16 aid payable in school year two thousand twenty-three--twenty-four and
17 thereafter, for school districts located in counties with a population
18 of more than nine hundred forty thousand and less than one million
19 inhabitants according to the two thousand ten federal census and are
20 eligible for aid pursuant to clause (c) of subparagraph two of paragraph
21 c of this subdivision, such aid shall be adjusted by the annual county
22 labor market composite wage rate of the city school district of such
23 city having a population of one million or more inhabitants. Such base
24 allowance shall apply to a building or an addition housing grades prek-

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

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1 indergarten through six and shall be adjusted for a building or an addi-
2 tion housing grades seven through nine by a factor of one and four-
3 tenths, for a building or an addition housing grades seven through
4 twelve by a factor of one and five-tenths, for a building or addition
5 housing special education programs by a factor of two, except that where
6 such building or addition is connected to, or such space is located
7 within, a public school facility housing programs for nondisabled
8 pupils, as approved by the commissioner, a factor of three shall be
9 used. Rated capacity of a building or an addition shall be determined by
10 the commissioner based on space standards and other requirements for
11 building construction specified by the commissioner. Such assigned
12 capacity ratings shall include, in addition to those spaces used for the
13 instruction of pupils, those spaces which are used for elementary and
14 secondary school libraries, cafeterias, prekindergarten instructional
15 rooms, teachers' conference rooms, gymnasiums and auditoriums. For new
16 construction projects approved on or after July first, two thousand, by
17 the voters of the school district or by the board of education of a city
18 school district in a city with more than one hundred twenty-five thou-
19 sand inhabitants, and/or the chancellor in a city school district in a
20 city having a population of one million or more, such rated capacity for
21 new buildings and additions constructed to replace existing buildings
22 that, in the judgment of the commissioner, have not been adequately
23 maintained and have not reached their projected useful life shall be
24 reduced by the commissioner by an amount proportional to the remaining
25 unused portion of the useful life of the existing buildings, provided
26 however that the commissioner may waive such requirement upon a finding
27 that replacement of the existing building is necessary to protect the
28 health and safety of students or staff, that reconstruction and modern-
29 ization of the existing building would not adequately address such
30 health and safety problems, and that the need to replace the building
31 was not caused by failure to adequately maintain the building. If the
32 commissioner of labor resets the statewide index reflecting changes in
33 the costs of labor and materials since July first, nineteen hundred
34 ninety-two, the commissioner shall adopt regulations to supersede the
35 basic per pupil allowance of up to six thousand three hundred seventy-
36 five dollars to the imputed allowance in effect at that time.

37 (3) Cost allowances for reconstructing or modernizing structures shall
38 not exceed one hundred per centum of the cost allowances for the equiv-
39 alent new construction over the projected useful life of the building,
40 to be determined in accordance with the regulations of the commissioner.
41 Reconstruction projects shall reasonably meet the criteria established
42 for new construction, including but not limited to energy, fire,
43 personal safety and space per pupil standards. For aid payable in school
44 year two thousand twenty-three--twenty-four and thereafter, for school
45 districts located in counties with a population of more than nine
46 hundred forty thousand and less than one million inhabitants according
47 to the two thousand ten federal census and are eligible for aid pursuant
48 to clause (c) of subparagraph two of paragraph c of this subdivision,
49 such aid shall be adjusted by the annual county labor market composite
50 wage rate of the city school district of such city having a population
51 of one million or more inhabitants.

52 § 2. This act shall take effect immediately.