

STATE OF NEW YORK

5435

2005-2006 Regular Sessions

IN SENATE

May 20, 2005

Introduced by Sens. SALAND, ALESI -- (at request of the Governor) --
read twice and ordered printed, and when printed to be committed to
the Committee on Education

AN ACT to amend the education law and the state finance law, in relation
to the procurement and use of environmentally sensitive cleaning and
maintenance products in schools

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

1 Section 1. Legislative intent. Even more so than adults, children are
2 vulnerable to, and may be severely affected by, exposure to chemicals,
3 hazardous wastes and other environmental hazards. The Federal Environ-
4 mental Protection Agency estimates that human exposure to air pollutants
5 indoors can be two to five times, and occasionally up to 100 times,
6 higher than outdoor levels. Children, their teachers, and other school
7 staff members spend a significant part of their lives in school build-
8 ings, and are exposed to chemicals from cleaners, waxes, deodorizers and
9 other maintenance products. Health threats may be caused by the presence
10 of such chemicals, potentially resulting in increased costs to individ-
11 ual schools, school districts and the state in terms of staff time and
12 effort, cleanup costs, school closings and student absenteeism.
13 Discharges of chemicals from cleaning and maintenance products also
14 burden publicly-owned wastewater treatment works, and also end up in our

15 lakes and streams. Cleaning and maintenance products that are the same
16 in form, function and utility as products currently used in schools, but
17 that have eliminated or lowered concentrations of potentially harmful
18 chemicals, are increasingly being developed and are available in the
19 marketplace. Therefore, the legislature finds that school districts and
20 public and private elementary and secondary schools should be informed
21 of and should purchase environmentally-sensitive cleaning and mainte-
22 nance products. It is the purpose of this legislation to reduce as much
23 as possible exposure of children and school staff to potentially-harmful

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

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1 chemicals and substances used in the cleaning and maintenance of
2 schools.

3 § 2. The education law is amended by adding a new section 409-i to
4 read as follows:

5 § 409-i. Procurement and use of environmentally-sensitive cleaning and
6 maintenance products. 1. For the purpose of this section the following
7 terms shall mean:

8 (a) "Elementary or secondary school" means a facility used for
9 instruction of elementary or secondary students by: (i) any school
10 district, including a special act school district and a city school
11 district in a city having a population of one hundred twenty-five thou-
12 sand inhabitants or more, (ii) a board of cooperative educational
13 services, (iii) a charter school, (iv) an approved private school for
14 the education of students with disabilities, (v) a state-supported
15 school for the deaf or blind operated pursuant to article eighty-five of
16 this chapter, and (vi) any other private or parochial elementary or
17 secondary school.

18 (b) "Environmentally-sensitive cleaning and maintenance products"
19 means those cleaning and maintenance products that minimize adverse
20 impacts on children's health and the environment.

21 (c) "Facility" means any school building or facility used for instruc-
22 tional purposes and the surrounding grounds or other sites used for
23 playgrounds, athletics or other instructional purposes.

24 2. The commissioner of general services, in consultation with the
25 commissioner and the commissioners of environmental conservation, health
26 and labor, shall establish and from time to time amend guidelines and
27 specifications for environmentally-sensitive cleaning and maintenance
28 products for use in elementary and secondary school facilities. For the
29 purpose of developing appropriate criteria for such guidelines and spec-
30 ifications, such commissioners shall review and evaluate existing
31 research regarding environmentally-sensitive cleaning and maintenance
32 products, including but not limited to, research and guidance issued by
33 the United States environmental protection agency and the office of the
34 federal environmental executive. In developing such guidelines, the
35 commissioner of general services shall provide public notice and an
36 opportunity to comment. Such guidelines shall be followed by elementary
37 and secondary schools to identify and procure environmentally-sensitive
38 cleaning and maintenance products which are available in the form, func-
39 tion and utility generally used by elementary and secondary schools in
40 their facilities.

41 3. The commissioner of general services shall disseminate to all
42 elementary and secondary schools guidelines and specifications for the
43 purchase and use of environmentally-sensitive cleaning and maintenance
44 products in elementary and secondary schools for use in their facili-
45 ties. The commissioner of general services shall also prepare and

46 disseminate to all elementary and secondary schools a sample list of
47 such environmentally-sensitive cleaning and maintenance products that
48 meet these guidelines or specifications. The commissioner of general
49 services shall provide assistance and guidance to elementary and second-
50 ary schools in carrying out the requirements of this section. Elementa-
51 ry and secondary schools shall follow such guidelines, specifications
52 and sample list when purchasing cleaning and maintenance products for
53 use in their facilities.

54 4. Elementary and secondary schools shall notify their personnel of
55 the availability of such guidelines, specifications and sample list.

1 5. On or before June first, two thousand seven, the department, in
2 consultation with the office of general services, shall issue a report
3 providing an analysis of the impact of such guidelines and specifica-
4 tions on the purchasing, procurement and use of environmentally-sensi-
5 tive cleaning and maintenance products by elementary and secondary
6 schools. Nothing in this section shall preclude an elementary or
7 secondary school from depleting existing cleaning and maintenance supply
8 stores purchased prior to the effective date of this section.

9 § 3. Paragraph b of subdivision 3 of section 163 of the state finance
10 law is amended by adding a new subparagraph (vii) to read as follows:

11 (vii) maintain a list of contractors which produce or manufacture or
12 offer for sale environmentally-sensitive cleaning and maintenance
13 products in the form, function and utility generally used by elementary
14 and secondary schools in accordance with specifications or guidelines
15 promulgated pursuant to section four hundred nine-i of the education
16 law.

17 § 4. The state finance law is amended by adding a new section 163-b to
18 read as follows:

19 § 163-b. Environmentally-sensitive cleaning and maintenance products.
20 The commissioner of general services shall maintain a list of contrac-
21 tors which produce or manufacture or offer for sale environmentally-sen-
22 sitive cleaning and maintenance products in the form, function and util-
23 ity generally used by elementary and secondary schools in accordance
24 with specifications or guidelines promulgated pursuant to section four
25 hundred nine-i of the education law.

26 § 5. This act shall take effect on the first of September next
27 succeeding the date on which it shall have become a law; provided that
28 section four of this act shall take effect upon the repeal of section
29 163 of the state finance law; and provided further that the commis-
30 sioners of education and general services are authorized to promulgate any
31 and all rules and regulations and take any other measures necessary to
32 implement this act on its effective date on or before such date; and
33 provided, further, that the amendment to paragraph b of subdivision 3 of
34 section 163 of the state finance law made by section three of this act
35 shall not affect the repeal of such section and shall be deemed repealed
36 therewith.

SPONSORS MEMO:

**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S5435

SPONSOR: SALAND

TITLE OF BILL: An act to amend the education law and the state finance law, in relation to the procurement and use of environmentally sensitive cleaning and maintenance products in schools

PURPOSE:

To amend the Education Law and the State Finance Law to require elementary and secondary schools to procure and use environmentally-sensitive cleaning and maintenance products in schools, with assistance from, and in accordance with guidelines prescribed by, the Commissioner of the Office of General Services.

SUMMARY OF PROVISIONS:

Section 1 of the bill sets forth the legislative intent.

Section 2 would amend the Education Law to add a new section 409-i requiring that the Commissioner of the Office of General Services (OGS), in consultation with the Commissioners of Education, Health and Labor, to establish guidelines and specifications for cleaning and maintenance products to be used in elementary and secondary schools. The bill would require the OGS Commissioner to provide public notice and an opportunity to comment on the proposed guidelines and specifications. The term "elementary and secondary schools" would be defined as all school districts, including special act school districts, city school districts with a population of 125,000 or more, boards of cooperative educational services (BOCES), charter schools, approved private schools for the education of students with disabilities, state-supported schools for the deaf or blind, and all private and parochial schools. The category "environmentally sensitive cleaning and maintenance products" would be defined as cleaning and maintenance products that minimize adverse impacts on children's health and the environment as determined by the OGS Commissioner. The bill would require elementary and secondary schools to identify and procure environmentally-sensitive cleaning and maintenance products that are available in the form, function and utility generally used by such schools to clean and maintain their facilities. The OGS Commissioner would be required to disseminate the guidelines and specifications, as well as a sample list of cleaning and maintenance products that satisfy the guidelines and specifications, to all elementary and secondary schools. The bill would further require the Education Department, in consultation with the OGS, to issue a report analyzing the impact of the guidelines and specifications on the

procurement and use of environmentally sensitive cleaning and maintenance products by elementary and secondary schools.

Section 3 would amend State Finance Law § 163(3)(b) to add a new subdivision (vii) that would authorize the OGS Commissioner to maintain the sample list of firms that produce or sell environmentally-sensitive cleaning and maintenance products that are in the form, function and utility generally used by elementary and secondary schools.

Section 4 would add a new section 163-b to the State Finance Law that would authorize the OGS Commissioner to maintain the sample list of firms that produce or sell environmentally sensitive cleaning and maintenance products that are in the form, function and utility generally used by elementary and secondary schools. This provision would take effect only upon the expiration of section 163 of the State Finance Law.

Section 5 provides that the bill would take effect on September 1 of the year next succeeding the year of enactment. If passed in the upcoming legislative session, the bill would take effect on September 1, 2006, in time for the 2006-2007 school year. The bill would allow schools to deplete their existing cleaning and maintenance supply stocks this year, and to implement the new requirements in the procurement cycle for the following school year. The Commissioners of Education and OGS would be authorized immediately to promulgate regulations and take measures to implement the bill.

EXISTING LAW:

The Office of General Services (OGS) is authorized to procure commodities for state agencies on a competitive basis. State Finance Law § 163(2), (3), (5)-(12). OGS may also allow local governments, school districts and private schools that have a certificate from the Board of Regents to coordinate their procurement and to purchase commodities, including cleaning and maintenance products, under central state purchasing contracts. State Finance Law § 163(3)(iv); General Municipal Law § 109-a; Executive Law § 202. Current law does not require that cleaning and maintenance products used in schools meet specifications for their impact on human health and the environment. Nevertheless, existing law authorizes the OGS to establish minimum specifications for products, and defines the term "specification" to mean "any description of the physical or functional characteristics of the nature of a commodity." State Finance Law § 163(1)(e). For cleaning and maintenance products, such specifications include their environmental and health impacts, as well as their form, function and utility. The provisions in this bill would dovetail with these existing laws to authorize OGS to procure cleaning and maintenance products through central state purchasing contracts. OGS would establish central state contracts for environ-

mentally-sensitive cleaning and maintenance products, and make procurement of those products available to public and private elementary and secondary schools.

STATEMENT IN SUPPORT:

Even more so than adults, children are vulnerable to, and may be severely affected by, exposure to chemicals, hazardous wastes, and other environmental hazards. The United States Environmental Protection Agency estimates that human exposure to air pollutants indoors can be two to five times, and occasionally up to 100 times, higher than outdoor levels. Children, their teachers and other school staff members spend a significant part of their lives in school buildings, which may contain hazards to their health by exposing them to chemicals from cleaners, waxes, deodorizers and other maintenance products. Health threats caused by the presence of these chemicals may require individual schools, school districts and the State to incur substantial costs in terms of staff time and effort, cleanup costs and school closings. Discharges of chemicals from cleaning and maintenance products also burden publicly-owned wastewater treatment works, and may end up in our lakes and streams.

Cleaning and maintenance products that are the same in form, function and utility as products currently used in schools, but that have eliminated or lowered concentrations of potentially harmful chemicals, are increasingly being developed and are available in the marketplace. Accordingly, school districts should be informed of and should purchase environmentally-sensitive cleaning and maintenance products. It is the purpose of this legislation to reduce as much as possible exposures of children and school staff to potentially harmful chemicals and substances used in the cleaning and maintenance of schools.

BUDGET IMPLICATIONS:

None. Environmentally-sensitive cleaning and maintenance products are increasingly being developed and are currently available in the marketplace. These products have the same utility, form and function as -- and are cost-competitive with -- the cleaning and maintenance products traditionally used by elementary and secondary schools. Coordinated procurement of environmentally-sensitive cleaning and maintenance products by OGS through central state purchasing contracts will ensure that public and private elementary and secondary schools can procure these products on a competitive basis.