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DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 270

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO FREE PUBLIC SCHOOLS.

1 WHEREAS, the average age of a Delaware school is 58 years old, and school districts face the growing challenge
2 of maintaining our educational facilities in a manner that enables educators to meet the needs of 21st century learners; and

3 WHEREAS, facilities in disrepair and indoor air quality problems affect teaching and learning, student and staff
4 health, day-to-day building operations, and the long-range fiscal health of the entire educational organization; and

5 WHEREAS, facilities in disrepair and indoor air quality issues arise at all educational levels, from pre-
6 kindergarten to secondary, and at all sites, from classrooms to administrative offices; and

7 WHEREAS, routine as well as unexpected maintenance demands arise, and every school district must proactively
8 develop and implement a plan for addressing these inevitabilities; and

9 WHEREAS, the cost of construction per square foot has risen from \$175 per square foot in 2003 to \$308 per
10 square foot in 2020; and

11 WHEREAS, Delaware school districts have reported \$1.1 billion in minor capital improvement needs statewide;
12 and

13 WHEREAS, the Delaware capital budget appropriation for minor capital investments in FY 2022 is only \$15
14 million divided among 19 school districts and 23 charter schools; and

15 WHEREAS, not every school district can raise the required 40% match in local funds to spend the appropriation;
16 and

17 WHEREAS, Delaware school districts individually perform internal assessments that vary from district to district
18 in scope, timing, and content; and

19 WHEREAS, assessment, reporting, and prevention-planning for facilities and indoor air quality contribute to a
20 district’s instructional effectiveness and financial well-being, improve the cleanliness, orderliness, and safety of district
21 facilities, reduce the operational costs and life-cycle cost of a building, help staff identify facility priorities proactively
22 rather than reactively, and extend the useful life of buildings; and

23 WHEREAS, currently no statewide facility assessment or indoor air quality standards exist for our school districts
24 to assess and report maintenance issues in a systematic manner.

25 NOW, THEREFORE:

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

27 Section 1. Amend Chapter 23, Title 14 of the Delaware Code by making deletions as shown by strike through and
28 insertions as shown by underline as follows and by redesignating accordingly:

29 §2301. Definitions.

30 As used in this chapter:

31 (1) “District” means a reorganized school district.

32 (2) “Evaluation Detail Component” is a site inspection template and assessment system that allows for individual
33 district comment, incorporated within the Facilities Evaluation Instrument, used to evaluate the areas of a school on a
34 category by category basis.

35 (3) “Facilities Evaluation Instrument” means a document developed by the Department of Education that includes
36 the Evaluation Detail Component and the Standard of Good Repair that is used to determine whether a school facility is in
37 good repair. The Facilities Evaluation Instrument may not require capital improvements beyond the standards to which the
38 facility was designed and constructed.

39 (24) “School board” means a board of education of a reorganized school district.

40 (5) “School facilities” means any permanent building, portable building or structure, or commercial space owned,
41 rented, operated, or leased by boards of education, including donated space, used as a classroom or for child care or any
42 other space for education services including classrooms, cafeterias, staff lounges, staff offices, auditoriums, gymnasiums, or
43 libraries.

44 (6) “Standard of Good Repair” means that part of the Facilities Evaluation Instrument which outlines the school
45 facility systems and components, as specified in this section, that should be considered in the inspection of a school facility
46 to ensure that it is maintained in a manner that assures it is clean, safe, and functional.

47 §2307. School Building Maintenance Standards.

48 (a) On or before January 1, 2024, the Department of Education shall develop the Facilities Evaluation Instrument
49 and inspection cycle in consultation with the Division of Public Health, experts in school facilities maintenance, district
50 superintendents, the Delaware State Education Association, and the Delaware Association of State Administrators.

51 (b) The Facilities Evaluation Instrument is used to determine if a school facility is in good repair. The Facilities
52 Evaluation Instrument must be designed to identify areas of a school site that are in need of repair based upon a thorough
53 inspection of the site. The Facilities Evaluation Instrument must include a Standard of Good Repair and an Evaluation
54 Detail Component.

55 (c) The Standard of Good Repair must include the following facility categories and provide a description of a
56 minimum standard of good repair for various facility categories:

57 (1) Gas leaks.

58 (2) Mechanical systems.

59 (3) Sewer.

60 (4) Interior surfaces.

61 (5) Overall cleanliness.

62 (6) Pest or vermin infestation.

63 (7) Electrical (interior and exterior).

64 (8) Restrooms.

65 (9) Sinks and fountains (inside and outside).

66 (10) Water quality.

67 (11) Fire safety.

68 (12) Hazardous materials (interior and exterior).

69 (13) Structural damage.

70 (14) Roofs (observed from the ground, inside and outside the building).

71 (15) Windows, doors, gates, and fences (interior and exterior).

72 (16) Visible mold or mildew.

73 (d) The Evaluation Detail Component must be designed to allow for the determination of the scope of conditions
74 across the school campus. In evaluating each area or space, the user should review each of the categories identified in the
75 Standard of Good Repair and make a determination of whether a particular area is in good repair.

76 (e) A school district may contract out inspection services.

77 (f) Each school district shall annually present the completed inspection findings and assessments at a public school
78 board meeting.

79 (g) By May 1st of each year, the superintendent will submit a report of facility inspection findings and a board
80 approved repair and maintenance plan to the Department of Education, the chairs of the Bond Committee, the chairs of the
81 House and Senate Education Committees, the Director of the Office of Management and Budget, and the Controller
82 General.

83 Section 2. Amend Chapter 43, Title 14 of the Delaware Code by making deletions as shown by making deletions
84 as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

85 CHAPTER 43. ~~Healthy Schools Indoor Environment Portal.~~ Healthy Schools Indoor Environment Standards and
86 Portal.

87 § 4301. Definitions.

88 As used in this chapter:

89 (1) “HVAC system” means the equipment, distribution network, and terminals that provide, either collectively or
90 individually, heating, ventilation, or air conditioning to a building.

91 (4~~2~~) “Indoor environment” means the overall potential health factors within a specific school, including air quality,
92 mold levels, and other potentially harmful toxins.

93 (3) “Occupational Safety and Health Administration” (OSHA) refers to the federal agency created under the
94 Occupational Safety and Health Act of 1970 to ensure safe and healthful working conditions for workers by setting and
95 enforcing standards and by providing training, outreach, education, and assistance.

96 (4) “Routine indoor air monitoring program” means testing procedures, testing protocols, and testing frequency
97 established by the Division of Public Health in accordance with this chapter.

98 (5) “School activity hours” means any time of day in which students or school personnel occupy school facilities
99 throughout the year.

100 (6) “Standard 62.1” means the American National Standards Institute/American Society of Heating, Refrigerating
101 and Air-conditioning Engineers Standard 62.1 as updated or amended entitled “Ventilation for Acceptable Indoor Air
102 Quality.”

103 § 4302. Public School Indoor Air Quality.

104 (a) On or before January 1, 2024, the Division of Public Health shall establish a routine indoor air quality
105 monitoring program and standards that includes allowable ranges for temperature and humidity in public schools. The
106 Division of Public Health must take into consideration indoor air quality recommendations provided by OSHA and industry

107 best practices, such as Standard 62.1. The program must be developed by individuals with expertise in indoor air quality
108 and industry professionals having detailed knowledge and experience with Standard 62.1 and must be developed in
109 consultation with the Department of Education and Delaware school districts. The Division of Public Health shall publish
110 the air quality monitoring program guidelines on the Department of Health and Social Services website.

111 (b) On or before January 1, 2024, the Division of Public Health shall establish reporting requirements for local and
112 regional boards of education.

113 (c) On or before January 1, 2024, the Division of Public Health shall establish a contractor certification program
114 for public school indoor air quality services.

115 (d) Once the contractor certification program is established, local and regional boards of education entering into
116 contracts for indoor air quality remediation may do so only with contractors certified by the Division of Public Health to
117 provide public school indoor air quality services.

118 § 4303. Procedures for Indoor Air Quality Complaints in Public Schools.

119 (a) On or before May 1, 2025, each school district superintendent shall do all of the following:

120 (1) Identify an individual within each school district to be responsible for receiving indoor air quality
121 complaints and for reporting such complaints to the superintendent.

122 (2) Make available on the district's website the procedure for any party to file such a complaint with the
123 identified individual.

124 (b) Complaints received by the school district must be reported to the school board at the next regularly scheduled
125 meeting.

126 (c) Indoor air quality complaints filed under this section must be investigated by the local board of education.

127 ~~§4302.~~ § 4304. Collaboration with local school districts.

128 The Division of Public Health and the Department of Education shall collaborate with local school districts to
129 identify information and technical resources to guide schools in improving the indoor environment based on the
130 requirements of this chapter.

131 ~~§4303.~~ § 4305. Indoor environment portal.

132 The Division of Public Health shall provide technical expertise and information that are consistent with the
133 requirements of this chapter to support to local school districts in addressing indoor environment concerns ~~by establishing~~
134 via an information portal on the Delaware Health and Social Services website.

135 ~~§ 4304.~~ §4306. Notification to school districts.

136 The Department of Education shall provide notification to local school districts of the newly created portal at least

137 once per school year.

138 ~~§ 4305-~~§ 4307. Access to the Division of Public Health.

139 Every public school within a local school district shall post the contact number for the Division of Public Health in
140 a location for public display.

141 ~~§ 4306-~~§ 4308. Cooperation with the Division of Public Health.

142 The Division of Public Health ~~shall have~~has the authority to make unannounced visits to any public school within
143 a local school district for the purpose of complying with this chapter. No public school official ~~shall~~may attempt to prohibit
144 any unannounced visit by the Division of Public Health when acting pursuant to this chapter.

SYNOPSIS

This Act establishes an evaluation and assessment system created by the Department of Education to determine whether a school facility is in good repair to assure that school facilities are clean, safe, and functional for staff and students. This Act also requires the Division of Public Health to create a routine indoor air quality monitoring program that includes temperature and humidity standards that is published on the Department of Health and Social Services website. It further requires the Division of Public Health to create a contractor certification program for indoor air quality services that will allow schools to contract with properly trained and certified contractors when indoor air quality remediation is necessary. The Act also provides procedures for districts to make procedures clear for receiving and reporting indoor air quality complaints in schools.

This Substitute bill differs from the original in that it does not provide for implementation of the routine indoor air quality monitoring program nor its enforcement. Once the program is created and there is a better understanding of what it will require, the General Assembly may then establish how, and to what extent, to implement the program with the knowledge of what is necessary to do so.

Author: Senator Hansen