

H B 2401

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SENATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1999



ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 2401

(By Delegates Williams, Manuel, C. White,
Sparks, Houston, Webb and Stemple)



Passed March 11, 1999

In Effect from Passage

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FOR

H. B. 2401

(BY DELEGATES WILLIAMS, MANUEL, C. WHITE,
SPARKS, HOUSTON, WEBB AND STEMPLER)

[Passed March 11, 1999; in effect from passage.]

AN ACT to amend and reenact section three, article nine-e, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto two new sections, designated sections four and five, all relating to preconstruction and post-construction site testing for radon; requiring the state board to promulgate rules that minimize the use of carpeting; requiring the state board to promulgate rules that address the employment of heating, ventilating and air-conditioning technicians; requiring the state board to promulgate rules that would set forth a procedure for investigating and addressing indoor air quality complaints; and provisions for enforcement.

Be it enacted by the Legislature of West Virginia:

That section three, article nine-e, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by

adding thereto two new sections, designated sections four and five, all to read as follows:

ARTICLE 9E. AIR QUALITY IN NEW SCHOOLS ACT.

§18-9E-3. Air quality in new schools.

1 (a) In an effort to create well ventilated school environ-
2 ments, and notwithstanding any other provision of this code to
3 the contrary, any new school building designed and constructed
4 in the state by a county board after the first day of July, one
5 thousand nine hundred ninety-eight, regardless of the funding
6 source, shall be designed and constructed in compliance with
7 the current standards of the American society of heating,
8 refrigerating and air conditioning engineers handbook
9 (ASHRAE), the national fire protection association code
10 (NFPA) and the code of the building officials and code admin-
11 istrators (BOCA).

12 (b) Upon notice from the school building authority that a
13 new public school building is occupied, the division of health
14 shall perform radon testing in the school within the first year
15 after occupancy and at least every five years thereafter. The
16 county school board shall provide such reasonable assistance to
17 the division of health as may be necessary to perform the radon
18 testing. The radon testing shall include all major student
19 occupied areas at or below grade level. If it is determined that
20 radon is present in amounts greater than the amount determined
21 to be acceptable by the rules promulgated by the school
22 building authority, pursuant to subsection (d) of this section,
23 any industry accepted mitigation technique shall be utilized to
24 reduce the radon level to the level or below the level deter-
25 mined acceptable by the school building authority.

26 (c) If the school building authority determines that it is
27 feasible to test for radon prior to the construction of a school
28 building, the school building authority may cause pre construc-
29 tion site testing for radon to be performed. (d) The school
30 building authority shall promulgate rules pursuant to article
31 three-a, chapter twenty-nine-a of this code to assure that any
32 new school building designed after the effective date of this
33 article is designed and constructed in accordance with the

34 current ASHRAE, NFPA and BOCA standards. The school
35 building authority shall promulgate rules, pursuant to article
36 three-a, chapter twenty-nine-a of this code that establish
37 standards for safe levels of radon for public school buildings.
38 The school building authority shall submit the rules for ap-
39 proval to the legislative oversight commission on education
40 accountability on or before the first day of July, one thousand
41 nine hundred ninety-nine. The rules shall include the require-
42 ment that county boards submit all new school designs to the
43 school building authority for review and approval for compli-
44 ance with current education standards and design efficiencies
45 prior to preparation of final bid documents.

46 (e) The state board shall promulgate rules, pursuant to
47 article three-b, chapter twenty-nine-a of this code, in consulta-
48 tion with the division of health, that minimize the use of
49 carpeting in public school buildings based on user needs and
50 performance specifications of the carpeting. The state board
51 shall submit the rules to the legislative oversight commission on
52 education accountability on or before the first day of July, one
53 thousand nine hundred ninety-nine.

§18-9E-4. Heating, ventilation, and air-conditioning technicians.

1 (a) Subject to appropriation by the Legislature therefor, the
2 state board, in consultation with the division of health, shall
3 promulgate rules pursuant to article three-b, chapter twenty-
4 nine-a of this code that will address servicing public school
5 buildings by heating, ventilation and air-conditioning (HVAC)
6 technicians. The rules shall set forth a job description for the
7 HVAC technician. At the discretion of the state board, HVAC
8 technicians may be employed by the county board of education,
9 by the regional educational service agency servicing the county
10 or by the department of education using the funds allocated
11 pursuant to this section. The hiring entity shall set a salary for
12 the HVAC technician that is competitive with other employers
13 of HVAC technicians in the region after accounting for annual
14 leave, sick leave, insurance benefits, retirement benefits and
15 any other benefits provided. Existing employees who have
16 advanced HVAC skills or existing employees who receive

17 appropriate HVAC training may be utilized as HVAC techni-
18 cians. The rules also shall provide for sufficient continuing
19 education training for HVAC technicians to maintain profi-
20 ciency in the changing technologies in the field. The rules shall
21 be submitted to the legislative oversight commission on
22 educational accountability prior to the first day of September,
23 one thousand nine hundred ninety-nine.

24 (b) County boards, regional educational service agencies
25 and the department of education shall have the option to
26 contract for HVAC services from prequalified vendors if this
27 option is more cost effective than using existing employees or
28 creating a new position: *Provided*, That an existing employee
29 may not be displaced by contracting for HVAC technician
30 services: *Provided, however*, That HVAC services that have
31 been performed in the past or which require knowledge and
32 experience the employer does not have access to, may be
33 contracted out to a pre-qualified vendor.

34 (c) Funds appropriated for the purpose of hiring HVAC
35 technicians shall be appropriated originally to the department
36 of education. The department of education then may allocate
37 the funds to the regional educational service agencies or to the
38 counties, depending upon which entity employs the HVAC
39 technician as specified by rule.

**§18-9E-5. Investigation of indoor air quality complaints in exist-
ing schools and schools subsequently constructed.**

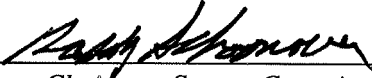
1 (a) The state board, in consultation with the division of
2 health, shall promulgate rules pursuant to article three-b,
3 chapter twenty-nine-a of this code which require each county
4 board to investigate all reports of indoor air quality problems
5 within the county. The rules shall set forth a designated official
6 or officials within the county school system to be responsible
7 for addressing, pursuant to this section, any indoor air quality
8 complaints. The rules also shall set forth a procedure for any
9 party to file a complaint with the designated official or officials.
10 Any indoor air quality complaint found to be valid by the
11 designated official or officials shall be addressed by forming a
12 plan of correction. Any county board that addresses an indoor

13 air quality complaint is encouraged to seek any available
14 assistance from local, state and federal agencies in both
15 investigating the complaint and in forming the plan of correc-
16 tion. A county board shall consider any documented plans of
17 closure of a school building when forming any plan of correc-
18 tion for that school building. The rules shall be submitted to the
19 legislative oversight commission on education accountability
20 prior to the first day of September, one thousand nine hundred
21 ninety-nine. Additionally, the rules shall set an appropriate cost
22 for a plan of correction over which all such plans of correction
23 shall be reported to the legislative oversight commission on
24 education accountability. Based upon the legislative oversight
25 commission on education accountability's experience in
26 receiving the complaints, the commission shall submit a
27 recommendation for funding the plans of correction.

28 (b) Furthermore, each plan of correction shall be incorpo-
29 rated into each county board's ten-year county-wide major
30 improvement plan set forth in section sixteen, article nine-d of
31 this chapter. Also pursuant to section sixteen, article nine-d of
32 this chapter, the state board may restrict the use of the neces-
33 sary funds or otherwise allocate funds from moneys appropri-
34 ated by the Legislature for those purposes set forth in section
35 nine, article nine-a of this chapter: *Provided*, That nothing in
36 this subsection shall be interpreted as requiring that a county
37 board make addressing an air quality complaint a priority over
38 other projects in the county board's ten-year county-wide major
39 improvement plan.

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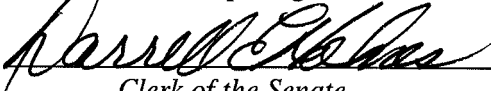
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


Chairman Senate Committee

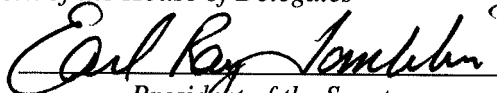

Chairman House Committee

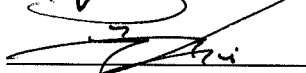
Originating in the House.

Takes effect from passage.

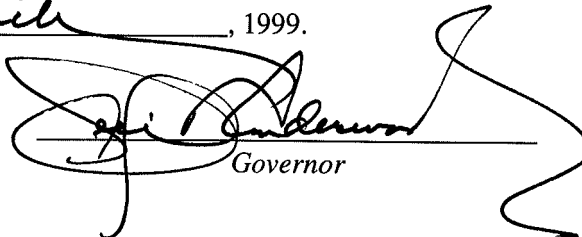

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 27th
day of March, 1999.


Governor

PRESENTED TO THE

GOVERNOR

Date 3/23/99

Time 3:58pm