WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 1999

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ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2401

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

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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 STEMPLE)

[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
ARTICLE 9E. AIR QUALITY IN NEW SCHOOLS ACT.

§18-9E-3. Air quality in new schools.

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

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

(c) If the school building authority determines that it is feasible to test for radon prior to the construction of a school building, the school building authority may cause preconstruction site testing for radon to be performed. (d) The school building authority shall promulgate rules pursuant to article three-a, chapter twenty-nine-a of this code to assure that any new school building designed after the effective date of this article is designed and constructed in accordance with the
current ASHRAE, NFPA and BOCA standards. The school building authority shall promulgate rules, pursuant to article three-a, chapter twenty-nine-a of this code that establish standards for safe levels of radon for public school buildings. The school building authority shall submit the rules for approval to the legislative oversight commission on education accountability on or before the first day of July, one thousand nine hundred ninety-nine. The rules shall include the requirement that county boards submit all new school designs to the school building authority for review and approval for compliance with current education standards and design efficiencies prior to preparation of final bid documents.

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


(a) Subject to appropriation by the Legislature therefor, the state board, in consultation with the division of health, shall promulgate rules pursuant to article three-b, chapter twenty-nine-a of this code that will address servicing public school buildings by heating, ventilation and air-conditioning (HVAC) technicians. The rules shall set forth a job description for the HVAC technician. At the discretion of the state board, HVAC technicians may be employed by the county board of education, by the regional educational service agency servicing the county or by the department of education using the funds allocated pursuant to this section. The hiring entity shall set a salary for the HVAC technician that is competitive with other employers of HVAC technicians in the region after accounting for annual leave, sick leave, insurance benefits, retirement benefits and any other benefits provided. Existing employees who have advanced HVAC skills or existing employees who receive
appropriate HVAC training may be utilized as HVAC technicians. The rules also shall provide for sufficient continuing education training for HVAC technicians to maintain proficiency in the changing technologies in the field. The rules shall be submitted to the legislative oversight commission on educational accountability prior to the first day of September, one thousand nine hundred ninety-nine.

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

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

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

(a) The state board, in consultation with the division of health, shall promulgate rules pursuant to article three-b, chapter twenty-nine-a of this code which require each county board to investigate all reports of indoor air quality problems within the county. The rules shall set forth a designated official or officials within the county school system to be responsible for addressing, pursuant to this section, any indoor air quality complaints. The rules also shall set forth a procedure for any party to file a complaint with the designated official or officials. Any indoor air quality complaint found to be valid by the designated official or officials shall be addressed by forming a plan of correction. Any county board that addresses an indoor
air quality complaint is encouraged to seek any available assistance from local, state and federal agencies in both investigating the complaint and in forming the plan of correction. A county board shall consider any documented plans of closure of a school building when forming any plan of correction for that school building. The rules shall be submitted to the legislative oversight commission on education accountability prior to the first day of September, one thousand nine hundred ninety-nine. Additionally, the rules shall set an appropriate cost for a plan of correction over which all such plans of correction shall be reported to the legislative oversight commission on education accountability. Based upon the legislative oversight commission on education accountability’s experience in receiving the complaints, the commission shall submit a recommendation for funding the plans of correction.

(b) Furthermore, each plan of correction shall be incorporated into each county board’s ten-year county-wide major improvement plan set forth in section sixteen, article nine-d of this chapter. Also pursuant to section sixteen, article nine-d of this chapter, the state board may restrict the use of the necessary funds or otherwise allocate funds from moneys appropriated by the Legislature for those purposes set forth in section nine, article nine-a of this chapter: Provided, That nothing in this subsection shall be interpreted as requiring that a county board make addressing an air quality complaint a priority over other projects in the county board’s ten-year county-wide major improvement plan.
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