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H.873

An act relating to financing the testing for and remediation of the presence of polychlorinated biphenyls (PCBs) in schools

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. PCB TESTING AND REMEDIATION IN SCHOOLS

(a) If a school is required to test for the presence of polychlorinated biphenyls (PCBs) pursuant to 2021 Acts and Resolves No. 74, Sec. E.709.1, the Agency of Natural Resources (ANR) shall conduct the testing or pay for testing conducted by the school.

(b) It is the intent of the General Assembly that ANR shall seek to hold the manufacturers of PCBs liable under 10 V.S.A. § 6615 for the cost of PCB investigation, remediation, and removal in schools. Prior to any judgment or settlement under which PCB manufacturers pay for PCB investigation, remediation, and removal in schools, it is the intent of the General Assembly as signified by 2023 Acts and Resolves No. 78, Sec. C.112, that the State of Vermont shall pay for the costs of investigation, remediation, and removal of PCBs at any school where testing under 2021 Acts and Resolves No. 74, Sec. E.709.1 exceeded the State school action levels. When a judgment or settlement is reached under which PCB manufacturers pay for PCB investigation, remediation, and removal in schools, any funds received under the judgment or settlement related to PCBs in schools shall first be used to reimburse the State for the costs related to investigation, remediation, and

1 removal of PCBs at schools that exceeded the State school action levels. Any
2 reimbursed monies shall be deposited into the Fund from which the money was
3 expended.

4 (c)(1) Beginning on July 1, 2024 and every month thereafter, the Secretary
5 of Natural Resources shall report to the Secretary of Administration, the Joint
6 Fiscal Committee, and the Emergency Board the following information
7 regarding the funds appropriated to the Agency of Education and the Agency
8 of Natural Resources in 2023 Acts and Resolves No. 78, Sec. C.112 and
9 subsequent appropriations for investigation, remediation, and removal of PCBs
10 at schools that test at levels exceeding the State school action levels:

11 (A) the amount of the funds that remain at the Agency of Education
12 for grants to schools and the amount of funds that remain under other sources
13 for investigation, remediation, and removal of PCBs at those schools;

14 (B) whether the funds appropriated to the Agency of Education for
15 investigation, remediation, and removal of PCBs in schools are sufficient to
16 fully fund grants to complete investigation, remediation, and removal of PCBs
17 at those schools that test at levels exceeding the State school action levels but
18 that have not received a grant; and

19 (C) when the Secretary of Natural Resources estimates the funds
20 appropriated to the Agency of Education for investigation, remediation, and
21 removal of PCBs in schools will be insufficient to award grants to the

1 remaining schools that will be required to complete investigation, remediation,
2 and removal of PCBs.

3 (2) The Secretary of Natural Resources shall submit each report required
4 by this subsection to the House Committees on Education and on
5 Appropriations and the Senate Committees on Education and on
6 Appropriations. When the General Assembly is not in session, the Secretary of
7 Natural Resources shall also submit the report to the Joint Fiscal Committee
8 and the Emergency Board.

9 (3) If the Secretary of Natural Resources fails to submit a report
10 required by this subsection to the Secretary of Administration, the Joint Fiscal
11 Committee, or the Emergency Board, a school shall not be required to initiate
12 testing for PCBs until 15 days after the Secretary of Natural Resources has
13 submitted a required report to the Secretary of Administration, the Joint Fiscal
14 Committee, or the Emergency Board.

15 (d)(1) If the Secretary of Natural Resources reports under subsection (c) of
16 this section that there is \$~~4,000,000.00~~ 2,000,000.00 or less of funds remaining
17 at the Agency of Education for the investigation, remediation, and removal of
18 PCBs, ANR shall not initiate testing or payment for initial testing for PCBs at
19 a school under subsection (a) of this section, and a school shall not be required
20 to initiate testing for PCBs until such time as the General Assembly enacts a

1 comprehensive plan for funding PCB investigation, remediation, and removal
2 of PCBs in schools or as provided in subdivision (2) of this subsection.

3 (2) If initial testing of a school for PCBs is paused under subdivision (1)
4 of this subsection when the General Assembly is not in session, the Emergency
5 Board is authorized to transfer \$2,000,000.00 from the Environmental
6 Contingency Fund to the Agency of Education for the purpose of providing
7 grants to schools for the investigation, remediation, and removal of PCBs.
8 Upon transfer under this subdivision, ANR is authorized to restart initial
9 testing or payment for initial testing for PCBs at schools.

10 (e) If a school tested positive for the presence of PCBs in excess of the
11 State school action levels and the State lacks sufficient funds for the
12 investigation, remediation, and removal of PCBs in the school, the Secretary of
13 Natural Resources shall submit to the House Committees on Education and on
14 Appropriations and the Senate Committees on Education and on
15 Appropriations the amount of funds that the General Assembly should
16 appropriate to the Agency of Natural Resources to sufficiently fund
17 investigation, remediation, and removal of PCBs in the school. ~~As part of the~~
18 ~~submission to the General Assembly, the Secretary shall recommend the~~
19 ~~source of the necessary funds, provided that the Secretary shall first consider~~
20 ~~all other sources of funding before recommending the Education Fund as a~~
21 ~~source of the necessary funds.~~

1 (f) Notwithstanding subsection (b) of this section and the intent of the
2 General Assembly to pay for the investigation, remediation, and removal of
3 PCBs in schools, the State of Vermont shall not pay for the costs of
4 investigation, remediation, and removal of PCBs in schools when the
5 investigation, remediation, and removal was not ~~in response to indoor air~~
6 ~~testing required pursuant to 2021 Acts and Resolves No. 74, Sec.~~
7 ~~E.709.1 recommended or required by the State~~ but was instead a part of a
8 planned renovation or construction project at a school under which the PCBs
9 would be remediated or removed as part of the project. This subsection shall
10 not apply to the \$16,000,000.00 reserved for the Burlington School District
11 under 2023 Acts and Resolves No. 78, Sec. C.112.

12 Sec. 2. 2021 Acts and Resolves No. 74, Sec. E.709.1, as amended by 2022
13 Acts and Resolves No. 166, Sec. 8 and 2023 Acts and Resolves No. 78, Sec.
14 C.111, is further amended to read:

15 Sec. E.709.1 ENVIRONMENTAL CONTINGENCY FUND;

16 POLYCHLORINATED BIPHENYLS (PCBs) TESTING

17 IN SCHOOLS

18 (a) Notwithstanding 10 V.S.A. § 1283, of the funds transferred in Sec.
19 D.101(a) of this act to the Environmental Contingency Fund, the Department
20 of Environmental Conservation, in consultation with the Department of Health
21 and the Agency of Education, shall use up to \$4,500,000 to complete air indoor

1 quality testing for Polychlorinated Biphenyls (PCBs) in public schools and
2 approved and recognized independent schools that were constructed or
3 renovated before 1980. All schools subject to this subsection shall test for
4 PCBs in accordance with a schedule published by the Department of
5 Environmental Conservation ~~on or before July 1, 2027.~~

6 Sec. 3. RECOMMENDATIONS ON PCB FUNDING

7 On or before December 1, 2024, the Joint Fiscal Office and Agency of
8 Administration shall provide the House Committees on Appropriations,
9 Education, and Ways and Means and Senate Committees on Appropriations,
10 Education, and Finance options for the long-term and sustainable funding for
11 the investigation, mitigation, and remediation of PCBs in schools. The
12 recommendations shall first consider all other sources of funding before
13 recommending the Education Fund as a source of the necessary funds.

14 Sec. 34. EFFECTIVE DATE

15 This act shall take effect on passage.