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H.542

An act relating to testing of schools in Vermont for polychlorinated biphenyls

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

Sec. 1. 2021 Acts and Resolves No. 74, Sec. E.709.1, as amended by 2022 Acts and Resolves No. 166, Sec. 8, and 2023 Acts and Resolves No. 78, Sec. C.111, is further amended to read:

Sec. E.709.1 ENVIRONMENTAL CONTINGENCY FUND;
POLYCHLORINATED BIPHENYLS (PCBs) TESTING
IN SCHOOLS

(a) Notwithstanding 10 V.S.A. § 1283, of the funds transferred in Sec. D.101(a) of this act to the Environmental Contingency Fund, the Department of Environmental Conservation, in consultation with the Department of Health and the Agency of Education, shall use up to \$4,500,000 to complete air indoor quality testing for Polychlorinated Biphenyls (PCBs) in public schools and approved and recognized independent schools that were constructed or renovated before 1980. All schools subject to this subsection shall test for PCBs on or before ~~July 1, 2027~~ August 1, 2035.

Sec. 2. 10 V.S.A. § 6618a is added to read:

§ 6618a. SCHOOL POLYCHLORINATED BIPHENYL PROGRAM FUND

(a) There is created the School Polychlorinated Biphenyl Program Fund to be administered by the Secretary of Natural Resources to provide funding for

1 the investigation, mitigation, and remediation of polychlorinated biphenyls
2 (PCBs) at schools in Vermont. The Fund shall consist of:

3 (1) Reimbursements from a school for work related to a grant issued by
4 the State for PCB investigation, mitigation, and remediation when that school
5 recovers money from litigation or other awards. The reimbursement shall be
6 limited to the amount of the grant awarded to the school or the amount of the
7 recovery, whichever is less.

8 (2) Any litigation recovery by the State for the costs of addressing PCB
9 contamination in schools, less attorney's fees and costs.

10 (3) Monies from time to time transferred to the Fund by the General
11 Assembly.

12 (4) Other gifts, donations, or other monies received from any source,
13 public or private, dedicated for deposit into the Fund and approved by the
14 Secretary of Administration.

15 (b)(1) The Secretary of Natural Resources shall administer a program to
16 issue grants to school districts to pay the costs, to the extent funds are
17 available, of the following activities in order of the priority listed:

18 (A)(i) PCB investigations that are a part of a facilities master plan; or

19 (ii) indoor air quality testing of a school initiated voluntarily by a
20 school district, provided that the school district notified the Secretary of
21 Natural Resources of the testing and the school district conducts the testing

1 according to the Department of Environmental Conservation's standards for
2 testing;

3 (B) the development of PCB management plans;

4 (C) the costs of mitigation when results exceed the immediate action
5 level;

6 (D) the costs of implementing any approved corrective action plan
7 when, after mitigation efforts, the concentrations in the school exceed the
8 immediate action level; and

9 (E) the costs of implementing a corrective action plan as a part of a
10 school construction project.

11 (2) To the extent that funds are available, grants to school districts that
12 are required to conduct investigation, mitigation, or remediation of PCB
13 contamination in a school after Agency of Natural Resources testing shall be in
14 an amount sufficient to pay for 100 percent of the costs at the school of
15 investigation, remediation, or removal required by the Agency of Natural
16 Resources Investigation and Remediation of Contaminated Properties Rule.

17 (c) Notwithstanding any contrary provisions of 32 V.S.A. chapter 7,
18 subchapter 5, unexpended balances and interest earned by the Fund shall be
19 retained in the Fund from year to year.

20 (d) If a school district in the State recovers money from litigation or other
21 award for work covered under a grant issued under this section, the school

1 district shall reimburse the State the amount of the recovery or the amount of
2 the grant awarded to the school district under subsection (b) of this section,
3 whichever amount is less.

4 (e) In addition to any other remedy, the State may recover from a
5 manufacturer of PCBs monies expended or awarded by the State for PCB
6 investigation, testing, assessment, remediation, or removal of PCBs in a school
7 above the relevant action level.

8 Sec. 3. 16 V.S.A. § 3445 is amended to read:

9 § 3445. APPROVAL AND FUNDING OF SCHOOL CONSTRUCTION

10 PROJECTS

11 (a) Construction aid.

12 (1) Preliminary application for construction aid. A school district
13 eligible for assistance under section 3447 of this title that intends to construct
14 or purchase a new school, or make extensive additions or alterations to its
15 existing school, and desires to avail itself of State school construction aid shall
16 submit a written preliminary application to the Secretary. A preliminary
17 application shall include information required by the Agency by rule and shall
18 specify the need for and purpose of the project.

19 (2) Approval of preliminary application.

20 (A) When reviewing a preliminary application for approval, the
21 Secretary shall consider:

1 (i) regional educational opportunities and needs, including school
2 building capacities across school district boundaries, and available
3 infrastructure in neighboring communities;

4 (ii) economic efficiencies;

5 (iii) the suitability of an existing school building to continue to
6 meet educational needs; and

7 (iv) statewide educational initiatives.

8 (B) The Secretary may approve a preliminary application if:

9 (i)(I) the project or part of the project fulfills a need occasioned
10 by:

11 (aa) conditions that threaten the health or safety of students
12 or employees;

13 (bb) facilities that are inadequate to provide programs
14 required by State or federal law or regulation;

15 (cc) excessive energy use resulting from the design of a
16 building or reliance on fossil fuels or electric space heat; or

17 (dd) deterioration of an existing building; or

18 (II) the project results in consolidation of two or more school
19 buildings and will serve the educational needs of students in a more cost-
20 effective and educationally appropriate manner as compared to individual
21 projects constructed separately;

1 (ii) the need addressed by the project cannot reasonably be met by
2 another means;

3 (iii) the proposed type, kind, quality, size, and estimated cost of
4 the project are suitable for the proposed curriculum and meet all legal
5 standards;

6 (iv) the applicant achieves the level of “proficiency” in the school
7 district quality standards regarding facilities management adopted by rule by
8 the Agency; ~~and~~

9 (v) the applicant has completed a facilities master planning
10 process that:

11 (I) engages robust community involvement;

12 (II) considers regional solutions;

13 (III) evaluates environmental contaminants; and

14 (IV) produces a facilities master plan that unites the applicant’s
15 vision statement, educational needs, enrollment projections, renovation needs,
16 and construction projects; and

17 (vi) if the applicant school district is applying for construction aid
18 for a school building that was constructed or renovated before 1980, the
19 applicant has completed indoor air quality testing for polychlorinated
20 biphenyls that was conducted according to the Department of Environmental
21 Conservation’s standards for testing.

1 Sec. 5. REPEAL

2 2023 Acts and Resolves No. 78, Sec. C.112(b)(1) and (2) (State funding of
3 grants for investigation, remediation, and removal of PCB contamination at a
4 school) is repealed.

5 Sec. 6. EFFECTIVE DATES

6 This act shall take effect on passage, except that Sec. 3 (approval and
7 funding of school construction projects) shall take effect on July 2, 2026.