

BILL ANALYSIS

C.S.H.B. 2395
By: Collier
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note the serious health risks associated with the presence of lead in drinking water and contend that it is necessary for the state to provide for standards for testing the water in public schools. The goal of C.S.H.B. 2395 is to set such standards to ensure that students are less exposed to harmful contaminants.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 2395 amends the Health and Safety Code to require each independent school district and open-enrollment charter school, in addition to any water test required by the federal Safe Drinking Water Act, to conduct a first-draw tap test, defined as a water sample collected and tested in the manner prescribed by the federal monitoring requirements for lead and copper in tap water, of potable water outlets every five years, before the start of the school year, to monitor the amount of lead in the water in each occupied school building under the district's or charter school's jurisdiction. The bill requires the district or charter school to perform the required first-draw tap test by using existing qualified personnel or through a third party. The bill requires a district or charter school at which a person conducting a first-draw tap test determines that the amount of lead in a potable water outlet of a school building exceeds the level of lead considered safe for human consumption as established by rules adopted by the Texas Commission on Environmental Quality (TCEQ) to continue weekly first-draw tap tests of the building's potable water outlet until three consecutive weekly tests confirm the water is safe for human consumption and to provide the building occupants with an adequate supply of safe, potable drinking water until future tests indicate lead levels in the water are safe for human consumption. The bill expressly does not require a district or charter school to conduct a first-draw tap test on a water outlet if the outlet is located in a school building that is lead free, as defined by the federal act, or if the district or charter school has fewer than 1,000 students and the district or charter school is unable to secure funding for the tests from grants or donations. The bill requires TCEQ, in consultation with the commissioner of education, to adopt rules to implement the bill's provisions, including rules to establish the level of lead in drinking water that is considered safe for human consumption. The bill requires the rules to be consistent with the requirements for districts or charter schools that are classified as a public water system under the federal act.

C.S.H.B. 2395 requires each district and charter school that conducts lead testing under the bill's

provisions to make the test results and any lead remediation plan available to the public by posting the information on the district's or charter school's website or by any other method the district or charter school considers appropriate. The bill requires each district and charter school to submit that information in a format approved by TCEQ to TCEQ and each local health authority with jurisdiction in the municipality or county in which the district or charter school is located. The bill requires TCEQ to submit, not later than December 1 of each even-numbered year, to the governor, the lieutenant governor, the speaker of the house of representatives, and each member of the legislature a report that includes the findings from the first-draw tap tests conducted under the bill's provisions. The bill applies beginning with the 2018-2019 school year, except that the bill requires a district or charter school that has completed first-draw tap tests of potable water outlets during the 36-month period preceding the bill's effective date to comply with the bill's provisions beginning with the 2020-2021 school year.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2395 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter C, Chapter 341, Health and Safety Code, is amended by adding Sections 341.0317 and 341.0318 to read as follows:

Sec. 341.0317. REQUIRED TESTING FOR LEAD CONTAMINATION IN PUBLIC SCHOOL DRINKING WATER.

(a) In this section:

(1) "First-draw tap test" means a water sample collected and tested in the manner prescribed by the federal monitoring requirements for lead and copper in tap water under 40 C.F.R. Section 141.86.

(2) "Open-enrollment charter school" means a school that has been granted a charter under Subchapter D, Chapter 12, Education Code.

(3) "Safe Drinking Water Act" means the federal Safe Drinking Water Act (42 U.S.C. Section 300f et seq.).

(4) "School district" means any independent school district.

(b) In addition to any water test required by the Safe Drinking Water Act, each school district and open-enrollment charter school shall conduct annual first-draw tap tests of potable water systems to monitor the amount of lead in the water in each occupied school building under the jurisdiction of the school district or open-

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter C, Chapter 341, Health and Safety Code, is amended by adding Sections 341.0317 and 341.0318 to read as follows:

Sec. 341.0317. REQUIRED TESTING FOR LEAD CONTAMINATION IN PUBLIC SCHOOL DRINKING WATER.

(a) In this section:

(1) "First-draw tap test" means a water sample collected and tested in the manner prescribed by the federal monitoring requirements for lead and copper in tap water under 40 C.F.R. Section 141.86(b).

(2) "Open-enrollment charter school" means a school that has been granted a charter under Subchapter D, Chapter 12, Education Code.

(3) "Safe Drinking Water Act" means the federal Safe Drinking Water Act (42 U.S.C. Section 300f et seq.).

(4) "School district" means any independent school district.

(b) In addition to any water test required by the Safe Drinking Water Act, each school district and open-enrollment charter school shall conduct first-draw tap tests of potable water outlets every five years, before the start of the school year, to monitor the amount of lead in the water in each occupied school building under the

enrollment charter school. The school district or open-enrollment charter school shall select a third party to perform the first-draw tap test as required by this section.

(c) If a person conducting a first-draw tap test determines that the amount of lead in the potable water system of a school building exceeds the level of lead considered safe for human consumption as established by rules adopted under Subsection (e), the affected school district or open-enrollment charter school shall:

(1) continue weekly first-draw tap tests of the building's potable water system under this section until three consecutive weekly tests confirm the water is safe for human consumption; and

(2) provide the occupants of the building with an adequate supply of safe, potable drinking water until future tests indicate lead levels in the water are safe for human consumption.

(d) A school district or open-enrollment charter school is not required to conduct a first-draw tap test under this section in a school building that is lead-free, as defined by the Safe Drinking Water Act (42 U.S.C. Section 300g-6).

(e) The executive commissioner, in consultation with the commissioner of education, shall adopt rules to implement this section, including rules to establish the level of lead in drinking water that is considered safe for human consumption. The rules adopted under this section must be consistent with the requirements for school districts or open-enrollment charter schools that are classified as a public water system under the Safe Drinking Water Act.

Sec. 341.0318. RESULTS OF TESTING FOR LEAD CONTAMINATION IN PUBLIC SCHOOL DRINKING WATER; REPORT. (a) In this section, "first-draw

jurisdiction of the school district or open-enrollment charter school. The school district or open-enrollment charter school shall perform the first-draw tap test as required by this section by using existing qualified personnel or through a third party.

(c) If a person conducting a first-draw tap test determines that the amount of lead in a potable water outlet of a school building exceeds the level of lead considered safe for human consumption as established by rules adopted under Subsection (f), the affected school district or open-enrollment charter school shall:

(1) continue weekly first-draw tap tests of the building's potable water outlet under this section until three consecutive weekly tests confirm the water is safe for human consumption; and

(2) provide the occupants of the building with an adequate supply of safe, potable drinking water until future tests indicate lead levels in the water are safe for human consumption.

(d) A school district or open-enrollment charter school is not required to conduct a first-draw tap test on a water outlet under this section if the outlet is located in a school building that is lead free, as defined by the Safe Drinking Water Act (42 U.S.C. Section 300g-6).

(e) A school district or open-enrollment charter school is not required to conduct the first-draw tap tests under this section if the school district or open-enrollment charter school has fewer than 1,000 students and the school district or open-enrollment charter school is unable to secure funding for the tests from grants or donations.

(f) The commission, in consultation with the commissioner of education, shall adopt rules to implement this section, including rules to establish the level of lead in drinking water that is considered safe for human consumption. The rules adopted under this section must be consistent with the requirements for school districts or open-enrollment charter schools that are classified as a public water system under the Safe Drinking Water Act.

Sec. 341.0318. RESULTS OF TESTING FOR LEAD CONTAMINATION IN PUBLIC SCHOOL DRINKING WATER; REPORT. (a) In this section, "first-draw

tap test," "open-enrollment charter school," and "school district" have the meanings assigned by Section 341.0317.

(b) Each school district and open-enrollment charter school that conducts lead testing under Section 341.0317 shall make the test results and any lead remediation plan available to the public by:

(1) posting the information on the Internet website of the school district or open-enrollment charter school; and

(2) any other method the school district or open-enrollment charter school considers appropriate.

(c) Each school district and open-enrollment charter school shall submit the information described by Subsection (b), in a format approved by the executive commissioner, to:

(1) the executive commissioner; and

(2) each local health authority with jurisdiction in the municipality or county in which the school district or open-enrollment charter school is located.

(d) Not later than December 1 of each even-numbered year, the executive commissioner shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, and each member of the legislature a report that includes the findings from the first-draw tap tests conducted under Section 341.0317.

No equivalent provision.

SECTION 2. This Act takes effect September 1, 2017.

tap test," "open-enrollment charter school," and "school district" have the meanings assigned by Section 341.0317.

(b) Each school district and open-enrollment charter school that conducts lead testing under Section 341.0317 shall make the test results and any lead remediation plan available to the public by:

(1) posting the information on the Internet website of the school district or open-enrollment charter school; or

(2) any other method the school district or open-enrollment charter school considers appropriate.

(c) Each school district and open-enrollment charter school shall submit the information described by Subsection (b), in a format approved by the commission, to:

(1) the commission; and

(2) each local health authority with jurisdiction in the municipality or county in which the school district or open-enrollment charter school is located.

(d) Not later than December 1 of each even-numbered year, the commission shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, and each member of the legislature a report that includes the findings from the first-draw tap tests conducted under Section 341.0317.

SECTION 2. (a) Except as provided by Subsection (b) of this section, this Act applies beginning with the 2018-2019 school year.

(b) A school district or open-enrollment charter school that has completed first-draw tap tests of potable water outlets during the 36-month period preceding the effective date of this Act shall comply with this Act beginning with the 2020-2021 school year.

SECTION 3. Same as introduced version.