BILL ANALYSIS

Senate Research Center
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C.S.S.B. 2384
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Natural Resources
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas is home to a number of mining, smelting, and refining companies. Among these companies was ASARCO, which operated a smelter plant in El Paso for decades. ASARCO was a major source of hazardous substances in the environmental soils of El Paso, accounting for 50 percent of the concentration of the elements zinc, lead, arsenic, and cadmium. High concentrations of these elements have been implicated in significant health problems. According to the Environmental Protection Agency, children are especially vulnerable since these elements have carcinogenic effects and can also retard a child's physical and mental growth and development. Children can be exposed to these elements in numerous ways, including through contamination of water sources, emissions of toxic fumes, and contamination of playgrounds.

In the 1970s, a study by the Centers for Disease Control and Prevention found that the ASARCO smelter in El Paso was responsible for abnormally high lead levels in children who lived nearby. Furthermore, in 1994, the Texas Department of Health investigated an usually large concentration of El Paso residents affected by multiple sclerosis and related environmental concerns. These residents attended Mesita or E.B. Jones Elementary schools between 1948 and 1970. The rate of multiple sclerosis in this area of El Paso was twice as high as expected, based on national estimates, and the study conjectured that the elements and toxic fumes emitted by ASARCO may have contributed to the unusually high rate of multiple sclerosis in the Kern Place-Mission Hills area of El Paso. This bill seeks to prevent further exposure of Texas' children to lead poisoning and soil contamination.

C.S.S.B. 2384 amends current law relating to children's exposure to area-wide soil contamination in certain counties.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Chapter 88, Health and Safety Code, to read as follows:

CHAPTER 88. LEAD POISONING AND SOIL CONTAMINATION

SECTION 2. Amends Chapter 88, Health and Safety Code, by designating Sections 88.001, 88.002, 88.0025, 88.003, 88.004, 88.005, 88.006, 88.007, 88.008, and 88.009 as Subchapter A and adding a subchapter heading, to read as follows:

SUBCHAPTER A. REPORTS OF CHILDHOOD LEAD POISONING

SECTION 3. Amends Chapter 88, Health and Safety Code, by adding Subchapter B, as follows:

SUBCHAPTER B. EXPOSURE TO CONTAMINATED SOIL IN CERTAIN COUNTIES

Sec. 88.051. APPLICABILITY. Provides that this subchapter applies only to a county that has a population of 600,000 or more, and is located on the international border.

Sec. 88.052. DEFINITIONS. Defines "area-wide soil contamination," "department," and "school."

Sec. 88.053. SOIL CONTAMINATION; BEST MANAGEMENT PRACTICE GUIDELINES.

(a) Requires the Department of State Health Services (DSHS), in cooperation with the Texas Commission on Environmental Quality, the commissioner of education, and local school and health districts in a county to which this subchapter applies, to assist schools and child-care facilities in one or more areas of the county selected by DSHS to reduce the potential for children's exposure to area-wide soil contamination and develop best management practice guidelines for schools and child-care facilities located in an area with area-wide soil contamination that recommend a range of methods for reducing exposure to contaminated soil, considering the concentration, extent, and location of contamination and the nature and frequency of child use of the area.

(b) Requires DSHS to identify schools and child-care facilities located in the geographic area in the county selected by the DSHS, conduct qualitative evaluations of the selected geographic area to determine the potential for children's exposure to area-wide soil contamination, if the qualitative evaluation indicates children may be routinely exposed to area-wide soil contamination at a property, conduct soil samples at that property not later than 120 days after the date the evaluation is completed, and if soil sample results confirm the presence of area-wide soil contamination, notify schools and child-care facilities regarding the test results and the steps necessary to implement best management practices.

Sec. 88.054. WRITTEN NOTIFICATION OF SOIL TEST RESULTS. Requires the superintendent or board of directors of the school or the owner or operator of the child-care facility, if a school or a child-care facility with area-wide soil contamination fails to implement best management practices within six months of receiving written notification from DSHS, to provide written notice of the results of the soil tests to the parent or legal guardian of each child attending the school or child-care facility. Requires DSHS to prepare the written notice for distribution by the school or facility.

Sec. 88.055. RECOGNITION OF COMPLIANCE WITH BEST MANAGEMENT PRACTICES. Requires DSHS to recognize a school or child-care facility that successfully implements best management practices by providing to the school or facility a certification letter stating the facility has successfully implemented best management practices.

Sec. 88.056. ACCESS FOR SOIL SAMPLING. Requires schools and child-care facilities to cooperate with DSHS to provide DSHS with site access for soil sampling at times most convenient for all parties.

Sec. 88.057. GRANT PROGRAM. Authorizes DSHS to establish a grant program to assist a school or child-care facility in implementing best management practices as recommended by Section 88.053.

SECTION 4. Requires DSHS to develop best management practice guidelines as required by Subchapter B, Chapter 88, Health and Safety Code, as added by this Act, not later than January 1, 2010.

SECTION 5. Effective date: September 1, 2009