

BILL ANALYSIS

Senate Research Center
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S.B. 1587
By: Garcia
Agriculture, Water & Rural Affairs
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Following the water crisis in Flint, Michigan, where drinking water in an entire city was found to be contaminated with lead, Texas schools have been eager to investigate and eliminate potentially contaminated water. In 2016, unsafe lead levels were found at multiple campuses in Fort Worth ISD, Dallas ISD, and Houston ISD. Though these individual districts have taken efforts to address the problem, Texas is facing a statewide crisis of tests revealing unsafe lead levels in schools, or districts are not testing at all to determine if there are unsafe lead levels. In fact, Texas has an "F" rating from Environment Texas on policies protecting children from lead in water at school.¹

Children are particularly susceptible to lead poisoning, which can cause numerous adverse health effects including behavior and learning problems, lower IQ and hyperactivity, slowed growth, hearing problems, and anemia.² While the federal Lead and Copper Rule (LCR) is 15 parts per billion (ppb), S.B. 1587 adopts the American Academy of Pediatrics' recommendation of 1 ppb standard for unsafe levels of lead in schools' drinking water because there is no safe level of lead exposure.³

Lead poisoning affects mostly small children, and it only takes a small amount of lead exposure to cause serious health effects. Since lead poisoning is not treatable, it is only preventable. S.B. 1587 is aimed at prevention.⁴

S.B. 1587 requires:

- (1) public water systems to replace lead service lines;
- (2) public and private schools and child care facilities to develop and adopt a plan of action to prevent elevated lead levels; and
- (3) public and private schools to conduct tests of water for lead at least once per year.

Furthermore, if a test reveals an elevated lead level, the facility must alert parents and school and childcare facility staff about test results; thus, S.B. 1587 also promotes public transparency.

Citations:

1. "Get the Lead Out"- Ensuring Safe drinking Water for Our Children at School. Report. Environment Texas
2. Learn About Lead. <https://www.epa.gov/lead/learn-about-lead>
3. <http://pediatrics.aappublications.org/content/early/2016/06/16/peds.2016-1493>
4. AAP Commends CDC for Recognizing That for Children, There is No Safe Level of Lead Exposure. <https://www.aap.org/en-us/about-the-aap/aap-press-room/Pages/AAP-Statement-CDC-Revised-Lead-Exposure-Guidelines.aspx>

As proposed, S.B. 1587 amends current law relating to lead in drinking water at schools and child care facilities.

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 Section 341.040, Health and Safety Code, as follows:

Sec. 341.040. New heading: DEFINITIONS. Defines "child care facility," "commission," "drinking water outlet," "elevated lead level," "executive director," "lead service line," "local health department," "open-enrollment charter school," "private school," and "public water system."

SECTION 2. Amends Subchapter C, Chapter 341, Health and Safety Code, by adding Sections 341.051, 341.052, 341.053, 341.054, and 341.055, as follows:

Sec. 341.051. LEAD SERVICE LINE REPLACEMENT. (a) Requires that each public water system fully replace lead service lines in each public or private school or child care facility that is served by the public water system. Requires that the replacement be paid for by the public water system, regardless of ownership of any portion of the service line, and requires that the replacement be performed in coordination with the relevant municipality, school, or child care facility. Requires that the replacement conform to the Texas Commission on Environmental Quality's (TCEQ) technical guidance under Section 341.055.

(b) Requires that a public water system provide to each school district, open-enrollment charter school, private school, and child care facility that the public water system serves any information in its possession relating to the location of lead service lines. Requires that each school district, open-enrollment charter school, private school, and child care facility determine which of its buildings receive drinking water through lead service lines and report the information to TCEQ.

(c) Requires TCEQ to ensure that lead service lines are disposed of in accordance with hazardous waste laws and not disposed of in a landfill or incinerated.

Sec. 341.052. PREVENTING LEAD CONTAMINATION. (a) Requires that each public or private school, and child care facility develop and adopt a plan of action to prevent elevated lead levels in all water used for drinking or cooking. Requires that the plan of action include installing and maintaining filters certified by the National Sanitation Foundation (NSF) at all drinking water outlets in each school or facility building and an inventory of lead-bearing parts within the school or facility's water delivery system, including fixtures and plumbing with lead soldering.

(b) Authorizes a public or private school, or child care facility, if consistent with other obligations in law, to remove some drinking water outlets from operation, instead of installing filters on those outlets, if every child has reasonable access to free, safe drinking water.

(c) Requires that each public or private school or child care facility, to the extent that replacement is both feasible and cost-effective, replace the items identified in the lead-bearing parts inventory under Subsection (a)(2) (relating to requiring that the plan of action include an inventory of lead-bearing parts within the school or facility's water delivery system).

(d) Authorizes the plan of action adopted under Subsection (a) to include any other measures to reduce lead contamination of drinking water outlets, consistent with TCEQ's technical guidance under Section 341.055.

(e) Authorizes a public or private school or child care facility to revise the school or facility's plan of action, especially in response to public input, if the plan of action complies with TCEQ's technical guidance under Section 341.055.

(f) Authorizes a public or private school or child care facility to seek the assistance of a local health department, a public water system, or TCEQ to comply with the provisions of this section.

(g) Provides that nothing in this section prevents a public or private school or child care facility from conducting more immediate lead remediation when a test indicates that a drinking water outlet has an elevated lead level, as provided by Section 341.053(c).

Sec. 341.053. TESTING AND REMEDIATION. (a) Requires that each public or private school or child care facility undertake periodic testing of the drinking water outlets in each school or child care facility for the presence of lead. Requires that each test for lead be conducted by a laboratory certified for this purpose by the executive director of TCEQ (executive director), in accordance with the sampling and testing methods specified in the technical guidance under Section 341.055. Requires that each school or child care facility perform the required testing at least once per year, unless the executive director determines, on a case-by-case basis, that a greater or lesser frequency of testing is necessary or sufficient to ensure the public health, including timely testing after replacement of lead service lines.

(b) Provides that nothing in this section prevents a public or private school or child care facility from conducting more frequent testing than required.

(c) Requires that the public or private school or child care facility, if testing reveals an elevated lead level at a drinking water outlet, not later than 24 hours after receiving the test results, close off access to the drinking water outlet and report the test results to TCEQ. Requires that the public or private school or child care facility, not later than the 30th day after receiving test results showing one or more drinking water outlets have elevated levels of lead, either:

(1) permanently shut or close off access to the affected drinking water outlets and provide an alternative source of safe water without elevated lead levels; or

(2) install and maintain filters certified by NSF at the drinking water outlets that have elevated lead levels.

(d) Requires that a public or private school or child care facility take additional measures if necessary to eliminate elevated lead levels at the drinking water outlets, consistent with the technical guidance under Section 341.055.

Sec. 341.054. TRANSPARENCY AND PUBLIC RIGHT TO KNOW. (a) Requires that each public or private school or child care facility:

(1) submit certain information to TCEQ, the Texas Education Agency, and the Department of State Health Services (DSHS);

(2) maintain copies of information submitted under Subdivision (1) in a suitable location for inspection by the public and on the Internet website of the school or facility;

(3) notify parent, teacher, and employee organizations of the availability of the submitted information; and

(4) designate a person to serve as the contact person for communications with TCEQ and the public regarding the lead testing and remediation activities.

(b) Requires that the public or private school or child care facility, if testing conducted under Section 341.053 reveals an elevated lead level at a drinking water outlet, within one business day, directly notify teachers, school personnel, and the parent of or person standing in parental relation to each student through written notice, electronic mail, or other means approved by TCEQ. Requires that the notification include certain information.

(c) Requires that the public or private school or child care facility, at each drinking water outlet, post an electronically accessible code with information on testing and remediation for that outlet. Requires that the information include the maintenance schedule and log for installed filters certified by NSF, unless the drinking water outlet is equipped with a clearly visible indicator for filter replacement.

Sec. 341.055. TECHNICAL GUIDANCE. (a) Requires that TCEQ issue technical guidance that is at least as protective of the public health as the technical guidance for reducing lead in drinking water at schools issued by the U.S. Environmental Protection Agency. Requires that provisions of the technical guidance related to testing to determine the presence and level of lead in water be designed to maximize detection of lead in water and prohibit certain sampling or testing methods that tend to mask lead contamination.

(b) Requires that TCEQ provide the technical guidance described by Subsection (a), a list of laboratories certified to conduct lead testing, and any other information TCEQ considers appropriate to each school district, open-enrollment charter school, private school, and child care facility.

SECTION 3. (a) Requires TCEQ, not later than December 1, 2017, to order each public water system to replace all lead service lines at each public and private school and child care facility as required by Section 341.051(a), Health and Safety Code, as added by this Act.

(b) Requires that each public water system, not later than September 1, 2020, fully replace lead service lines at all public and private school and child care facilities that it serves, as required by Section 341.051(a), Health and Safety Code, as added by this Act.

(c) Requires that each public water system, not later than October 1, 2017, provide school districts, open-enrollment charter schools, private schools, and child care facilities that it serves with information relating to the location of lead service lines, as required by Section 341.051(b), Health and Safety Code, as added by this Act.

(d) Requires that each school district, open-enrollment charter school, private school, and child care facility, not later than November 1, 2017, inform TCEQ which buildings are served by lead service lines as required by Section 341.051(b), Health and Safety Code, as added by this Act.

(e) Requires that each public and private school and child care facility, not later than March 1, 2018, adopt a plan of action to prevent elevated lead levels in all water used for drinking or cooking as required by Section 341.052(a), Health and Safety Code, as added by this Act.

(f) Requires that each public and private school and child care facility, not later than March 1, 2019, install and maintain filters certified by NSF, as required by Section 341.052(a), Health and Safety Code, as added by this Act.

(g) Requires that each public and private school and child care facility, not later than September 1, 2019, replace the items identified in the lead-bearing parts inventory, as required by Section 341.052(c), Health and Safety Code, as added by this Act.

(h) Requires that each public or private school or child care facility, not later than December 1, 2017, perform an initial test of each drinking water outlet, as required by Section 341.053(a), Health and Safety Code, as added by this Act.

(i) Requires that TCEQ, not later than October 15, 2017, post the technical guidance required by Section 341.055, Health and Safety Code, as added by this Act, on TCEQ's Internet website.

SECTION 4. Effective date: upon passage or September 1, 2017.