



# HOUSE BILL 1074: Schools/CC Facilities – Test Water for Lead.

2016-2017 General Assembly

<b>Committee:</b>		<b>Date:</b>	June 30, 2016
<b>Introduced by:</b>	Reps. Hager, Bryan, Jeter, Burr	<b>Prepared by:</b>	Jennifer Mundt
<b>Analysis of:</b>	Second Edition		Legislative Analyst

**SUMMARY:** *The 2<sup>nd</sup> Edition of House Bill 1074 would require public schools and child care facilities in the State that were permitted for construction prior to January 1, 1987, to test the school's or facility's drinking water for the presence of lead.*

### BILL ANALYSIS:

**Part I** of the bill – comprising Sections 1 through 3 – would do the following:

**Section 1** names the act the "Protect North Carolina's School-Age Children from Lead Exposure Act of 2016."

**Section 2.(a)** sets out definitions including:

- *Child care facility:* A facility as defined in G.S. 110-86 and licensed pursuant to Article 7 of Chapter 110 of the General Statutes, that was permitted in accordance with either G.S. 153A-357 or G.S. 160A-417, on or before January 1, 1987.
- *Drinking water outlet:* Any water fountain, faucet, or tap that is regularly used for drinking or food preparation, including ice-making and hot drink machines.
- *Elevated lead level:* A lead concentration in drinking water that exceeds the standard action level established by the United States Environmental Protection Agency (USEPA).
- *School:* a public school under the direction of a local board of education, a charter school, a regional school, a high school operated as part of The University of North Carolina, a school operated by the Department of Health and Human Services, or a school operated by the State Board of Education that was permitted in accordance with either G.S. 153A-357 or G.S. 160A-417, on or before January 1, 1987.
- *Standard action level:* The federal standard action level for lead: 15 parts per billion (ppb).

**Section 2.(b)** directs each school and child care facility, as defined above, to test prescribed drinking water outlets for the presence of lead.

**Section 2.(c)** establishes minimum criteria for testing drinking water for the presence of lead at prescribed drinking water outlets and other locations within or outside the school or child care facility as follows:

1. All drinking water outlets located within the kitchen and any other food preparation area.
2. At least one drinking water outlet in a lavatory located within each wing and on each floor of the school building.

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3. At least one drinking water fountain of the same make and model number located within each wing and on each floor of the school building.
4. All classroom combination sinks and drinking water fountains.
5. All sinks located in classrooms that are used for home economics.
6. All sinks located in teachers' lounges.
7. All sinks located in nurses' offices.
8. All sinks located in special education classrooms that are used for drinking water or food preparation.
9. Any sink known to be or visibly used for consumption.
10. The location where the water piping from the water supplier or well connects to the water piping system of the school building, where practicable
11. Any other locations within or outside the school building as directed by the Division or the local health department (LHD).

**Section 2.(d)** provides that a school or child care facility may seek the assistance of a LHD, public water system, the Division of Public Health (DPH) in the Department of Health and Human Services, or the Department of Environmental Quality to help ensure compliance with this act.

**Section 2.(e)** requires each school and child care facility to submit drinking water samples to a North Carolina State Laboratory Public Health Environmental Sciences Certified Laboratory to conduct the required lead analyses.

**Section 2.(f)** sets out the following testing, reporting, and notification requirements:

1. In accordance with the criteria established in Section 2(c), the schools and child care facilities must perform the required lead testing between February 1, 2017, and April 1, 2017.
2. Certified laboratories must report the results of the drinking water analyses to both DPH and to each school and child care facility, as applicable, within 10 business days of completion, and in any case no later than April 15, 2017.
3. Within 10 business days of receiving the results from the certified laboratory, each school and child care facility must make the test results available to the public (and may fulfill this requirement by posting the results on its Web site) and notify parents or guardians of the children of the test results.

**Section 2.(g)** sets out the following additional requirements that must be followed by schools and child care facilities with initial drinking water samples that reveal elevated lead levels:

- Immediately restrict access to any drinking water with lead concentrations at or above the elevated lead level.
- Immediately ensure that all students and children have access to an alternate safe drinking water supply and are not exposed to drinking water with elevated levels of lead.
- Immediately, but no more than 5 days from the date when an elevated lead level test result was received, conduct a second test of the drinking water to confirm the results of the initial analysis. The school or child care facility must coordinate with staff from the LHD, DPH, DEQ, or private consultants who have expertise in sampling potable water to conduct the confirmatory tests.

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- No more than 5 business days following the completion of the subsequent analysis, the certified laboratory must report the result to both the school or child care facility, as applicable, and to DPH.
- Within one business day of receipt of a subsequent drinking water analysis that confirms elevated lead levels, the school or child care facility must notify teachers, other school personnel, and parents or guardians of the results of the tests, provide a description of any remedial actions taken or planned to be taken, provide general information on the public health effects and risks posed by lead in drinking water, and when directed by DPH, include information on how and where individuals may obtain blood testing for lead.
- Upon confirmation of elevated lead levels, the school or child care facility must determine the source of the lead and work with DPH, DEQ, DPI, and the Division of Child Development and Early Education (DCDEE) in DHHS to identify necessary corrective action to address the lead contamination.
- Sources of lead must be removed from the school and child care facility and each may seek technical assistance from the agencies to comply as necessary.
- Requires each school or child care facility to complete all corrective actions to remove the source of lead from the drinking water within 12 months of receipt of subsequent test result that confirmed an elevated lead level in drinking water.

**Section 2.(h)** directs DPH, in consultation with DEQ, to develop and adopt technical guidance to assist in testing for and reducing lead in schools and child care facilities.

**Section 2.(i)** directs DPH to submit the following:

1. Within five business days of receipt, a report of each test result that confirms an elevated lead level in a school's or child care facility's drinking water to the chairs of several House and Senate Appropriations Subcommittees and to the Fiscal Research Division.
2. By May 1, 2017, a report on the implementation of this act and the test results received in accordance with this act to the chairs of several House and Senate Appropriations Subcommittees and to the Fiscal Research Division.

**Section 3.(a)** directs DPH to coordinate with the North Carolina Government Data Analytics Center (GDAC) to leverage the existing public-private partnerships and available resources to assist DPH with the development and implementation of a database and the reporting infrastructure necessary to support the testing, reporting, and notification requirements set out in this act.

**Section 3.(b)** directs DEQ and DPH to develop and provide technical guidance on reducing lead in drinking water, a layman's summary of methods to collect, handle, and test drinking water samples, a list of laboratories certified to analyze water for the presence of lead, and any other information the agencies deem appropriate to DPI and DCDEE by December 1, 2016. DPI and DCDEE must distribute the technical guidance to each school and each child care facility by January 1, 2017.

**Part II** of the bill would authorize the following studies:

**Section 4** directs DPH, in consultation with DEQ, to study and make recommendations to the Environmental Review Commission (ERC) and the Joint Legislative Oversight Committee on Health and Human Services by December 1, 2016, on the following:

1. A schedule of subsequent testing, as appropriate, of drinking water in schools and child care facilities that did not reveal lead in the water based on the analysis required by this act.

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2. Whether schools and child care facilities that were permitted on or after January 1, 1987, should test drinking water for elevated lead levels, and the frequency of such tests, if recommended.
3. Public and private funding mechanisms available to schools and child care facilities that must take corrective action to reduce or eliminate the source of lead in drinking water.

**Section 5** directs DEQ, in consultation with DPI, to study and make recommendations as to the appropriate timing and duration of water system flushing at each school prior to the start of the academic year and report its findings, recommendations, and any legislative proposals to the ERC and the Joint Legislative Education Oversight Committee by December 1, 2016.

**Part III** of the bill sets out an appropriation in **Section 6 that would, effective July 1, 2016**, appropriate \$2.4 million in nonrecurring funds from the General Fund to DHHS to (i) reimburse the schools and child care facilities for the costs associated with testing drinking water for the presence of lead or (ii) to cover the costs associated with DHHS conducting sampling and analysis of drinking water on behalf of schools and child care facilities. Of the funds appropriated, (i) up to 5% of the total appropriation may be used by DPH, DCDEE, DEQ, and DPI to support the administration of this act and (ii) up to \$250,000 may be used to develop and implement the database and reporting infrastructure necessary to support the requirements of this act. DHHS would reimburse each school and child care facilities upon receipt of appropriate documentation that authenticates completion of the required testing. Any remaining funds may be used by DHHS to reimburse schools and child care facilities for the costs incurred for (i) the provision of alternative drinking water, (ii) identification and removal of drinking water infrastructure that contains lead, and (iii) installation of replacement infrastructure or water treatment devices upon receipt of documentation that authenticates installation of replacement infrastructure or treatment devices.

**EFFECTIVE DATE:** Except as otherwise provided, this act becomes effective when it becomes law.