
Education Committee

HB 1139

Brief Description: Taking action to address lead in drinking water.

Sponsors: Representatives Pollet, Callan, Berg, Dolan, Ryu, Leavitt, Bronoske, Ramel, Ramos, Lekanoff, Stonier, Ortiz-Self, Frame, Goodman, Rule, Bergquist, Berry, Wylie, Johnson, J., Taylor and Valdez.

Brief Summary of Bill

- Requires public and private elementary and secondary schools with buildings built, or with all plumbing replaced, before 2016, to have drinking water outlets tested for lead contamination; communicate test results and other information to the public; and adopt action plans if test results reveal lead concentrations that exceed 5 parts per billion.
- Requires the Department of Health (DOH) to conduct lead testing of drinking water in public elementary and secondary schools by specified deadlines and according to stated technical requirements.
- Designates the DOH, rather than community water systems, as the principal agency in regard to lead testing, remediation, and other actions at elementary and secondary schools.

Hearing Date: 1/26/21

Staff: Megan Wargacki (786-7194).

Background:

Federal Requirements.

The federal Safe Drinking Water Act's Lead and Copper Rule (LCR), finalized in December 2020, requires community water systems to sample and test for lead contamination in drinking

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water outlets in elementary schools with buildings built, or with all plumbing replaced, before 2014. Beginning January 16, 2024, community water systems must conduct sampling at 20 percent of these elementary schools per year and must conduct sampling at secondary schools on request. After five years, the community water system must conduct sampling by request only. Sample results and other information must be provided to each sampled school and the state Department of Health (DOH).

Schools that operate their own water systems must continue to meet LCR requirements. Currently approximately 100 schools own and operate their own water system and are required to sample and test for lead contamination at least every three years.

If the level of lead contamination exceeds specified thresholds, community and school water systems must take steps to reduce the level of lead in the water system.

State Requirements and Actions.

The DOH implements the state's drinking water program. State-adopted drinking water regulations may not be less stringent than what is required under the federal Safe Drinking Water Act.

In the 2019-21 fiscal biennium, the DOH was appropriated \$1 million to sample and test for lead contamination in drinking water outlets in public schools. The DOH was required to determine which school districts have the highest priority and test those districts first. The DOH and the districts for which tests were conducted were directed to communicate to parents, educators, school staff and the public regarding the test results, comparison to specified recommended action levels, the potential consequences of lead exposure, and examples of actions that can be taken to remediate lead in drinking water. Between July and December 2019, the DOH tested drinking water from 3,300 fixtures in 92 schools costing \$256,000.

In the 2019-2021 fiscal biennium, the Office of the Superintendent of Public Instruction (OSPI) set aside \$250,000 of its Healthy Kids-Healthy Schools Capital Budget appropriation to fund drinking water fixture replacements in school districts with drinking water outlets that tested positive for any detectable level of lead contamination. The funding was fully obligated within the first fiscal year.

Summary of Bill:

State-Funded Schools.

The following schools with buildings built, or with all plumbing replaced, before 2016, referred to as "pre-2016 state-funded schools," must meet specified requirements related to sampling and testing for lead contamination at drinking water outlets: school districts and the common schools within each district, charter schools, the state School for the Blind, and the state School for the Deaf.

Drinking water is any water that students have access to where it is reasonably foreseeable that

the water may be used for drinking, cooking, or food preparation. A drinking water outlet is any end point for delivery of drinking water, for example a tap, faucet, or fountain.

Lead Testing. With respect to sampling and testing for lead contamination at drinking water outlets, a pre-2016 state-funded school must either: (a) cooperate with the DOH so that the DOH can conduct lead sampling and testing; or (b) contract for lead sampling and testing that meets the DOH technical requirements and submit the test results to the DOH.

Communications. Beginning September 1, 2021, a pre-2016 state-funded school must make available on a public webpage the most recent lead test results. New test results must be posted within 30 days after receipt.

Annually, beginning September 1, 2021, a pre-2016 state-funded school must communicate with students' families and staff about lead contamination in drinking water. The school must consult with the DOH or a local health agency on the contents of the communication, which must include: the health effects of lead and that there is no safe level of lead in drinking water; the webpage address of the lead test results; information about, and a comparison of test results with stated thresholds for remedial action to reduce lead contamination in drinking water.

School Action Plans. For a lead test result that reveals a lead level that exceeds 5 parts per billion (ppb) (an "elevated lead level") at a drinking water outlet, a pre-2016 state-funded school's governing body must develop and adopt a school action plan. The school action plan must be developed in consultation with the DOH or a local health agency regarding the DOH technical guidance and with the OSPI regarding funding for remediation activities; include remediation activities that adhere to the DOH technical guidance; and include confirmatory retesting. The public must be provided with notice and opportunity to comment on the school action plan before it is adopted.

The school action plan adoption deadlines are as follows: (1) for test results received between July 1, 2014, and the effective date of the act, for which either remedial action was not taken or retesting has not confirmed that the elevated lead level has been reduced to below 5 ppb, the governing body must provide notice of the test results and adopt an action plan by November 1, 2021; and (2) for test results received after the effective date of the act, the governing body must adopt a school action plan within six months of receipt.

Private Schools.

A private elementary or secondary school must contract for lead sampling and testing for lead contamination at drinking water outlets in school buildings built, or with all plumbing replaced, before 2016. Sampling and testing for the presence and level of lead in drinking water must meet the DOH technical requirements.

These private schools must meet the same deadlines for initial testing and retesting as required for state-funded schools. In addition, these private schools must communicate with students' families and staff about lead contamination in drinking water, make lead test results available on

a public website, and develop and adopt school action plans, to the same extent as required for state-funded schools.

The Department of Health.

Lead Testing. The DOH must conduct lead sampling and testing for lead contamination at drinking water outlets in pre-2016 state-funded school. The DOH meets this requirement when a pre-2016 state-funded school contracts for lead sampling and testing that meets specified requirements and submits the test results to the DOH. Initial testing must be conducted between July 1, 2014, and June 30, 2026, and retesting must be conducted no less than every five years beginning July 1, 2026.

The DOH must enter a data-sharing agreement with the OSPI for the purpose of compiling a list of pre-2016 state-funded schools.

The DOH must allow state-tribal compact schools to opt in to lead sampling and testing for lead contamination at drinking water outlets in school buildings built, or with all plumbing replaced, before 2016.

Technical Guidance. The DOH must develop and make available technical guidance for reducing lead contamination in drinking water at schools that is at least as protective of student health as federal guidance on this topic. The technical guidance must include the technical requirements for sampling, processing, and analysis, including that analysis must be conducted by a laboratory accredited by the Department of Ecology. The technical guidance must describe best practices for remediating elevated lead levels at drinking water outlets in schools. Provisions of the technical guidance related to testing for the presence and level of lead in drinking water must be designed to maximize detection of lead in water.

Elevated Lead Level Rule. After July 1, 2030, the DOH may, by rule, define "elevated lead level" at a concentration less than 5 ppb if scientific evidence supports a lower concentration as having the potential for further reducing the health effects of lead contamination in drinking water.

Principal Agency. To the fullest extent permitted by federal law, the DOH, rather than community water systems, is designated as the lead or principal agency in regard to lead in drinking water sampling, testing, notification, remediation, public education, and other actions at public and private elementary and secondary schools as required by the LCR.

The DOH must issue a written waiver that exempts community water systems that serve schools from the sampling and testing requirements of the LCR related to schools if the DOH determines that the mandatory requirements for sampling and testing for, and remediation of, lead contamination in drinking water outlets at elementary and secondary schools under this act are consistent with the LCR requirements.

Appropriation: None.

Fiscal Note: Requested on January 12, 2021.

Effective Date: The bill contains an emergency clause and takes effect immediately.