

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

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HOUSE BILL 1074

Short Title: Schools Test for Lead/HS Dropout Pilot Prog. (Public)

Sponsors: Representatives Hager, Bryan, Jeter, and Burr (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Appropriations

May 11, 2016

A BILL TO BE ENTITLED

1
2 AN ACT (1) TO REQUIRE ALL SCHOOLS IN NORTH CAROLINA TO TEST DRINKING
3 WATER OUTLETS FOR THE PRESENCE OF LEAD AND (2) TO ESTABLISH A PILOT
4 PROGRAM TO RAISE THE HIGH SCHOOL DROPOUT AGE FROM SIXTEEN TO
5 EIGHTEEN IN HICKORY PUBLIC SCHOOLS, NEWTON-CONOVER CITY SCHOOLS,
6 AND RUTHERFORD COUNTY SCHOOLS.

7 Whereas, lead is a metal known for its toxicity and potential to harm human health; and

8 Whereas, lead has been shown to negatively affect almost every organ system in the
9 human body; and

10 Whereas, the most sensitive organ system affected by lead is the central nervous
11 system; and

12 Whereas, children six years of age and younger are particularly at risk when exposed to
13 lead; and

14 Whereas, low blood lead levels in children have been associated with reduced IQ and
15 attention span, learning disabilities, poor classroom performance, hyperactivity, behavioral
16 problems, impaired growth, and hearing loss; and

17 Whereas, the United States Centers for Disease Control and Prevention and the United
18 States Environmental Protection Agency have determined that there is no safe blood lead level in
19 children; and

20 Whereas, the Centers for Disease Control and Prevention recommends that all sources
21 of lead exposure to children be controlled or eliminated; and

22 Whereas, under the authority of the federal Safe Drinking Water Act, the United States
23 Environmental Protection Agency's Lead and Copper Rule requires public water systems to test
24 drinking water for the presence of lead in only a percentage of residences; and

25 Whereas, according to an evaluation of public water system data in the federal Safe
26 Drinking Water Information System database collected between 2012 and 2015, 79 water systems
27 in North Carolina were found to test higher than the Agency's action level for lead of 15 parts per
28 billion (ppb); and

29 Whereas, the 79 water systems that tested higher than the federal action level are
30 located in 44 counties across the State; and

31 Whereas, the lead testing protocols prescribed by the federal Lead and Copper Rule
32 that are employed by public water supply systems are aimed at identifying systemwide lead
33 problems rather than the presence of lead in outlets and taps within individual buildings; and

34 Whereas, the federal Lead and Copper Rule does not require testing for the presence of
35 lead in drinking water in public schools or private schools; and



1 Whereas, unless a school is considered a public water system, testing drinking water in
2 a school for the presence of lead is voluntary; and

3 Whereas, under the federal Lead and Copper Rule, states may establish drinking water
4 regulations that are more stringent than the United States Environmental Protection Agency; and

5 Whereas, North Carolina does not require testing water in public schools or nonpublic
6 schools for the presence of lead as a component of the mandatory annual sanitation inspection
7 pursuant to G.S. 130A-236; and

8 Whereas, the United States Environmental Protection Agency strongly recommends
9 that schools test the drinking water in their facilities for lead; Now, therefore,
10 The General Assembly of North Carolina enacts:

11
12 **PART I. PROTECT NORTH CAROLINA'S SCHOOL-AGE CHILDREN FROM LEAD**
13 **EXPOSURE**

14 **SECTION 1.** Part I of this act shall be known as the "Protect North Carolina's
15 School-Age Children from Lead Exposure Act of 2016."

16 **SECTION 2.(a)** Definitions. – For purposes of Parts I, II, and III of this act, the
17 following definitions shall apply:

- 18 (1) "Agency" means the United States Environmental Protection Agency.
- 19 (2) "Department" means the Department of Environmental Quality.
- 20 (3) "Director" means the Director of the Division of Public Health in the
21 Department of Health and Human Services, or the Director's designee.
- 22 (4) "Division" means the Division of Public Health in the Department of Health
23 and Human Services.
- 24 (5) "Drinking water outlet" means any water fountain, faucet, or tap that is
25 regularly used for drinking or food preparation, including ice-making and hot
26 drink machines.
- 27 (6) "Elevated lead level" means a lead concentration in drinking water that exceeds
28 the standard action level established by the Agency.
- 29 (7) "Local health department" means a district health department, a public health
30 authority, or a county health department.
- 31 (8) "Public water system" means the same as that term is defined in
32 G.S. 130A-313.
- 33 (9) "Secretary" means the Secretary of the North Carolina Department of
34 Environmental Quality, or the Secretary's designee.
- 35 (10) "School" means all public schools and nonpublic schools that serve students in
36 any grade between kindergarten to twelfth grade in North Carolina, with the
37 exception of home schools, as that term is defined in Part 3 of Article 39 of
38 Chapter 115C of the General Statutes. For purposes of this Part, "school" may
39 also refer to local boards, superintendents, administrators, and other leaders
40 who serve public schools and nonpublic schools in this State.
- 41 (11) "Technical guidance" means any technical guidance for reducing the level of
42 lead in drinking water in schools issued either by the Agency, the Department,
43 or the Division pursuant to subsection (g) of this section.

44 **SECTION 2.(b)** Test for the Presence of Lead in School Drinking Water Outlets. –
45 Each school shall test each drinking water outlet in the school for the presence of lead. Each test
46 for the presence of lead shall be analyzed by a laboratory certified in accordance with subsection
47 (d) of this section. Schools may conduct the test for lead in drinking water in conjunction with the
48 annual sanitation inspection required pursuant to G.S. 130A-236, provided that this test is
49 conducted, evaluated, and the results are submitted to the Department, the Division, and the
50 Department of Public Instruction in accordance with the time lines set out in subsection (e) of this

1 section. A school shall collect and handle drinking water samples in accordance with standards
2 established pursuant to the federal Safe Drinking Water Act (42 U.S.C. § 300f through 300j-9).

3 **SECTION 2.(c)** Assistance with Compliance. – A school may seek the assistance of a
4 local health department or a public water system to help ensure the school's compliance with the
5 requirements of Part I of this act.

6 **SECTION 2.(d)** Certified Laboratory. – A school shall submit drinking water samples
7 to a North Carolina State Laboratory Public Health Environmental Sciences Certified Laboratory
8 to conduct the lead analyses required pursuant to this section.

9 **SECTION 2.(e)** Testing, Reporting, and Notification Requirements. –

10 (1) Each school shall sample and test drinking water for the presence of lead in
11 drinking water outlets in accordance with the following timetable:

12 a. Commence testing no earlier than the 30th calendar day following the
13 start of the academic year, and

14 b. Conclude testing no later than the 120th calendar day following the start
15 of the academic year.

16 (2) Each school shall submit electronic copies of the results of the tests for the
17 presence of lead from sampled drinking water outlets to the Department, the
18 Division, and the Department of Public Instruction on or before December 31,
19 2016.

20 (3) Each school shall make the results of the test for lead in drinking water
21 available to the public, free of charge, and shall notify the parents or guardians
22 of the children attending each school of the test results.

23 **SECTION 2.(f)** Additional Requirements and Remediation for Drinking Water
24 Samples That Reveal Elevated Lead Levels. – In the event that a school drinking water outlet
25 water sample tested pursuant to this section reveals an elevated lead level established by the
26 Agency, the school shall do all of the following, as applicable:

27 (1) Immediately restrict access to the drinking water outlet with lead concentrations
28 at or above the elevated lead level.

29 (2) Immediately take remedial action to ensure that students are not exposed to
30 drinking water with elevated levels of lead and have access to free, fresh, clean
31 drinking water in the school. Alternate drinking water supplies shall be
32 provided at the school until the drinking water is (i) tested and shown to be
33 below the action level or concentration and (ii) the Department and the Division
34 both determine and provide written documentation that the drinking water is
35 safe for human consumption.

36 (3) Within one business day of receipt of a drinking water test result that reveals an
37 elevated lead level at a drinking water outlet, the school shall notify teachers,
38 other school personnel, and parents directly through written notice, electronic
39 mail, or other means approved by the Department, the Division, and the
40 Department of Public Instruction. The notification shall include the following:

41 a. A summary of the results of the tests conducted pursuant to this section
42 and information as to the availability of the complete drinking water test
43 results for review at a public location and on the Web site for the school
44 or local school administrative unit.

45 b. A description of any remedial measures taken or planned to be taken in
46 order to address the test results showing elevated lead levels.

47 c. General information on the public health effects and risks posed by the
48 presence of lead in drinking water and information on the availability of
49 additional resources concerning lead in drinking water, including those
50 outlined in the technical guidance and other State or federal resources.

1 d. When directed by the Department and the Division, information on how
2 and where individuals may obtain blood testing for lead.

3 (4) Schools with drinking water with elevated lead levels shall conduct subsequent
4 testing of the drinking water outlet to confirm the results of the first analysis
5 and, upon confirmation of elevated lead levels in drinking water, determine the
6 source of the lead, including identification of each building or structure with
7 lead pipes, lead solder, or fixtures that contain lead.

8 (5) Schools with drinking water with elevated lead levels shall remove the source
9 of lead from drinking water outlets. Schools may seek technical assistance to
10 comply with this subdivision from the Department, the Division, and local
11 health departments as necessary.

12 **SECTION 2.(g) Technical Guidance.** – The Department and the Division shall jointly
13 develop and adopt technical guidance, provided that the guidance is at least as protective of public
14 health as the technical guidance for reducing lead in drinking water at schools issued by the
15 Agency. The Department and the Division shall work in consultation with the Department of
16 Public Instruction to develop State-specific guidance for lead testing, including standards and
17 practices for sample collection and handling, and remediation of drinking water in schools.

18 **SECTION 2.(h) Reports.** – The Department, Division, and Department of Public
19 Instruction shall jointly report to the Environmental Review Commission, the Joint Legislative
20 Oversight Committee on Health and Human Services, and the Joint Legislative Education
21 Oversight Committee on the implementation and test results received pursuant to this section on or
22 before January 15, 2017. The report shall include:

23 (1) The number of schools and the name of each school tested, listed by county,
24 and when appropriate, further designation by local school administrative unit.

25 (2) The number of drinking water outlets tested at each school.

26 (3) Cumulative results for the drinking water testing performed at each school.

27 (4) The identity of each school that has drinking water outlets with elevated lead
28 levels, and for each school identified:

29 a. The actions taken to remediate or restrict the lead exposure in the
30 school.

31 b. An overview of the actions taken to notify students, their families, and
32 school personnel of the findings of the lead tests as required by
33 subsection (f) of this section.

34 **SECTION 2.(i) Exemption.** – This section shall not apply to schools that are public
35 water systems.

36 **SECTION 3. State Agencies to Provide Technical and Advisory Assistance.** – Within
37 15 business days of the effective date of this act, the Department of Environmental Quality and the
38 Division of Public Health in the Department of Health and Human Services shall provide the
39 following to the Department of Public Instruction, the Division of Nonpublic Education in the
40 Department of Administration, and to each public school and nonpublic school in North Carolina:

41 (1) The technical guidance and best management practices documents for reducing
42 lead in drinking water at schools, issued by the United States Environmental
43 Protection Agency.

44 (2) A summary of sampling and testing methods contained in the technical
45 guidance.

46 (3) A list of the laboratories certified to test drinking water, in accordance with the
47 federal Safe Drinking Water Act for the presence of lead.

48 (4) Any other information the Department and the Division deem appropriate.
49

50 **PART II. STUDY THE EFFICACY OF THE FEDERAL LEAD AND COPPER RULE**

1 **SECTION 4.** The Department of Environmental Quality and the Division of Public
2 Health in the Department of Health and Human Services shall together study whether the United
3 States Environmental Protection Agency's lead action level, as defined in the federal Lead and
4 Copper Rule (Subpart I of 40 C.F.R. 141, July 1, 2011, Edition), is sufficient to protect public
5 health in this State. In studying the lead action level, the Department and Division shall evaluate
6 (i) the Long-Term Revisions to the Lead and Copper Rule under consideration by the Agency, (ii)
7 how other states implement the Lead and Copper Rule in their jurisdictions, and (iii) any other
8 information, including input from stakeholders, that the Department and Division deem
9 appropriate. The Department and the Division shall jointly report their findings, recommendations,
10 and any legislative proposals to the Environmental Review Commission and the Joint Legislative
11 Oversight Committee on Health and Human Services by December 1, 2016.

12 13 **PART III. APPROPRIATION**

14 **SECTION 5.** There is appropriated ten million dollars (\$10,000,000) from the
15 General Fund to the Department of Public Instruction to reimburse public schools, including
16 charter schools and regional schools, and nonpublic schools regulated in Parts 1 and 2 of Article
17 39 of Chapter 115C of the General Statutes, for the costs associated with testing drinking water for
18 the presence of lead required pursuant to Section 2 of this act. Up to five percent (5%) of the total
19 appropriation may be used by the Department of Health and Human Services, the Department of
20 Environmental Quality, the Department of Public Instruction, and the Division of Nonpublic
21 Education in the Department of Administration to support the administration and implementation
22 of Sections 2, 3, and 4 of this act. The Department of Public Instruction shall reimburse each
23 school upon receipt of appropriate documentation that authenticates the completion of the required
24 testing for lead in drinking water. Of the remaining funds available, the Department of Public
25 Instruction shall reimburse schools for the costs incurred for (i) the provision of alternative
26 drinking water in accordance with Section 2(f)(2) of this act; (ii) identification and removal of
27 drinking water infrastructure that contains lead conducted in accordance with Section 2(f) of this
28 act; and (iii) installation of water treatment devices upon receipt of documentation that
29 authenticates the installation of such devices.

30 31 **PART IV. PILOT PROGRAM TO RAISE THE HIGH SCHOOL DROPOUT AGE FROM** 32 **SIXTEEN TO EIGHTEEN IN THE HICKORY PUBLIC SCHOOLS, THE** 33 **NEWTON-CONOVER CITY SCHOOLS, AND THE RUTHERFORD COUNTY** 34 **SCHOOLS**

35 **SECTION 6.(a)** Notwithstanding any provisions in Part 1 of Article 26 of Chapter
36 115C of the General Statutes, G.S. 7B-1501(27), 115C-238.66(3), 116-235(b)(2), and
37 143B-805(20) to the contrary, the State Board of Education shall authorize the Hickory Public
38 Schools, the Newton-Conover City Schools, and the Rutherford County Schools to establish and
39 implement a five-year pilot program pursuant to this section to increase the high school dropout
40 age from 16 years of age to the completion of the school year coinciding with the calendar year in
41 which a student reaches 18 years of age, unless the student has previously graduated from high
42 school. The pilot program may be implemented beginning with the 2016-2017 school year and
43 shall end in the 2020-2021 school year.

44 **SECTION 6.(b)** For the purposes of implementing the pilot program authorized by
45 this section, a local school administrative unit that is participating in the pilot program shall have
46 the authority to provide that, if the principal or the principal's designee determines that a student's
47 parent, guardian, or custodian, or a student who is 18 years of age, has not made a good-faith
48 effort to comply with the compulsory attendance requirements of the pilot program, the principal
49 shall notify the district attorney and, if the student is less than 18 years of age, the director of
50 social services of the county where the student resides. If the principal or the principal's designee
51 determines that a parent, guardian, or custodian of a student less than 18 years of age has made a

1 good-faith effort to comply with the law, the principal may file a complaint with the juvenile court
2 counselor pursuant to Chapter 7B of the General Statutes that the student is habitually absent from
3 school without a valid excuse. Upon receiving notification by the principal or the principal's
4 designee, the director of social services shall determine whether to undertake an investigation
5 under G.S. 7B-302.

6 **SECTION 6.(c)** The local boards of education of the participating local school
7 administrative units shall prescribe specific rules to address under what circumstances a student
8 who is 18 years of age who is required to attend school as part of the pilot program shall be
9 excused from attendance, including if the student has attained a high school equivalency certificate
10 or a student has enlisted as a member of the Armed Forces.

11 **SECTION 6.(d)** For the purposes of implementing the pilot program authorized by
12 this section, any (i) parent, guardian, or other person having charge or control of a student enrolled
13 in a school located within a participating local school administrative unit and (ii) student who is 18
14 years of age enrolled in a school located within a participating local school administrative unit
15 who violates the compulsory attendance provisions of the pilot program without a lawful
16 exception recognized under Part 1 of Article 26 of Chapter 115C of the General Statutes or the
17 provisions of this section shall be guilty of a Class 1 misdemeanor.

18 **SECTION 6.(e)** If an affidavit is made by the student, parent of the student, or by any
19 other person that any student who is required to attend school under the requirements of the pilot
20 program is not able to attend school by reason of necessity to work or labor for the support of
21 himself or herself or the support of the family, then the school social worker of the applicable
22 school located within the participating school administrative unit shall diligently inquire into the
23 matter and bring it to the attention of an appropriate court, depending on the age of the student.
24 The court shall proceed to find whether as a matter of fact the student is unable to attend the
25 school or such parents, or persons standing in loco parentis, are unable to send the student to
26 school for the term of compulsory attendance for the reasons given. If the court finds, after careful
27 investigation, that the student or the parents have made or are making a bona fide effort to comply
28 with the compulsory attendance law, and by reason of illness, lack of earning capacity, or any
29 other cause which the court may deem valid and sufficient, the student is unable to attend school,
30 then the court shall find and state what help is needed for the student or family to enable
31 compliance with the attendance requirements under the pilot program.

32 **SECTION 6.(f)** Each local school administrative unit may use any funds available to
33 it to implement the pilot program in accordance with this section to (i) employ up to three
34 additional teachers and (ii) fund additional student-related costs, such as transportation and
35 technology costs, including additional computers, to serve a greater number of students as a result
36 of the pilot program. Each local school administrative unit may also use any funds available to it
37 to operate a night school program for students at risk of dropping out of high school. For Hickory
38 Public Schools and Newton-Conover City Schools, to the extent possible, the local school
39 administrative units shall partner with Catawba Valley Community College in administering the
40 pilot program. For Rutherford County Schools, to the extent possible, the local school
41 administrative unit shall partner with Isothermal Community College in administering the pilot
42 program.

43 **SECTION 6.(g)** The local school administrative units, in collaboration with the State
44 Board of Education, shall report to the Joint Legislative Education Oversight Committee, the
45 House Appropriations Committee on Education, and the Senate Appropriations Committee on
46 Education/Higher Education with an interim report on or before January 15, 2018, and a final
47 report on or before January 15, 2021. The report shall include at least all of the following
48 information:

- 49 (1) An analysis of the graduation rate in each local school administrative unit and
50 the impact of the pilot program on the graduation rate.
- 51 (2) The teen crime statistics for Catawba County and for Rutherford County.

- 1 (3) The number of reported cases of violations of compulsory attendance laws in
2 Catawba County and Rutherford County and the disposition of those cases.
- 3 (4) Implementation of enforcement mechanisms for violations of the compulsory
4 attendance requirements of the pilot program, including the imposition of
5 criminal penalties.
- 6 (5) The number of at-risk students served in any night programs established as part
7 of the pilot program and student graduation and performance outcomes for
8 those students.
- 9 (6) All relevant data to assist in determining the effectiveness of the program and
10 specific legislative recommendations, including the continuation, modification,
11 or expansion of the program statewide.

12 **SECTION 6.(h)** The State Board of Education shall not authorize a pilot program
13 under subsection (a) of this section in Catawba County except upon receipt of a copy of a joint
14 resolution adopted by the boards of education for the Hickory Public Schools and the
15 Newton-Conover City Schools setting forth a date to begin establishment and implementation of
16 the pilot program. The State Board of Education shall not authorize a pilot program under
17 subsection (a) of this section in Rutherford County except upon receipt of a copy of a resolution
18 adopted by the board of education for the Rutherford County Schools setting forth a date to begin
19 establishment and implementation of the pilot program.

20
21 **PART V. EFFECTIVE DATE**

22 **SECTION 7.** This act becomes effective July 1, 2016.