

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

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**HOUSE BILL 1074
Committee Substitute Favorable 6/28/16**

Short Title: Schools/CC Facilities – Test Water for Lead. (Public)

Sponsors:

Referred to:

May 11, 2016

A BILL TO BE ENTITLED

1 AN ACT TO REQUIRE PUBLIC SCHOOLS AND CHILD CARE FACILITIES IN NORTH
2 CAROLINA PERMITTED FOR CONSTRUCTION PRIOR TO JANUARY 1, 1987, TO
3 TEST DRINKING WATER FOR THE PRESENCE OF LEAD.
4

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

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

8 Whereas, the most sensitive organ system affected by lead is the central nervous
9 system; and

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

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

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

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

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

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

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

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

32 Whereas, the federal Lead and Copper Rule does not require testing for the presence of
33 lead in drinking water in schools or child care facilities; and

34 Whereas, unless a school or child care facility is considered a public water system,
35 testing drinking water for the presence of lead is voluntary; and



1 Whereas, effective June 19, 1986, section 1417 of the federal Safe Drinking Water Act
2 prohibited the use of any pipe, any pipe or plumbing fitting or fixture, any solder, or any flux that
3 is not "lead free" in the installation or repair of facilities that provide water for human
4 consumption; and

5 Whereas, North Carolina does not require testing water in schools or child care
6 facilities for the presence of lead; and

7 Whereas, the United States Environmental Protection Agency strongly recommends
8 that schools and child care facilities test drinking water in their buildings and infrastructure for
9 lead; Now, therefore,

10 The General Assembly of North Carolina enacts:

11
12 **PART I. PROTECT NORTH CAROLINA'S CHILDREN FROM LEAD EXPOSURE**

13 **SECTION 1.** This act shall be known as the "Protect North Carolina's Children from
14 Lead Exposure Act of 2016."

15 **SECTION 2.(a)** Definitions. – For purposes of this act, the following definitions shall
16 apply:

- 17 (1) "Agency" means the United States Environmental Protection Agency.
18 (2) "Child care facility" means a facility as defined in G.S. 110-86 and licensed
19 pursuant to Article 7 of Chapter 110 of the General Statutes, that was permitted
20 in accordance with either G.S. 153A-357 or G.S. 160A-417, on or before
21 January 1, 1987.
22 (3) "Department" means the Department of Environmental Quality.
23 (4) "Division" means the Division of Public Health in the Department of Health
24 and Human Services.
25 (5) "Drinking water outlet" means any water fountain, faucet, or tap that is
26 regularly used for drinking or food preparation, including ice-making and hot
27 drink machines.
28 (6) "Elevated lead level" means a lead concentration in drinking water that exceeds
29 the standard action level established by the Agency.
30 (7) "Local health department" means a district health department, a public health
31 authority, or a county health department.
32 (8) "Public water system" means the same as that term is defined in
33 G.S. 130A-313.
34 (9) "School" means a public school under the direction of a local board of
35 education, a charter school, a regional school, a high school operated as part of
36 The University of North Carolina, a school operated by the Department of
37 Health and Human Services, or a school operated by the State Board of
38 Education that was permitted in accordance with either G.S. 153A-357 or
39 G.S. 160A-417, on or before January 1, 1987.
40 (10) "Standard action level" means the federal standard action level for lead, which
41 is 15 parts per billion (ppb).
42 (11) "Technical guidance" means any technical guidance for the testing of and
43 reducing the level of lead in drinking water in schools issued either by the
44 Agency, the Division, or the Department pursuant to subsection (h) of this
45 section.

46 **SECTION 2.(b)** Test for the Presence of Lead in Drinking Water Outlets. – Each
47 school and child care facility shall test drinking water outlets in the school or facility for the
48 presence of lead in accordance with both the criteria set out in subsection (c) of this section and
49 the time lines set out in subsection (f) of this section. Each test for the presence of lead shall be
50 analyzed by a laboratory certified in accordance with subsection (e) of this section. Schools may
51 conduct the test for lead in drinking water in conjunction with the annual sanitation inspection

1 required pursuant to G.S. 130A-236, provided that this test is conducted, evaluated, and the results
2 are submitted in accordance with the time lines set out in subsection (f) of this section. Each
3 school and child care facility shall collect and handle drinking water samples in accordance with
4 standards established pursuant to the federal Safe Drinking Water Act (42 U.S.C. § 300f through
5 300j-9).

6 **SECTION 2.(c)** Minimum Criteria for Testing Drinking Water for the Presence of
7 Lead. – In order to comply with subsection (b) of this section, schools and child care facilities
8 shall test drinking water outlets and other locations within or outside the building for the presence
9 of lead as follows:

- 10 (1) All drinking water outlets located within the kitchen and any other food
11 preparation area.
- 12 (2) At least one drinking water outlet in a lavatory located within each wing and on
13 each floor of the building.
- 14 (3) At least one drinking water fountain of the same make and model number
15 located within each wing and on each floor of the building.
- 16 (4) All classroom combination sinks and drinking water fountains.
- 17 (5) All sinks located in classrooms that are used for home economics.
- 18 (6) All sinks located in teachers' lounges.
- 19 (7) All sinks located in nurses' offices.
- 20 (8) All sinks located in special education classrooms that are used for drinking
21 water or food preparation.
- 22 (9) Any sink known to be or visibly used for consumption.
- 23 (10) The location where the water piping from the water supplier or well connects to
24 the water piping system of the building, where practicable.
- 25 (11) Any other locations within or outside the building as directed by the Division or
26 the local health department.

27 **SECTION 2.(d)** Assistance With Compliance. – A school or child care facility may
28 seek the assistance of staff from a local health department, the Division, a public water system, or
29 the Department to help ensure the school's compliance with the requirements of this act.

30 **SECTION 2.(e)** Certified Laboratory. – Each school and child care facility shall
31 submit drinking water samples to a North Carolina State Laboratory Public Health Environmental
32 Sciences Certified Laboratory to conduct the lead analyses required pursuant to this section.

33 **SECTION 2.(f)** Testing, Reporting, and Notification Requirements. –

- 34 (1) Each school and child care facility shall sample and test drinking water for the
35 presence of lead in drinking water outlets and other locations within or outside
36 the building, as provided in subsection (c) of this section, and in accordance
37 with the following time line:
 - 38 a. Sampling and testing shall commence no earlier than February 1, 2017.
 - 39 b. Sampling and testing shall conclude no later than April 1, 2017.
- 40 (2) The certified laboratory shall report the test results to both the Division and to
41 each school or child care facility within 10 business days of completing the
42 analysis of each drinking water sample, and in any case, no later than April 15,
43 2017. The laboratory shall report the results of the analytical testing in a format
44 provided by the Division, which shall include electronic reporting, and shall be
45 filled out completely.
- 46 (3) The Division, in consultation with the Department of Public Instruction and the
47 Division of Child Development and Early Education of the Department of
48 Health and Human Services, shall establish standard criteria for the certified
49 laboratories to employ in order to report the results of the drinking water
50 analyses that include at least all of the following:
 - 51 a. A unique identification number for each school and child care facility.

- 1 b. Unique identification codes or a description of each drinking water
2 outlet and each location within or outside the building tested.
- 3 c. The date, to include the month, day, and time of day, on which (i) the
4 sample is collected at the school or child care facility and (ii) the sample
5 is analyzed by the certified laboratory.
- 6 d. The results of the laboratory analysis for each drinking water sample
7 tested.

- 8 (4) Within 10 business days of receiving the results of the drinking water analyses,
9 each school and each child care facility shall make the test results available to
10 the public, free of charge, and shall notify the parents or guardians of the
11 children attending each school and each child care facility of the test results. To
12 meet the requirements of this subdivision, the results may be posted on the Web
13 site for the school, local school administrative unit, or child care facility, as
14 applicable.

15 **SECTION 2.(g)** Additional Requirements and Remediation for Drinking Water
16 Samples that Reveal Elevated Lead Levels. – In the event that a drinking water sample tested and
17 analyzed pursuant to subsection (f) of this section reveals an elevated lead level, the school or
18 child care facility shall do all of the following, as applicable:

- 19 (1) Immediately restrict access to (i) any drinking water outlet with lead
20 concentrations at or above the elevated lead level and (ii) similar drinking water
21 outlets located on the same wing or floor of the building of the outlet with
22 elevated lead levels.
- 23 (2) Immediately take remedial action to ensure that all students and children have
24 access to free, fresh, clean drinking water in the school or child care facility and
25 are not exposed to drinking water with elevated lead levels. Alternate drinking
26 water supplies shall be provided until (i) the drinking water is tested in
27 accordance with this subsection and lead levels are shown, through subsequent
28 analysis to be below the action level, and (ii) the Division determines and
29 provides written documentation to the school or child care facility, the
30 Department of Public Instruction, or the Division of Child Development and
31 Early Education of the Department of Health and Human Services, as
32 appropriate, that the elevated lead levels have been mitigated and the drinking
33 water is safe for human consumption.
- 34 (3) Immediately, or as soon as practicable, but in no instance more than five
35 business days from the date of the receipt of a drinking water test result that
36 reveals an elevated lead level at a drinking water outlet or other locations within
37 or outside the building, conduct a second test of the drinking water outlet or
38 other locations within or outside the building that revealed elevated lead levels
39 in order to confirm the results of the initial analysis required pursuant to this
40 Part. The school or child care facility shall coordinate with local health
41 department, Division, or Department staff or with private consultants who have
42 expertise in potable water sampling to conduct the second test of the drinking
43 water outlet or other locations within or outside the building that revealed
44 elevated lead levels. To the extent practicable, the school or child care facility
45 and the certified laboratory shall expedite the testing and analysis of subsequent
46 confirmatory samples required pursuant to this subdivision.
- 47 (4) As soon as practicable, but in no case more than five business days after
48 completing the analysis of the subsequent drinking water sample, the certified
49 laboratory shall report the results of the subsequent drinking water analysis to
50 both the school or child care facility, as applicable, and to the Division in a
51 format provided by the Division, which shall include electronic reporting, and

1 shall be filled out completely, and in accordance with subsection (f) of this
2 section.

3 (5) Within one business day of receipt of a subsequent drinking water test result
4 that confirms an elevated lead level at a drinking water outlet or other locations
5 within or outside the building, the school or child care facility shall notify
6 teachers, other school or facility personnel, and the parents or guardians of
7 children attending the school or child care facility directly through written
8 notice, electronic mail, or other means approved by the Division, the
9 Department of Public Instruction, or the Division of Child Development and
10 Early Education of the Department of Health and Human Services, as
11 applicable. The notification shall include at least the following:

12 a. A summary of the results of the tests conducted pursuant to this section
13 and information as to the availability of the complete drinking water test
14 results for review at a public location and on the Web site for the school,
15 the local school administrative unit, or the child care facility, as
16 applicable.

17 b. A description of any remedial measures taken or planned to be taken in
18 order to address the elevated lead levels found in the drinking water.

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

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

25 (6) Upon confirmation of elevated lead levels in drinking water samples analyzed
26 pursuant to subdivision (3) of this subsection, the school or child care facility
27 shall determine the source of the lead. The school or facility shall work together
28 with the Division, Department, the Department of Public Instruction, and the
29 Division of Child Development and Early Education of the Department of
30 Health and Human Services, as applicable, to identify the necessary corrective
31 action, including specific measures that will be taken and an estimate of the
32 costs of those measures, to address the confirmed lead contamination.

33 (7) Schools and child care facilities that have drinking water with elevated lead
34 levels shall remove the source of lead from drinking water outlets and other
35 locations within or outside the building. Schools and child care facilities may
36 seek technical assistance to comply with this subdivision from the Division and
37 the Department, and local health departments as necessary.

38 (8) All corrective action taken by a school or child care facility to remove the
39 source of lead from drinking water outlets and other locations within or outside
40 the building shall be completed within 12 months of the receipt of the
41 subsequent confirmatory test result that reveals an elevated lead level in
42 drinking water.

43 **SECTION 2.(h)** Technical Guidance. – The Division, in consultation with the
44 Department, shall develop and adopt technical guidance, provided that the guidance is at least as
45 protective of public health as the technical guidance for reducing lead in drinking water at schools
46 issued by the Agency. The Division shall work in consultation with the Department of Public
47 Instruction and the Division of Child Development and Early Education of the Department of
48 Health and Human Services to develop State-specific guidance for lead testing, including
49 standards and practices for sample collection and handling, and remediation of drinking water in
50 schools and child care facilities.

51 **SECTION 2.(i)** Reports. – The Division shall:

- 1 (1) Within five business days of receipt, report all test results that confirm an
2 elevated lead level in a school's or child care facility's drinking water as
3 evidenced by confirmatory testing conducted pursuant to subsection (g) of this
4 section to the chairs of the House Appropriations Committees on Education,
5 Health and Human Services, and Agriculture and Natural and Economic
6 Resources, the chairs of the Senate Appropriations Committees on
7 Education/Higher Education, Health and Human Services, and Natural and
8 Economic Resources, and the Fiscal Research Division.
- 9 (2) Report to the chairs of the House Appropriations Committees on Education,
10 Health and Human Services, and Agriculture and Natural and Economic
11 Resources, the chairs of the Senate Appropriations Committees on
12 Education/Higher Education, Health and Human Services, and Natural and
13 Economic Resources, and the Fiscal Research Division on the implementation
14 of this act and the test results received pursuant to this section, on or before
15 May 1, 2017. The report shall include:
- 16 a. The number of schools and child care facilities and the name of each
17 school and facility tested, listed by county, and as appropriate, further
18 designation by local school administrative unit.
 - 19 b. The number of drinking water outlets tested at each school and child
20 care facility.
 - 21 c. Aggregate results for the drinking water testing performed at each
22 school and child care facility.
 - 23 d. The identity of each school and child care facility that has drinking
24 water outlets with elevated lead levels and for each school and facility
25 identified:
 - 26 1. The actions taken to remediate or restrict the lead exposure.
 - 27 2. An overview of the actions taken to notify students, their
28 families, and school and child care facility personnel of the
29 findings of the lead tests as required by subsection (g) of this
30 section.
 - 31 e. Any corrective action taken by a school or child care facility to remove
32 the source of lead from drinking water.

33 **SECTION 3.(a)** Develop and Implement Necessary Information Technology
34 Infrastructure. – The Division shall coordinate with the North Carolina Government Data
35 Analytics Center to leverage the existing public-private partnerships and available resources
36 pursuant to G.S. 143B-1385, including, but not limited to, licensing, software, services, and
37 subject matter expertise, to assist the Division with the development and implementation of a
38 database and the reporting infrastructure necessary to support the testing, reporting, and
39 notification requirements set out in Section 2 of this act.

40 **SECTION 3.(b)** State Agencies to Provide Technical and Advisory Assistance. – On
41 or before December 1, 2016, the Department and the Division shall develop and provide the
42 following information to the Department of Public Instruction and the Division of Child
43 Development and Early Education of the Department of Health and Human Services:

- 44 (1) The technical guidance and best management practices documents for reducing
45 lead in drinking water at schools and child care facilities, issued by the United
46 States Environmental Protection Agency.
- 47 (2) A layman's summary of sampling, collection, handling, and testing methods for
48 drinking water samples conducted in accordance with the federal Safe Drinking
49 Water Act.
- 50 (3) A list of the laboratories certified to test drinking water, in accordance with the
51 federal Safe Drinking Water Act, for the presence of lead.

1 (4) Any other information the Department and the Division deem appropriate.
2 The Department of Public Instruction and the Division of Child Development and Early Education
3 of the Department of Health and Human Services shall distribute the information provided
4 pursuant to this subsection to each school and each child care facility, respectively, on or before
5 January 1, 2017.
6

7 **PART II. STUDIES**

8 **SECTION 4.(a)** The Division of Public Health in the Department of Health and
9 Human Services, in consultation with the Department of Environmental Quality, shall study and
10 make recommendations on the following:

- 11 (1) A schedule of subsequent testing, as appropriate, of drinking water in schools
12 and child care facilities subject to the provisions of this act, but which did not
13 reveal a presence of lead based on analyses conducted pursuant to Section 2 of
14 this act.
- 15 (2) Whether schools and child care facilities that were permitted on or after January
16 1, 1987, should test drinking water for elevated lead levels, and the frequency
17 of such tests, if recommended.
- 18 (3) Public and private funding mechanisms available to schools and child care
19 facilities that must take corrective action to reduce or eliminate the source of
20 lead in drinking water.

21 **SECTION 4.(b)** The Division shall report its findings, recommendations, and any
22 legislative proposals to the Environmental Review Commission and the Joint Legislative
23 Oversight Committee on Health and Human Services on or before December 1, 2016.

24 **SECTION 5.** The Department of Environmental Quality, in consultation with the
25 Department of Public Instruction, shall study and make recommendations as to the appropriate
26 timing and duration of water system flushing for schools prior to the commencement of the
27 academic year. The Department shall report its findings, recommendations, and any legislative
28 proposals to the Environmental Review Commission and the Joint Legislative Education
29 Oversight Committee on or before December 1, 2016.
30

31 **PART III. APPROPRIATION**

32 **SECTION 6.(a)** There is appropriated two million four hundred thousand dollars
33 (\$2,400,000) in nonrecurring funds from the General Fund to the Department of Health and
34 Human Services to either (i) reimburse schools and child care facilities for the costs associated
35 with testing drinking water for the presence of lead as required pursuant to Section 2 of this act or
36 (ii) to cover the costs associated with the Department conducting sampling and analysis of
37 drinking water on behalf of schools and child care facilities. Of the funds appropriated, (i) up to
38 five percent (5%) of the total appropriation may be used by the Divisions of Public Health and
39 Child Development and Early Education in the Department of Health and Human Services, the
40 Department of Environmental Quality, and the Department of Public Instruction to support the
41 administration and implementation of Sections 2 and 3 of this act and (ii) up to two hundred fifty
42 thousand dollars (\$250,000) of the total appropriation may be used to develop and implement the
43 database and reporting infrastructure necessary to support the requirements of Sections 2 and 3 of
44 this act. The Department of Health and Human Services shall reimburse each school and child care
45 facility upon receipt of appropriate documentation that authenticates the payment for and
46 completion of the required sampling and analysis for lead in drinking water. Of the remaining
47 funds available, the Department of Health and Human Services shall reimburse schools and child
48 care facilities for the costs incurred for (i) the provision of alternative drinking water in
49 accordance with Section 2(g)(2) of this act; (ii) identification and removal of drinking water
50 infrastructure that contains lead conducted in accordance with Section 2(g) of this act; and (iii)
51 installation of replacement infrastructure or water treatment devices upon receipt of

1 documentation that authenticates the installation of replacement infrastructure or such treatment
2 devices.

3 **SECTION 6.(b)** This section becomes effective July 1, 2016.

4

5 **PART IV. EFFECTIVE DATE**

6 **SECTION 7.** Except as otherwise provided, this act is effective when it becomes law.