

ASSISTING CERTAIN FACILITIES IN TESTING AND REMEDYING LEAD CONTAMINATION

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House Bill 4124 (H-1) as reported from committee
Sponsor: Rep. Sheldon A. Neeley

Analysis available at
<http://www.legislature.mi.gov>

House Bill 6081 (H-1) as reported
Sponsor: Rep. Gary Howell

House Bill 6082 (H-1) as reported
Sponsor: Rep. David C. Maturen

Committee: Natural Resources
Complete to 12-13-18

SUMMARY:

House Bill 4124 would amend the Safe Drinking Water Act to establish a program to assist schools, hospitals, and other facilities to test for and remedy lead contamination in their drinking water.

House Bills 6081 and 6082 would amend Public Act 152 of 1885 and the Michigan Veterans' Facility Authority Act, respectively, to require water quality testing at veterans' facilities under the guidelines of the new program that would be established under HB 4124.

House Bill 4124 would add a section to require the Department of Environmental Quality (DEQ), or its authorized agent, to establish a program, in addition to currently required sampling and analyses, to assist certain facilities in sampling, analyzing, and remediating lead contamination in drinking water. The sampling and analysis would have to be conducted within one year after the effective date of the bill and at least once every three years thereafter by a laboratory certified by the DEQ or the United States Environmental Protection Agency.

Adult foster care facilities, child care centers, hospitals, nursing homes, and schools would have to comply with all of the following:

- Conduct sampling at all buildings where children, students, or residents are present.
- Conduct sampling at all drinking water taps and any other drinking water source for human consumption.
- Include testing protocols of a first-draw sample taken after at least six hours of stagnation in a 250 mL bottle.
- For *schools*, conduct sampling during the school year to represent typical use, as prescribed by the DEQ.

Lead sampling at colleges and universities would have to be conducted at drinking water taps and other drinking water sources that are representative of water usage on campus in a manner prescribed by the DEQ.

Adult foster care facility would mean that term as defined in Section 3 of the Adult Foster Care Licensing Act.¹

¹ MCL 400.703 (adult foster care facility): <http://legislature.mi.gov/doc.aspx?mcl-400-703>

Child care center would mean that term as defined in Section 1 of Public Act 116 of 1973.²

College or university would mean any of the following:

- A college or university described in Section 4, 5, or 6 of Article VIII of the State Constitution of 1963.
- A junior college or community college established under Section 7 of Article VIII of the State Constitution of 1963.
- An independent nonprofit degree-granting college or university.

Hospital would mean that term as defined in Section 20106 of the Public Health Code.³

Nursing home would mean that term as defined in Section 20109 of the Public Health Code.⁴

School would mean a public school or nonpublic school as defined in Section 5 of the Revised School Code.⁵

All facilities conducting sampling under this new section would have to make the results of analysis available in the administrative office of their respective facility and report the results of the analysis to the DEQ. The DEQ would also have to make the information received available on its website.

If the sampling and analysis conducted under this new section showed evidence of lead at a level higher than 12 mg/L, then the owner or operator of the facility would have to do all of the following:

- Immediately take the drinking water tap or source of drinking water out of service.
- Provide direct notification to the DEQ, staff at the facility, parents and guardians, and other users of the facility in a manner approved by the DEQ.
- For *schools*, require the results and a notice that the results exceed the reportable lead level on the school's website.

The sampling and analysis required under this new section would not apply to any building that is constructed after January 4, 2014 that has been certified as lead-free, nor to any building determined by a licensed plumber or licensed professional engineer to be lead-free and which is documented in a signed statement by the person making the determination.

Additionally, the sampling and analysis conducted under this new section would not be used for purposes of determining compliance with rules promulgated under the Safe Drinking Water Act that contain requirements for sampling, analysis, and remediation due to the presence of lead and copper.

MCL 325.1002 and proposed MCL 325.1007a

² MCL 722.111 (child care center): <http://legislature.mi.gov/doc.aspx?mcl-722-111>

³ MCL 333.20106 (hospital): <http://legislature.mi.gov/doc.aspx?mcl-333-20106>

⁴ MCL 333.20109 (nursing home): <http://legislature.mi.gov/doc.aspx?mcl-333-20109>

⁵ MCL 380.5 (school): <http://legislature.mi.gov/doc.aspx?mcl-380-5>

House Bill 6081 would require the board of managers created under Public Act 152 of 1885 to conduct sampling, analysis, and remediation of lead contamination in drinking water from drinking water taps and other sources of drinking water used for human consumption at each *veterans' facility* under its supervision in the same manner as adult foster care facilities, child care centers, hospitals, nursing homes, and schools under the newly created section described above.

Veterans' facility would be defined as a long-term care facility and ancillary facilities for veterans and their dependents as determined by the Michigan Veterans' Facility Authority.

House Bill 6082 would require the Michigan Veterans' Facility Authority to do the same at each veterans' facility operated by the Authority.

MCL 36.10 (HB 6081), MCL 36.106 (HB 6082)

BACKGROUND:

Currently, a supplier of water is required to collect water samples and send them for an analysis to the state laboratory or a laboratory certified by the DEQ or by the United States Environmental Protection Agency for certain contaminants.⁶

Additionally, the DEQ provides information on its website regarding the School Drinking Water Training Program, which is a partnership among the Department of Education, DEQ, and Department of Licensing and Regulatory Affairs "to develop training and guidance materials on school water management practices and sampling for all public and registered non-public schools in Michigan."⁷ According to a November 19, 2018 news release from the DEQ, the program will conclude on September 30, 2019.

FISCAL IMPACT:

House Bill 4124 would increase costs to the state and local units of government.

The bill would increase administrative and programmatic costs for the DEQ by requiring an expansion of the department's drinking water testing program; the extent of this increase is uncertain. The bill would require the DEQ to establish a drinking water testing and lead remediation program for adult foster care facilities, child care centers, colleges, hospitals, nursing homes, schools, and universities and mandate that the department publish test results on the DEQ website. The number of additional water samples that will result from this program is unclear at this time.

Schools in school districts, intermediate school districts (ISDs), and public school academies (PSAs), as well as colleges and universities would incur an indeterminate, but potentially significant, cost increase to conduct drinking water sampling for the presence of lead in these entities. More significantly, if a drinking water tap or other source of drinking water showed

⁶ See MCL 325.1007 (Safe Drinking Water Act): <http://legislature.mi.gov/doc.aspx?mcl-325-1007>.

⁷ School Drinking Water Program: https://www.michigan.gov/deq/0,4561,7-135-3313_3675_3691-474608--00.html.

evidence of lead at a level higher than 12 mg/L, the bill would require the entities to do all of the following: remove the drinking water tap or source of drinking water from service; provide direct notification to DEQ, staff, parents and guardians, and other users; and have schools in districts, ISDs, and PSAs, post on their website the results of the analysis and a notice that results exceed the reportable lead level. If these entities are required to take the lead contaminated water tap or source of drinking water out of service, the entities would likely incur an indeterminate cost to supply an alternative water source and also likely incur a cost to remediate the lead contamination. Additionally, these entities would incur administrative costs to report the analysis of samples to the DEQ and make them available in their administrative offices.

House Bills 6081 and 6082 would create administrative costs for the Michigan Veterans Affairs Agency and the Michigan Veterans' Facility Authority, resulting from the requirement to annually test water at each veterans' facility for hazardous materials. Currently, the state maintains two veterans' facilities: the Grand Rapids Home for Veterans and the D.J. Jacobetti Home for Veterans in Marquette. Two additional veterans' facilities are in the process of being constructed, one on the Grand Rapids Home for Veterans campus, and another in the southeast part of the state. Water-testing costs will increase once the additional facilities are constructed.

The bills would not affect costs or revenues for the Department of Environmental Quality.

POSITIONS:

The Department of Environmental Quality testified in support of the bills. (11-28-18)

The Michigan Environmental Council testified in support of the bills. (11-28-18)

The following entities indicated support for the bills:

- Michigan League of Conservation Voters (6-6-18)
- Sierra Club indicated support (6-6-18)

The Michigan League for Public Policy indicated support in concept for the bills. (6-6-18)

The Michigan Legislative Black Caucus indicated support for House Bill 4124. (11-28-18)

The Michigan American Legion indicated support for HBs 6081 and 6082. (11-28-18)

The Natural Resources Defense Council testified in opposition to HB 4124. (11-28-18)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.