

Legislative Analysis



DRINKING WATER TESTING IN VETERANS' FACILITIES AND VULNERABLE POPULATION FACILITIES

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4742 as introduced
Sponsor: Rep. Gary Howell

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

House Bill 4743 as introduced
Sponsor: Rep. Joe Tate

House Bill 4744 as introduced
Sponsor: Rep. Leslie Love

Committee: Natural Resources and Outdoor Recreation
Complete to 10-15-19

SUMMARY:

House Bills 4742 and 4743 would amend 1885 PA 152 and the Michigan Veterans' Facility Authority Act, respectively, to require water quality testing at veterans' facilities.

House Bill 4744 would amend the Safe Drinking Water Act to establish a program to assist *vulnerable population facilities* to test for and remedy lead contamination in their drinking water similar to the testing requirements under House Bills 4742 and 4743.

Vulnerable population facility would mean an *adult foster care facility, child care center, college or university, hospital, or nursing home*, as further defined below.

House Bills 4742, 4743, and 4744 would add a section to their respective acts to require the board of managers ("board"), the Michigan Veterans' Facility Authority ("Authority"), and the Department of Environmental Quality (now the Department of Environment, Great Lakes, and Energy (EGLE)), respectively, to conduct sampling, analysis, and remediation of lead contamination in drinking water from drinking water taps and other sources of drinking used for human consumption.

In addition to the current testing standards, the sampling and analysis under each bill would have to be conducted within one year after the effective date of the bill, and at least once every three years thereafter, and would also have to comply with all of the following:

- Conduct sampling at all buildings where residents, staff, and other users of the veterans' facility are present (under HBs 4742 and 4743) or where children or residents are present (under HB 4744).
- Conduct sampling at all drinking water taps and any other source of drinking water for human consumption.
- Include testing protocols of a first-draw sample taken after at least six hours of stagnation in a 250 mL bottle.

All facilities conducting sampling under the new sections would have to make the results of the analysis available in their administrative office and report the results of the analysis to the Michigan Veterans Affairs Agency ("Agency") (under HBs 4742 and 4743) or EGLE (under HB 4744). The Agency or EGLE would also have to make the information received available on its website.

If the sampling and analysis conducted under the new sections showed evidence of lead at a level higher than 12 mg/L, then the board (HB 4742), the Authority (HB 4743), and owner or operator of the facility (HB 4744) 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 Agency, residents, staff, and other users of the facility (under HBs 4742 and 4743) or to EGLE, facility staff, parents and guardians, and other users of the facility (under HB 4744).

The sampling and analysis required under the new sections would not apply to a facility if a licensed plumber or licensed professional engineer determined that the facility is lead-free, which would have to be documented in a signed statement by the person making the determination.

House Bill 4744 would mandate the following additional requirements for lead testing and reporting:

- 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 EGLE.
- The sampling and analysis required would not apply to any building constructed after January 4, 2014, that has been certified as lead-free.
- The sampling and analysis 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.

Finally, the bill would include the following definitions:

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

Child care center would mean that term as defined in section 1 of 1973 PA 116.²

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

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

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>.

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 EGLE or by the United States Environmental Protection Agency (EPA) for certain contaminants.⁵

Additionally, EGLE provides information on its website regarding the School Drinking Water Training Program, which was a partnership among the Department of Education, EGLE, 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.”⁶ According to a November 19, 2018, departmental news release, the program was set to conclude on September 30, 2019. EGLE’s website appears to have no current training opportunities.

FISCAL IMPACT:

House Bills 4742 and 4743 would add indeterminate costs to either the veterans homes Board of Managers under HB 4742 or the Michigan Veterans Facility Authority under HB 4743, both of which are under the Michigan Veterans Affairs Agency (MVAA) and the Department of Military and Veterans Affairs (DMVA). Costs would be related to the sampling, analysis, and remediation of lead contamination in drinking water from sources within the state’s veterans homes.

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 D.J. Jacobetti home currently conducts random water sampling of 10 water fixtures per quarter at an annual cost of not more than \$9,400.

While testing costs vary among different laboratories, drinking water test fees for lead from the EGLE Drinking Water Laboratory would be \$18 per water sample. The MVAA reports that there are approximately 430 water sources that would need to be tested under the bills’ requirements. Assuming that no other costs or fees apply, costs for testing and analysis would currently be approximately \$8,000 for the existing veterans homes facilities every three years. Testing costs will increase significantly when the new veterans homes facilities are completed and opened in the middle of 2021.

There could also be costs related to the necessary remediation and replacement of contaminated water sources and infrastructure if the water sources are found to have contaminated water. The costs of remediation would depend on the scale of replacement of fixtures and infrastructure.

The MVAA believes that the bills would result in considerable costs to the agency that could not be supported with current appropriations.

⁵ See MCL 325.1007 (Safe Drinking Water Act): <http://legislature.mi.gov/doc.aspx?mcl-325-1007>.

⁶ School Drinking Water Program: https://www.michigan.gov/egle/0,9429,7-135-3313_3675_3691-474608--00.html.

House Bill 4744 would increase administrative and programmatic costs for the Department of Environment, Great Lakes, and Energy (EGLE) by requiring an expansion of the department's drinking water testing program; the extent of this increase is uncertain. The bill would require EGLE to establish a drinking water testing and lead remediation program for adult foster care facilities, child care centers, colleges, hospitals, nursing homes, and universities and mandate that the department publish test results on the EGLE website. The number of additional water samples that will result from this program is unclear at this time.

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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.