Legislative Analysis

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WATER FILTRATION SYSTEMS IN SCHOOLS AND CHILD CARE CENTERS

House Bill 5104 as introduced
Sponsor: Rep. Sheldon A. Neeley

House Bill 5105 as introduced
Sponsor: Rep. Lynn Afendoulis

Committee: Natural Resources and Outdoor Recreation
Complete to 3-3-20

SUMMARY:

House Bills 5104 and 5105 would respectively amend the Safe Drinking Water Act and Child Care Organizations Act to require ***schools*** (HB 5104) and child care centers[1] (HB 5105) to develop a drinking water safety plan, including installation of ***filtered bottle-filling stations*** and filtration devices for ***filtered faucets***.

Filtered bottle-filling station would mean an apparatus that meets all of the following requirements:

- It is connected to customer site piping.
- It filters water.
- It has a light or other device to indicate filter performance.
- It is designed to fill drinking bottles or other containers used for personal water consumption.

Filtered faucet would mean a faucet that includes a filter at the point of use.

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

Drinking water safety plan

The bills would require each school or child care center to develop a drinking water safety plan by August 1, 2020. Each facility would have to make its plan available to the Department of Environment, Great Lakes, and Energy (EGLE), facility staff, and parents upon request. A public school would also have to make its plan available to the general public upon request. Each school and child care center would have to review and update its plan every five years and make changes as needed for compliance. The plan would have to do all of the following:

- Specify all of the following, by category:
  - Locations where water outlets will be maintained to deliver water for human consumption, using the following categories:
    - Locations where filtered bottle-filling stations will be maintained. The plan would have to provide for the maintenance of at least one station for every 100

[1] Child care center is already defined under the Child Care Organizations Act by MCL 722.111(1)(h), http://legislature.mi.gov/doc.aspx?mcl-722-111.

occupants of the school or child care center, not including visitors or those attending special events.
        - Locations where filtered faucets will be maintained.
    - Locations where water outlets will be maintained for purposes other than to deliver water for human consumption.
    - Locations of water outlets that will be taken out of service.
- Establish and comply with schedules for each of the following:
    - Annual water sampling and testing for each filtered bottle-filling station and filtered faucet in the school or child care center to ensure that filters are properly installed and comply with ANSI/NSF standard 53 for lead removal, ANSI/NSF standard 42 for particulate removal,[2] and any other standards for contaminant removal that EGLE recommends.
    - Regular replacement of the filter cartridge for each filtered bottle-filling station and filtered faucet in compliance with manufacturer instructions or recommendations of EGLE.

Test results

Within 20 days after receiving the results of any testing performed as part of its plan, a school or child care center would have to report the results to EGLE. Within 30 days after receiving the test results, the school or child care center would have to post the results on its website, if one, and post the results, along with information on the health effects of lead exposure and ways to reduce child lead exposure, in a location in its administrative office that is readily available to staff and parents.

If test results indicated the presence of lead at one part per billion (1 ppb) or more, or of any other contaminant at a level exceeding ***state drinking water standards***, the school or child care center would have to do all of the following:

- Immediately shut off the water outlet or render it inoperable.
- Not return the water outlet to service until resampling indicates lead or other contaminants do not exceed the appilcable standards.
- Post a conspicuous sign near the water outlet stating that it is inoperable because of contamination and maintain the posting until the water outlet is returned to service.
- Send a copy of the test results to the Department of Health and Human Services and each parent or guardian of a student or child enrolled in the school or child care center. A school would also have to send a copy to the Department of Education.
- Replace the filter or filters for the filtered bottle-filling station or filtered faucet and resample and retest the water.
- Develop a remediation plan in consultation with EGLE if an exceedance of lead or other contaminant continues after replacement of the filter. The school or child care center would have to incorporate the remediation plan into its drinking water safety plan.

State drinking water standards would mean the quality standards setting limits for contaminant levels or establishing treatment techniques to meet standards necessary to protect the public health.

[2] Standard 53 aims to reduce contaminants with adverse health effects from water from water, while Standard 42 aims to reduce aesthetic impurities. More information on ANSI/NSF standards for water treatment systems can be found here: https://www.nsf.org/consumer-resources/water-quality/water-filters-testing-treatment/standards-water-treatment-systems.

Continued action

The bills would further require each school or child care center to do all of the following by August 1, 2021:

- Install all the new filtered bottle-filling stations and filtration devices for filtered faucets that are indicated in the drinking water safety plan.
- Shut off or render permanently inoperable any outlet for water for human consumption that has not been converted to a filtered bottle-filling station or filtered faucet.
- Post a conspicuous sign near each water outlet indicating whether the outlet is intended to provide water for human consumption.

Maintenance and compliance

Under the bills, EGLE would have to assist each school or child care center in maintaining compliance with the acts. Additionally, EGLE would have to do all of the following:

- Provide a template for the required drinking water safety plans.
- Provide and maintain a list of approved filtered bottle-filling stations and faucet filtration devices for filtered faucets and of filter manufacturers, installers, and maintenance providers.
- Provide guidance on all of the following:
    - Factors that a school or child care center should consider when selecting filtered bottle-filling stations, filtration devices for filtered faucets, and filters. EGLE would have to give preference to models that minimize plumbing between the filter and the dispensing outlet.
    - The installation, operation, and maintenance of filtered bottle-filling stations and filtered faucets. The guidance would include annual training for school or child care staff on proper maintenance of filtered bottle-filling stations and filtered faucets.
    - The proper storage and disposal of a filter for a filtered bottle-filling station or filtered faucet.
    - How to sample water from a filtered bottle-filling station or filtered faucet for testing for lead or other contaminants.

House Bill 5104 would also create the School and Child Care Center Clean Drinking Water Fund within the state treasury, with EGLE as the fund's administrator for auditing purposes. EGLE could expend money from the fund, upon appropriation, only to create and operate a program to assist child care centers in ***low-income geographic areas*** and public schools with all of the following:

- The one-time acquisition and installation of filtered bottle-filling stations and filtration devices for filtered faucets in compliance with the drinking water safety plans.
- Maintenance of filtered bottle-filling stations and filtered faucets and replacement of filters in compliance with the drinking water safety plans.
- Costs associated with water sampling and testing.

> ***Low-income geographic area*** would mean a census tract where the median household income is at or below 100% of the federal poverty guidelines published annually in the Federal Register by the U.S. Department of Health of Human Services.

EGLE could award grants for the above purposes and require matching contributions for the program. If it will achieve a cost savings over independent purchases, EGLE could, for purposes of the one-time acquisition and installation of filtered bottle-filling stations and

filtration devices for filtered faucets, purchase them and provide them to program beneficiaries.

HB 5104 is tie-barred to HB 5105, which means that it could not take effect unless HB 5105 were also enacted.

FISCAL IMPACT:

House Bills 5104 and 5105 would increase costs for the state and for public schools, nonpublic schools, and child care centers.

The bills would increase costs for EGLE by requiring the department to provide administrative guidance to schools and child care centers regarding their respective drinking water safety plans and filtered bottle-filling stations selection and implementation. The extent of this cost increase is unclear, as costs are likely to vary by school or child care facility. The bills designate EGLE as the administrator of a newly established School and Child Care Center Clean Drinking Water Fund to help offset administrative and programmatic costs incurred in the acquisition, installation, and maintenance of filtered bottle-filling stations and costs associated with water sampling and testing. The bills provide for EGLE to award grants to schools and child care centers to cover the aforementioned costs, though it is unclear whether fund revenues would be sufficient to support all costs involved.

The bills would not have a significant fiscal impact on the Department of Licensing and Regulatory Affairs (LARA). House Bill 5105 would create new requirements for child care centers (licensed by LARA), but would not create any new costs for LARA.

Public schools, nonpublic schools, and child care centers would incur an indeterminate, but likely significant, cost increase to do all of the following: by August 1, 2020, develop and make available a drinking water safety plan; by August 1, 2021, convert every outlet for water for human consumption into a filtered bottle-filling station or filtered faucet, including maintaining at least one bottle-filling station per every 100 occupants, and post a sign near each outlet indicating whether the water is intended for human consumption; establish regular water testing and water filter replacement schedules; report and post the results of testing; follow requirements, including developing a remediation plan, if testing finds an exceedance of a contaminant; and review and update the safety plan every five years.

If funds are deposited into the newly established School and Child Care Center Clean Drinking Water Fund, child care centers in low-income geographic areas and public schools may have some of their eligible costs offset by expenditures from the fund.

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