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BILL ANALYSIS

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Senate Bills 184 and 185 (as introduced 2-25-21)
Sponsor: Senator Curtis S. Vanderwall (S.B. 184)
Senator Jim Ananich (S.B. 185)
Committee: Environmental Quality

Date Completed: 10-26-21

CONTENT

Senate Bill 184 would enact the "Clean Drinking Water Access Act", which would do the following:

- **Require each school, by August 1, 2022, to develop a drinking water safety plan and to make that plan available to the Department of Environment, Great Lakes, and Energy (EGLE), school staff, parents, and the general public upon request.**
- **Require a drinking water safety plan to specify the location of water outlets and to establish a schedule for annual water sampling and testing and regular replacement of water filters.**
- **Require a school to review and update its plan every five years and to make changes as directed by EGLE or as needed to comply with the proposed Act.**
- **Prescribe procedures for a school to follow if water sampling indicated the presence of lead at a concentration of one to five parts per billion, or higher.**
- **Require each school, by the end of the 2024-2025 school year, to install all filtered bottle-filling stations and filtered faucets in the school's plan, shut off any water outlet that provided drinking water that was not filtered, and post specified signage.**
- **Require the Legislature to appropriate annually to EGLE an amount sufficient to administer and comply with the Act and specify that schools would not have to comply with the Act until the Legislature did so.**
- **Require EGLE to assist schools in maintaining compliance with the Act and to provide a template for drinking water safety plans.**
- **Require EGLE to provide annual training for school staff and school official regarding water sampling protocol, reporting sampling results, and other relevant activities, and to provide guidance related to selecting equipment, shutting off water outlets, and sampling and testing water.**
- **Prohibit a school from installing a drinking fountain that was not a filtered bottle-filling stations after August 1, 2022.**
- **Create the "School and Child Care Center Clean Drinking Water Fund" and provide for the disposition of money from the Fund.**

Senate Bill 185 would amend the child care licensing Act to do the following:

- **Define pertinent terms as those terms would be defined under Senate Bill 184.**

-- Require a child care center to develop a drinking water safety plan within one year of the bill's effective date and to make that plan available to EGLE, center staff, and parents upon request.
-- Require a drinking water safety plan to specify the location of water outlets and to establish a schedule for annual water sampling and testing and regular replacement of water filters.
-- Require a child care center to review and update its plan every five years and to make changes as directed by EGLE or as needed to comply with the bill.
-- Prescribe procedures for a child care center to follow if water sampling indicated the presence of lead at a concentration of one to five parts per billion, or higher, that are substantially similar to those proposed in Senate Bill 184.
-- Require a child care center to retain certain records pertaining water sampling and testing for at least two years and to make those documents available to EGLE upon request.
-- Require each child care center, by August 1, 2022, to convert all faucets for drinking water to filtered faucets, place certain signage, and ensure that any water given to children at a child care center was from a filtered source that met the bill's requirements.
-- Require EGLE to assist each child care center in maintaining compliance with the bill's requirements and to provide to child care centers information, guidance, and training that was substantially similar to that prescribed in Senate Bill 184.
-- Require all child care center staff responsible for the provision or oversight of children's access to drinking water, by August 1, 2021, and every five years thereafter, to participate in training provided by EGLE.

Senate Bill 184

Drinking Water Safety Plan; Schools

The Clean Drinking Water Access Act would require each school, by August 1, 2022, to develop a drinking water safety plan. The school would have to make that plan available to EGLE, school staff, parents and guardians, and the general public upon request. The plan would have to specify the location of each water outlet using one of the following categories:

-- The location where a water outlet would be maintained to deliver water for human consumption, whether as drinking water or a component of a food or beverage, using either a) the location where filtered bottle-filling station would be maintained (the plan would have to provide for the maintenance of at least one filtered bottle-filling station for every 100 occupants of the school); or b) the location where a filtered faucet would be maintained (filtered faucets could be used only when the installation of a bottle-filling station was not feasible but a water outlet was necessary).
-- The location where a water outlet would be maintained for purposes other than for human consumption.
-- The location where a water outlet would be shut off or rendered permanently inoperable.

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

-- Is connected to building plumbing.
-- Filters water.
-- Is certified to meet NSF/ANSI standard 53 for lead reduction and NSF/ANSI standard 42 for particulate removal.
-- Has a light or other device to indicate filter performance.

-- Is designed to fill drinking bottles or other containers used for personal water consumption.
-- Has a bubbler fixture that allows the user to drink directly from a stream of flowing water without the use of any accessory.

"Bubbler fixture" would mean a fixture on a drinking water fountain through which water is forced up in a small arc from a nozzle that allows an individual to drink from the arc directly. "Filtered faucet" would mean a faucet that includes at the point of use a filter that is certified to meet NSF/ANSI standard 53 for lead reduction and NSF/ANSI standard 42 for particulate removal.

The plan also would have to establish a schedule for when each of the following would occur:

-- Annual water sampling and testing of the filtered water at each bottle-filling station and filtered faucet in the school to ensure that the filters were properly installed and provided water with a lead concentration for less than one part per billion.
-- Regular replacement of the filter for each bottle-filling station and filtered faucet in compliance with the manufacturer instructions or EGLE recommendations.

Each school would have to review and update its plan every five years and would have to make changes as directed by EGLE or as needed to comply with the Act. A school also would have to comply with the schedules described above.

By the end of the 2024-2025 school year, each school would have to do the following:

-- Install all filtered bottle-filling stations and filtered faucets as indicated in the plan and not already in existence.
-- Shut off or render permanently inoperable any water outlet that provided water for human consumption that was not a filtered bottle-filling station or filtered faucet.
-- Post a conspicuous sign near each water outlet that indicated whether the outlet was intended to provide water for human consumption.

A school could not install a drinking fountain after August 1, 2022, unless it was a filtered bottle-filling station. "Drinking fountain" would mean a plumbing fixture that is connected to the potable water distribution system and drainage system that allows a user to obtain a drink directly from a stream of flowing water without the use of any accessory.

Water Sampling and Testing; Procedures

Filtered water collected for sampling and resampling under the bill would have to be drawn from the bubbler of a filtered bottle-filling station or filtered faucet. The filtered water would have to be collected in a 250-milliliter bottle on a Monday morning before any water use occurred at the school.

If the water sampling and testing indicated the presence of lead at a concentration of one part per billion or more but *not more* than five parts per billion, the school would have to do all of the following:

-- Immediately check the status of the filter or filters at the bottle-filling station or filtered faucet and replace the filter or filters if the status light indicated that replacement was or would soon be required.
-- Ensure that the bottle-filling station or filtered faucet was properly installed.
-- Resample and retest the filtered water.

If the retest indicated the presence of lead at concentration of one part per billion or more but no more than five parts per billion, the school would have to do both of the following:

-- Send a copy of the test results and document that listed the make and model of the bottle-filling station or filtered faucet and filter cartridge to EGLE.
-- Consult with EGLE and the bottle-filling or filtered faucet manufacturer.

If a test performed on a sample of filtered water from a bottle-filling station or filtered faucet indicated the presence of lead at a concentration of *more than* five parts per billion, the school would have to do all of the following:

-- Immediately shut off or otherwise render inoperable the water outlet.
-- Post a conspicuous sign near the water outlet that stated the water outlet was inoperable because of contamination and maintained the sign until it was returned to service.
-- Replace the filter in the bottle-filling station or filtered faucet.
-- Resample and retest the filtered water.
-- Return the water outlet to service if the testing indicated the presence of lead at a concentration of no more than five parts per billion.
-- If the testing indicated the presence of leading at a concentration of one part per billion or more but less than five parts per billion, then check the status of the filters, ensure the bottle-filling station, or filtered faucet was properly installed, then retest the water.

If the retesting indicated the presence of lead at a concentration of more than five parts per billion, the school would have to do both of the following:

-- Within 30 days after receiving the test results, send a copy of the results to EGLE and each parent or guardian of a student enrolled in the school (the copy would have to contain a notice that included information provided by EGLE and the health effects of lead exposure and ways to reduce childhood lead exposure).
-- Develop a remediation plan in consultation with EGLE and the water supplier.

Department Responsibilities

The Legislature would have to appropriate to EGLE an amount sufficient to administer and comply with the Act's requirements each year. Schools would not have to comply with the Act unless the Legislature had appropriated sufficient funds.

The Department would have to assist each school in maintaining compliance with the Act and would have to do all of the following:

-- Provide a template for the plan.
-- Make available annual training for school staff and school officials regarding the sampling protocol, reporting process for sampling results, and other activities relevant to compliance with the bill.

The Department also would have to provide guidance on all of the following:

-- Factors that a school should consider when selecting bottle-filling stations, filtered faucets, and filters.
-- How to shut off or render permanently inoperable a water outlet.
-- How to sample and test water from a bottle-filling station or filtered faucet for lead and other contaminants.

The School and Child Care Center Clean Drinking Water Fund

The School and Child Care Center Clean Drinking Water Fund would be created within the State Treasury. The State Treasurer could receive money or other assets from any source for deposit into the Fund. The Treasurer would have to credit to the Fund interest and earning from Fund investments. Money in the Fund at the close of the fiscal year would remain in the Fund and would not lapse into the General Fund.

The Department would be the administer of the School and Child Care Center Clean Drinking Water Fund for auditing purposes. The Department would have to spend money from the Fund, upon appropriation, only to create and operate a program to assist child care centers in low-income geographic areas and schools with all of the following:

-- The one-time acquisition and installation of bottle-filling stations and filtered faucets, in compliance with the plan.
-- Maintenance of bottle-filling stations and filtered faucets and replacements of filters.
-- Costs associated with water sampling and testing.

"Low-income geographic area" would mean 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 US Department of Health and Human Services under its authority to revise the poverty line under 42 USC 9902.

"Child care center" would mean that term as defined in Section 1 of the child care licensing Act: a facility, other than a private residence, receiving one or more children under 13 years of age for care for periods of less than 24 hours a day, where the parents or guardians are not immediately available to the child.

The Department could award grants to operate the program and could require matching contributions for the program. If it would achieve cost savings over independent purchases, EGLE could purchase and provide to program beneficiaries bottle-filling stations, filtered faucets, and filters.

Senate Bill 185

Drinking Water Safety Plan; Child Care Centers

The bill would amend the child care licensing Act to require each child care center to develop a drinking water safety plan within one year after the bill's effective date. The child care center would have to make the plan available upon request to EGLE, a staff member, or a parent or guardian of a child enrolled in the child care center. The plan would have to specify the locations water outlets would be maintained to deliver water for human consumption, whether as drinking water or a component of a food or beverage, using the following categories:

-- Locations where filtered bottle-filling station would be maintained.
-- Locations where filtered faucets would be maintained.
-- Locations where unfiltered drinking fountains would be maintained.

The plan would have to specify, by category, locations where water outlets would be maintained for purposes other than to deliver water for human consumption and of water outlets that would be taken out of service.

The plan also would have to establish a schedule for when each of the following would occur:

-- Annual water sampling and testing of filtered water from each filtered bottle-filling station to ensure that the filter or filters were properly installed and provided water with a lead concentration for less than one part per billion.
-- Regular replacement of the filter or filters for each filtered bottle-filling station and filtered faucet in compliance with the manufacturer instructions or EGLE recommendations.

Each child care center would have to review and update the plan every five years and would have to make changes as needed or as directed by EGLE. A child care center would have to comply with the water sampling and testing, and filter replacement schedules indicated in its plan. The water testing methods and procedures to be followed if lead were detected would be substantially similar to those proposed in Senate Bill 184.

Under the bill, a child care center would have to retain the following documents for at least two years and make them available to EGLE upon request:

-- Records of the dates when the child care center performed water sampling and testing.
-- Original copies of the results of all water sampling and testing.
-- Records of the dates when and locations where filters were installed or replaced.
-- Installation instructions for each filter installed by the child care center.

Additional Requirements

By August 1, 2022, each child care center would have to do all of the following in a manner consistent with its drinking water safety plan:

-- Post a conspicuous sign near any unfiltered drinking water fountain that stated that the water was unfiltered and could contain lead.
-- Convert all faucets designated for human consumption to filtered faucets.
-- Post a conspicuous sign near each water outlet that indicated whether the outlet was intended to provide water for human consumption.
-- Ensure that any water furnished to children by the child care center was from a filtered faucet or other filtered source that was certified to meet NSF/ANSI standard 53 for lead reduction and NSF/ANSI standard 42 for particulate removal.

If a child care center were in a school building that complied with the requirements of the Clean Drinking Water Access Act proposed under Senate Bill 184, it would be considered to comply with the bill's requirements.

Department Responsibilities

The Department would have to assist each child care center in maintaining compliance with the bill's requirements and would have to provide to child care centers information, guidance, and training that was substantially similar to that prescribed in Senate Bill 184. By August 1, 2021, and every five years thereafter, all child care center staff responsible for the provision or oversight of children's access to drinking water would have to participate in training provided by EGLE.

MCL 722.111 (S.B. 185) Legislative Analyst: Dana Adams

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State and local government. Senate Bill 184 would require the Legislature to appropriate sufficient dollars to administer the program. This means that the Legislature would need to appropriate enough funding to install

filtered bottle-filling and water faucets in all schools by the end of the 2024-2025 school year and to fund the annual water sampling and testing. The cost to install filtered bottle-fillers and water faucets in every school is based on maintaining the one bottler-filler/faucet-to-every-100-student ratio and the cost for purchase and installation. The total cost is estimated to be around $58.0 million; however, many schools already have replaced bottle-fillers and faucets in school buildings, so the final costs could be lower. The cost to install filtered water-fillers and faucets at every child care center under Senate Bill 185 could be between $20.0 million and $30.0 million. This means the total costs to install filtered bottler-fillers and faucets in every school building and child care center could be between $78.0 and $88.0 million. However, the final costs could be lower if a significant number of schools and child care centers already have replaced bottle-fillers and faucets, if a child care center was located in a school building, or if the State were able to lower the purchasing cost by purchasing this equipment in bulk. The annual cost to conduct and water sampling and testing could be between $3.0 million and $5.0 million.

Local schools would see a negative fiscal impact to create and update their drinking water safety plans, install filtered bottler-fillers and water faucets, and conduct annual sampling and testing. These costs would be covered by the School and Child Care Center Clean Drinking Water Fund, otherwise schools would not have to meet Senate Bill 184's requirements.

Senate Bills 184 and 185 would require schools and child care centers, respectively, to make their drinking water safety plans available to EGLE upon request. They would have to send EGLE a copy of any test results showing the presence of lead in drinking water in a concentration of between one and five parts per billion. If tests showed the presence of lead in drinking water of greater than five parts per billion, the report would have to be provided to EGLE and it would have to be consulted on a remediation plan. The Department also would have to provide training and guidance to schools and child care centers as specified in the bills. All of these components would result in minor administrative costs for EGLE.

Senate Bill 184 would have a minor fiscal impact on the Department of Treasury, which would result from the requirement to administer the Fund. The amount needed would be within current appropriations.

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