

HB 1421-FN - AS AMENDED BY THE SENATE

16Feb2022... 0612h
04/14/2022 1365s
04/28/2022 1665s
04/28/2022 1839s

2022 SESSION

22-2714
08/05

HOUSE BILL ***1421-FN***

AN ACT relative to lead in school drinking water.

SPONSORS: Rep. Grassie, Straf. 11; Rep. Nelson, Carr. 5; Rep. Woods, Merr. 23; Rep. Meuse, Rock. 29; Rep. Langley, Hills. 8; Rep. Marsh, Carr. 8; Rep. Knirk, Carr. 3; Rep. Rung, Hills. 21; Sen. Watters, Dist 4

COMMITTEE: Education

AMENDED ANALYSIS

This bill requires public and private schools and licensed child care facilities to install water bottle filling stations or test and remediate all water outlets at the facility.

This bill also makes an appropriation for certain drinking water grant programs administered by the department of environmental services.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to lead in school drinking water.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Lead in Drinking Water in Schools and Licensed Child Care Facilities. RSA 485:17-a is
2 repealed and reenacted to read as follows:

3 485:17-a Lead in Drinking Water in Schools and Licensed Child Care Facilities.

4 I. Public and private schools and licensed child care facilities shall take measures to limit
5 exposure to lead in drinking water by:

6 (a) Within 180 days of the effective date of this section, installing and providing access to
7 water bottle filling stations in accordance with paragraph II; or

8 (b) Testing drinking water outlets for lead and remediating them where necessary under
9 paragraph III.

10 II.(a) "Water bottle filling station" or "station" means a water dispenser accessible to all
11 people in compliance with the Americans with Disabilities Act, 42 U.S.C. section 12101 et seq. A
12 water bottle filling station shall:

13 (1) Dispense clean drinking water directly into a bottle or other drinking container.

14 (2) Include a water fountain dispenser that does not require the use of a container to
15 drink water.

16 (3) Be regularly cleaned to maintain sanitary conditions. Water bottle filling
17 stations may be touchless to maintain sanitary conditions.

18 (4) Be designed to remove lead or be able to add an additional filter to remove lead
19 from drinking water.

20 (5) Be maintained to ensure proper functioning, including replacing filters as
21 recommended by the manufacturers.

22 (6) Include an indicator light or other mechanism that is activated when it is time to
23 change a filter.

24 (7) Dispense drinking water that meets applicable standards. The station shall be
25 tested following installation and within 180 days thereafter to confirm that any lead that may be
26 present is being removed to levels below 5 parts per billion.

27 (b) Any water bottle filling station installed prior to the effective date of this section that
28 meets the requirements of subparagraphs II (a)(1)-(6), shall be tested within 180 days of the effective

1 date of this section to confirm that any lead that may be present is being removed to levels below 5
2 parts per billion.

3 (c) Water from other outlets available to children such as classroom and bathroom sinks
4 and water outlets used for food preparation shall be tested and remediated if necessary, per the
5 provisions in paragraph III.

6 (d) Stations in schools shall be installed in accordance with rules of the department of
7 education relative to the number of drinking fountains required. There shall be at least one station
8 on each floor or wing of the building and one station located near any cafeteria, gymnasium, or
9 outdoor recreation space and any other high-traffic area.

10 (e) Stations in child care facilities shall be provided in such a manner to ensure that
11 every child and staff member have adequate access to drinking water.

12 (f) Child care facilities serving less than 25 people where the current source of water is a
13 sink may install point of use treatment that removes lead from drinking water in lieu of installing a
14 water bottle filling station.

15 (g) Public and private schools and licensed child care facilities that install stations in
16 accordance with this paragraph shall notify the department of environmental services using a form
17 provided by the department that demonstrates compliance with the applicable requirements of this
18 paragraph.

19 III. Public and private schools and licensed child care facilities shall test a minimum of 3
20 rounds for the presence of lead in drinking water at all outlets at the school or facility.

21 (a) For existing public and private schools and licensed child care facilities, sampling
22 shall be completed between January 1, 2016 and June 30, 2024; for new schools and child care
23 facilities opening after the effectiveness date of this section, sampling rounds shall be completed a
24 minimum of 6 months apart. For purposes of this section, "outlet" means a drinking water fixture
25 currently or reasonably expected to be used for consumption or cooking. Testing shall be in
26 accordance with guidance from the department of environmental services. Schools and licensed
27 child care facilities that have not tested their outlets between January 1, 2016 and the effective date
28 of this paragraph shall initiate testing within 30 days of the effective date of this paragraph.

29 (b) If test results obtained by a school or licensed child care center after the effective
30 date of this paragraph demonstrate the presence of lead at a concentration at or exceeding 5 parts
31 per billion, the school or licensed child care facility shall, within 5 business days, notify parents and
32 guardians and shall, as an interim measure, ensure that the children are provided only drinking
33 water that meets the standard. Notification shall be made in at least 2 places including, but not
34 limited to, the school or school administrative unit/child care facility website and at least one method
35 of direct communication via email or printed flyer. The school or licensed child care facility shall
36 also implement a remediation plan, as approved by the department, within 180 days of notification
37 of parents or, in consultation with the department, as soon as practicable. The department shall

1 review the plan and any associated submittals within 60 days of receiving them. The school or
2 licensed child care facility shall conduct testing after remediation measures have been implemented
3 and shall provide those results to the department of environmental services to demonstrate that lead
4 levels do not exceed the standard.

5 (c) Within 90 days of the effective date of this section, public and private schools and
6 licensed child care facilities shall compare the results of testing conducted after January 1, 2016
7 with the new standard and, in the event any such results are at or exceed this standard, proceed
8 with the requirements of subparagraph (b) relative to remediation and interim measures. Any
9 results for samples collected after January 1, 2022 shall be compared to the new standard and
10 proceed with all requirements of requirements of subparagraph (b).

11 (d) If 2 consecutive rounds of sampling performed after January 1, 2022 are below the 5
12 parts per billion standard at an outlet, further testing of the outlet shall not be required.

13 (e) All test results, including but not limited to those obtained between January 1, 2016
14 and the effective date of this section, shall be provided to the department of environmental services,
15 which shall maintain a database of results established under the authority of RSA 21-O:12, I(e)
16 accessible to the public on the department's website.

17 IV. To the extent it is allowable under federal regulations, remediation funding from federal
18 sources shall be made available to public and private schools and child care facilities by the
19 department of environmental services.

20 2 Funds for Revolving Funds. The sum of \$7,760,000 for the biennium ending June 30, 2023 is
21 hereby appropriated to the department of environmental services for the purpose of providing state
22 matching funds for supplemental Drinking Water State Revolving Fund and Clean Water State
23 Revolving Fund funding authorized by the Infrastructure Investment and Jobs Act, Public Law 117-
24 58. The governor is authorized to draw a warrant for said sum out of any money in the treasury not
25 otherwise appropriated, and said appropriation shall not lapse.

26 3 Effective Date. This act shall take effect upon its passage.

HB 1421-FN- FISCAL NOTE

AS AMENDED BY THE SENATE (AMENDMENTS #2022-1665s and #2022-1839s)

AN ACT relative to lead in school drinking water.

FISCAL IMPACT: ☒ State ☐ County ☒ Local ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
Appropriation	\$0	\$7,760,000	\$0	\$0
Revenue	\$0	\$34,415,483 (Fed)	\$0	\$0
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	☒ General ☐ Education ☐ Highway ☒ Other - Drinking Water and Ground Water Trust Fund, Federal Funds			

LOCAL:

Revenue	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

METHODOLOGY:

This bill relates to testing of all fixtures that are potential sources of drinking water at schools and licensed childcare facilities and makes an appropriation to the Department of Environmental Services for the purpose of providing state matching funds for supplemental Drinking Water State Revolving Fund and Clean Water State Revolving Fund funding authorized by the Infrastructure Investment and Jobs Act, Public Law 117-58.

Section Relative to School and Childcare Facility Testing

The Department of Environmental Services has provided the following information:

- The bill requires that all schools and licensed childcare facilities test all fixtures that are potential sources of drinking water three times between 2016 and 2024.
- The majority of these facilities have sampled once already so only two rounds of sampling are included in the Department's analysis.
- The bill would require notification to parents if the concentration of lead in water sampled from a fixture exceeds 5 parts-per-billion. The costs of notifications are not included in the analysis as they are indeterminable.

- The bill requires any fixture producing water over 5 parts-per-billion be remediated to reduce the concentration of lead below 5 parts-per-billion or install a prescribed number of bottle filling stations in lieu of testing and mitigating all fixtures.
- The Department's estimates incorporate existing grant funds from the EPA for sampling cost and amounts from the NH Drinking Water and Groundwater Trust Fund that align with the objectives of the bill.
- The Department notes the federal infrastructure bill authorized but did not appropriate additional grant funds for federal fiscal years 2022 through 2026. If the authorizations are later funded, this fiscal analysis will to be revised.
- The Department has a federal grant to cover some of the sampling costs. It is estimated that the grant funds will be expended in FY 2024 and that public schools will incur sampling costs of \$39,750 by FY 2024. This is based on the Department's current database on fixtures in schools and an estimate of schools that are not included in the database.
- Sampling will occur in FY 2023 and FY 2024, and remediation will occur in FY 23 based on the 180-day mitigation requirement in the legislation.
- A full-time Environmentalist IV will be required to administer the requirements of the program in FY 2023, FY 2024, and FY 2025.

Based on the Department's current data on fixtures that are potential sources of drinking water in schools, the total remediation costs are estimated in the following table. It is assumed the costs would be incurred evenly over fiscal years FY 2023 through FY 2025.

<u>Total Remediation Costs (To be incurred in FY 2023 through FY 2025)</u>	
Faucet replacement (Estimated 3,105 @ \$600 per location):	\$1,863,000
Extensive repairs (5% of locations @ \$2,000 each):	\$310,500
<u>Total Remediation Cost (Incurred in FY 2023 through FY 2025):</u>	\$2,173,500
State expenditures from the DOE Remediation Grant funded by the NH Drinking Water and Groundwater Trust Fund:	\$1,086,750
Local remediation cost net of the Grant:	\$1,086,750

The Department provided the following estimates of the costs to implement the bill:

	FY 2023	FY 2024	FY 2025
<u>Sample Costs</u>			
Estimate: 24,300 samples x \$15/sample x 2 rounds (1 in each year):	\$364,500	\$364,500	\$0
Amount covered by federal grant funds State expenditure:	(\$344,625)	(\$344,625)	\$0
Net sampling costs to schools: Local Cost	\$19,875	\$19,875	\$0
<u>Remediation Costs (See the table above)</u>			
State expenditures from the DOE Remediation	\$362,250	\$362,250	\$362,250

Grant funded by the NH Drinking Water and Groundwater Trust Fund: (\$1,086,750 over 3 years)			
Local annual cost net of the Grant: (\$1,086,750 over 3 years)	\$362,250	\$362,250	\$362,250
<u>Administration</u>			
Full-time Environmentalist IV Position (Salary, benefits, equipment & office) State Expenditure:	\$121,000	\$121,000	\$122,000
Estimated State Expenditures: (Remediation Grant + Position Cost)	\$827,875	\$827,875	\$484,250
Estimated Local Sampling and Remediation Costs:	\$382,125	\$382,125	\$362,250

In lieu of the remediation of fixtures presented above, this bill allows for the option of the installation of bottle filling stations. It is not known how many schools may choose this option or for how many fixtures (the estimated the cost per bottle filling station is \$1,500).

Section Relative to Appropriation for State Matching Funds

This bill appropriates \$7,760,000 in general funds in FY 2023 (non-lapsing) to the Department of Environmental Services for the purpose of providing state matching funds for supplemental Drinking Water State Revolving Fund and Clean Water State Revolving Fund funding authorized by the Infrastructure Investment and Jobs Act, Public Law 117-58. To receive a federal grant for state revolving loan funds (SRF) for drinking water and wastewater/stormwater infrastructure, the state must match the federal grant with its own funds. The federal requirements require that a 20% state match be provided for the traditional base SRF programs and a 10% state match for the new supplemental SRF programs established by the federal Infrastructure bill. The amount of \$7,760,000 funded in this bill augments existing matching funds in the capital budget and will ensure New Hampshire receives the maximum federal grant allowed (\$34,415,483) in the first two years for New Hampshire under the federal SRF grant programs. Therefore, this bill will increase state expenditures and local revenue, not to exceed these amounts, beginning in FY 2023 until funds are exhausted.

AGENCIES CONTACTED:

Department of Environmental Services