

CO-SPONSORSHIP MEMORANDUM

TO: All Legislators

FROM: Senator Robert Cowles
Senator Jerry Petrowski
Representative Jeremy Thiesfeldt
Representative Joel Kitchens

DATE: Tuesday, August 6, 2019

RE: Co-Sponsorship of the SCHOOL Acts to Support Children's Health by Ousting Outdated Lead

DEADLINE: 5:00 PM on Tuesday, August 20, 2019

Overexposure to lead can be bad for anyone's health, but children are particularly susceptible to negative health consequences from the consumption of lead. These health outcomes from lead have lasting impacts not only on the children, but on the entire community as the children's development can be stunted, impacting both their physical and mental growth. Countless studies, including a [2014 report](#) by our state's Department of Health Services, found increased behavioral issues such as truancy or dropping out, teen pregnancy, and juvenile delinquency correlated to an overexposure to lead as a child. By introducing the SCHOOL Acts, we're looking to give our youth a brighter future by reducing lead exposure and giving parents and guardians the peace-of-mind that their kids will drink clean, safe water when they leave the house in the morning.

Following a nation-leading effort last session known as the Leading on Lead Act which provided options to local governments to tackle residential lead laterals, these two bills are being circulated as a effort to prevent future lead poisoning from water among Wisconsin's youth when they leave the home. 2017 Wisconsin Act 137 gained strong, bipartisan support and had advocates for this legislation from both sides of the aisle that helped the Leading on Lead Act become law. We hope to expand off of last session's successes and once again show that providing clean drinking water, especially to children, can lead to bipartisan solutions for these nonpartisan problems.

Wisconsin has been given an 'F' in 2017 and 2019 by a third-party interest group for failing to address the issue of lead in schools and other places frequented by children. Local efforts in Madison, Rock County, and Waukesha County have all shown that the issue of lead in schools varies in severity, but impacts all three of those communities and many other communities throughout the state.

The SCHOOL Acts, which stands for Supporting Children's Health by Ousting Outdated Lead, includes two bills. The first bill, LRB 19-3539, addresses lead in school drinking water by requiring testing and, if necessary, requiring that contaminated water sources be taken offline and replaced with clean water sources while incentivizing long-term remediation by buying down the interest rate of BCPL loans. The second bill, LRB 19-3566, tackles lead in the drinking water of daycares, group homes, and summer camps by requiring testing as a component of licensure and, if necessary, ensuring that contaminated water sources be taken offline and replaced with clean water sources. A more detailed overview of both bills is below.

LRB 19-3539: This bill requires all K-12 schools that receive public funding to test all sources of drinking water, known as potable water, for lead contamination. Testing is phased in over three years and allows the submission of tests already completed in prior years if it meets the testing standards prescribed by this bill. Testing continues to be required every three years unless two consecutive tests show lead levels that are effectively negligible, defined as below 1 part-per-billion.

Test results must be posted on the schools website or available for examination upon request and submitted to DPI within thirty days of receiving results. If no potable source had lead levels higher than federal standards of 15 parts-per-billion, no further action is required. However, if lead levels on any source of drinking water exceed the federal standard, the source of water with lead contamination (i.e. a drinking fountain) must be taken offline and, if necessary, alternative sources of potable drinking water must be provided. Additionally, a remediation plan must be developed, posted online or made available for examination upon request, and submitted to DPI within six months. If only one or a couple of drinking fountains or other sources are contaminated, as has happened in some of the limited known cases of testing in Wisconsin, alternative sources or remediation may not be necessary as taking the source offline may suffice since other safe potable sources are available.

If remediation efforts are necessary and may not be absorbed in the current budget of a school district, LRB 19-3539 allows districts to go to referendum outside of a regularly scheduled election and to ask more than two questions in one year if necessary and *only* for the purposes of lead remediation. This referendum limit exemption is similar to the current law exemptions for natural disasters.

Finally, this legislation provides an incentive for schools to fund remediation by applying for a School Trust Fund Loan at BCPL. This legislation takes 20% of the total funding from the Safe Drinking Water Loan Program (SDWLP), which is largely federally funded, for the purposes of buying down the interest rate of schools using BCPL for lead remediation efforts. Estimated at about \$15 million per year, this can be absorbed in the current SDWLP budget while still

funding existing priorities and will help school districts to provide clean drinking water while reducing some of the added expenses from long-term bonding. This funding must be distributed equitably among all eligible applicants, and no one community can receive more than 20% of the total funding made available for lead remediation. While the goal of this program is to buy down interest rates, if funding is still available near the end of the fiscal year, it may be used to buy down principal.

LRB 19-3539 ensures that action is taken to deal with the issue of lead in drinking water while balancing this priority with the preservation of independence of local schools. The Legislative Fiscal Bureau has identified more than 25 unique statutory requirements related to health and safety on school districts. This bill is an important step to ensure the delivery of clean water and to protect the health and safety of Wisconsin's youth while still recognizing that the scope of this issue varies by community, so the solutions must also vary.

LRB 19-3566: The second bill of the SCHOOL Acts recognizes that schools aren't the only place that children spend a lot of time outside of the home. This bill requires lead testing of drinking water sources as a condition of an initial licensure or renewal or continuance of licensures for day care centers, day care providers, group homes, and summer camps. Tests that show lead contamination above the federal limit will not prevent licensure so long as contaminated sources are taken offline, clean sources of potable water are provided, a remediation plan is developed, and six month updates are submitted to DCF or DATCP until test results show lead levels below the federal limit.

Testing methods and laboratories are specified in the legislation, preventing the burdensome costs and lengthy delays of rulemaking. A quick survey of the State Laboratory of Hygiene and certified labs under the DNR shows lead tests are not prohibitively expensive, costing around \$20 to \$40 for a test. If a prior test shows no more than 1 part-per-billion of lead, no more testing is required for license renewal or continuance for day care centers, day care providers, group homes, and summer camps.

LRB 19-3566 compliments LRB 19-3539 by prescribing reasonable measures to protect children's health when they leave the home. By ensuring the delivery of clean water without revoking licensures and cutting off the revenue sources necessary for remediation efforts, we can protect children's health while eliminating the problem of lead laden water in daycares, group homes, and summer camps.

If you would have any questions or like to co-sponsor these bills, please reply to this email, contact Senator Cowles' office at 6-0484, or contact Representative Thiesfeldt's office at 6-3156 **before 5:00 PM on Tuesday, August 20, 2019**. Unless otherwise specified, your name will be added to *both bills* and to the Senate and Assembly version of each bill.

Analysis of LRB 19-3539 by the Legislative Reference Bureau

Lead testing of potable water sources in schools

This bill requires school boards, operators of independent charter schools, and governing bodies of private schools participating in a parental choice program or in the Special Needs Scholarship Program to test all potable water sources in schools for lead concentration at least once every three years. Under the bill, if the results of a test of a potable water source in a school show a concentration of lead that is greater than the concentration considered safe for drinking water under the federal Safe Drinking Water Act (lead contamination), the school board, operator, or governing body of the school must do all of the following:

1. Disconnect the water source and, if necessary, provide an alternative drinking water supply.
2. Develop and submit a plan to the Department of Public Instruction for remediating lead contamination in the water source.
3. Post the remediation plan on the school board's, operator's, or governing body's Internet site or make the plan available to the public for examination on request.

The bill provides that, if a school board, operator, or governing body conducts two consecutive lead tests in a school at least three years apart and the results of the tests show that the potable water sources in the school contain lead levels not higher than one part per billion, the school board, operator, or governing body is not required to conduct any additional lead tests at the school.

Exception to referendum restrictions for lead remediation

Under current law, if a school board wants to borrow money through a bond issue or exceed the revenue limit otherwise applicable to the school district, the school board must obtain the approval of the school district's electors at a referendum. Currently, a school board may, with certain exceptions, schedule such a referendum only concurrent with the next regularly scheduled spring primary or election or partisan primary or general election and only if the election falls no sooner than 70 days after the date on which the board adopts or files the applicable resolution. Also under current law, a school board may submit such a resolution to electors for approval or rejection no more than two times in any calendar year.

This bill creates an exception to those referendum restrictions for a school board that conducts a test under the bill that shows lead contamination in a potable water source at a school in the school district. Under the bill, such a school board may call a special referendum to be held within the six-month period immediately following the date on which the school board submits to DPI a plan to remediate the contaminated water source, provided the special referendum is to be held not sooner than 70 days after the filing of the resolution of the school board and provided that the special referendum includes only costs associated with the remediation plan.

BCPL loans

This bill allows the Board of Commissioners of Public Lands to use school trust funds to issue loans to school districts, municipalities, technical college districts, and cooperative educational service agencies for the purpose of remediating lead contamination in schools.

Safe Drinking Water Loan Program

Under current law, the Safe Drinking Water Loan Program under the environmental improvement fund provides low-interest loans to municipalities for drinking water infrastructure projects, to help them comply with federal drinking water standards. This bill allows SDWLP

funds to be used to reduce the principal and interest rates on BCPL loans made for the purpose of remediating lead contamination in schools. Under the bill, if there are not sufficient funds to pay all applicants for SDWLP loans in any fiscal year, then 1) 20 percent of the funds that are available must be allocated to reduce the principal or interest rates on BCPL loans made for the purpose of remediating lead contamination in schools; 2) payments to reduce principal on those loans may be made only in the fourth quarter of any fiscal year and only if sufficient funding is available; and 3) projects to remediate lead contamination in schools that are located within the same city, town, or village may not, in total, receive more than 20 percent of the funds that are allocated for remediating lead contamination in schools. If the 20 percent of SDWLP funding that is set aside for these purposes is not sufficient to fund all applicants for projects to reduce lead contamination in schools in any fiscal year, the bill requires the funds that are available to be distributed equitably among approved applicants.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

Analysis of LRB 19-3566 by the Legislative Reference Bureau

This bill requires child care centers, child care providers, and recreational and educational camps to test for lead in drinking water and to provide potable water if lead contamination is found in order to obtain, renew, or continue a camp or child care center license or child care provider certification.

Under current law, no person may for compensation provide care and supervision for four or more children under the age of seven for less than 24 hours a day unless that person obtains a license to operate a child care center from the Department of Children and Families. To be licensed, current law requires a person to meet the minimum requirements established by DCF. Under current law, a child care center license is valid until revoked or suspended, but must be reviewed every two years.

Current law also requires a person, other than a licensed child care center, to be certified by DCF in order to be eligible to receive payment for providing child care services for an individual who is determined eligible for a Wisconsin Shares child care subsidy. To be certified, current law requires a child care provider to meet minimum requirements established by DCF. Under current rules promulgated by DCF, a child care provider certification is valid for two years unless revoked or suspended, and must be renewed if the provider continues to comply with certification standards.

Current law also requires the Department of Agriculture, Trade and Consumer Protection or a local health department granted agent status to issue licenses to and regulate recreational and educational camps. Under current law, such licenses expire annually on June 30.

This bill adds as a minimum requirement for a recreational and education camp license, a group home license, a child care center license, and a child care provider certification that an applicant for an initial, continued, or renewed license or certification (applicant) test drinking water for lead contamination in facilities used or to be used for child care, a camp, or a group home within six months before submitting the application. The bill provides that lead contamination is a concentration of lead that is greater than a concentration considered safe for drinking under the federal Safe Drinking Water Act.

Under the bill, if a test shows lead contamination, the applicant must establish and carry out a plan for remediating the lead contamination, continue testing the water until a test shows no lead contamination, provide safe drinking water to the facility until the contamination is remediated, and provide proof in its application that the applicant has complied with these requirements. At six-month intervals following the issuance, renewal, or continuation of the license or certification, the applicant must demonstrate to the appropriate licensing or certifying authority that it remains in compliance with these requirements until a test result shows no lead contamination. Under the bill, if an applicant submits with an application for an initial, renewal, or continuation license a drinking water test showing lead levels are not higher than one part per billion, the applicant need not submit further tests with future applications to renew or continue the license.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.