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SB-1144 Water efficiency and quality assessment reports: state buildings and public school buildings.
(2021-2022)

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CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

SENATE BILL

NO. 1144

Introduced by Senator Wiener

February 16, 2022

An act to add Chapter 20 (commencing with Section 14700) to Division 7 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 1144, Wiener. Water efficiency and quality assessment reports: state buildings and public school buildings.

Existing law, the California Safe Drinking Water Act, requires the State Water Resources Control Board (state board) to administer provisions relating to the regulation of drinking water to protect public health. In this regard, existing law prohibits a person from using any pipe, pipe or plumbing fitting or fixture, solder, or flux that is not lead free in the installation or repair of any public water system or any plumbing in a facility providing water for human consumption, except as provided.

This bill would require, no later than January 1, 2027, except as provided, an operating agency, as defined, to complete a water efficiency and quality assessment report, as specified, for each covered building. The bill would define a “covered building” to mean a building owned and occupied, or leased, maintained, and occupied, by a state agency, or a public school building,

including a charter school building, as described. If the report identifies noncompliant plumbing fixtures and noncompliant appliances, the bill would require the operating agency to replace those fixtures and appliances that fail to meet water efficiency standards, as specified, at the earliest practical time, subject to dedicated funding for this purpose. The bill would also require various mitigation and remediation actions with respect to lead-contaminated potable water systems, lead pipes, and non-lead-free pipes, as determined in the report, dependent on funding expressly earmarked for those actions.

This bill would further require, no later than one year after the completion of the water efficiency and quality assessment report, an operating agency to implement a Legionella management program for any covered building that is over 10 stories in height and utilizes a cooling tower system, to retain a copy of the Legionella management program with sampling details and sampling results for at least 3 years, and to notify the local health department, as specified, and the public regarding a Legionella culture sampling analysis under a specified circumstance. These requirements would not apply to a school building if the cooling tower system was installed on or after January 1, 2013. The bill would also authorize the state board to periodically monitor operating agencies to ensure that a Legionella management program is in place and designed and administered in compliance with the requirements of the bill. The bill would also require, on or before January 1, 2024, the state board to adopt regulations necessary to implement the water efficiency and quality program for public schools and state buildings pursuant to the provisions of the bill. The bill would prohibit funds appropriated or made available for purposes of complying with the requirements of the bill from counting toward satisfying the minimum funding obligation to school districts and community college districts imposed by Section 8 of Article XVI of the California Constitution. By imposing new duties on public schools, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 20 (commencing with Section 14700) is added to Division 7 of the Water Code, to read:

CHAPTER 20. Water Efficiency and Quality Program for Public Schools and State Buildings

14700. For purposes of this chapter the following definitions apply:

(a) "ANSI/ASHRAE Standard 188: Legionella – Risk Management for Building Water Systems" or "ANSI/ASHRAE Standard 188" means the most recent version of the standard published by the American Society of Heating, Refrigerating and Air-Conditioning Engineers.

(b) "ASSE" means the American Society of Sanitary Engineering and refers to standards for plumbing components.

(c) "Cooling tower system" means a cooling tower, evaporative condenser, fluid cooler, or other wet cooling device that is capable of aerosolizing water, and that is part of, or contains, a recirculated water system and is incorporated into a building's cooling process, an industrial process, a refrigeration system, or an energy production system.

(d) "Covered building" means a building that meets any of the following criteria:

(1) A building owned and occupied, or leased, maintained, and occupied, by a state agency.

(2) A public school building, including a charter school building.

(e) "Lead pipe" means pipe that has more than 8 percent lead concentration.

(f) "Legionella" means *Legionella pneumophila* bacteria.

(g) "Local educational agency" means a school district, county office of education, or charter school.

(h) "Noncompliant appliance" has the same meaning as set forth in subdivision (a) of Section 1630 of the Public Utilities Code.

(i) "Noncompliant plumbing fixture" has the same meaning as set forth in subdivision (c) of Section 1101.3 of the Civil Code.

(j) "Non-lead-free pipe" means galvanized pipe or pipe that contains lead in excess of the amount of lead permitted for the pipe to be considered "lead free" for purposes of the federal Safe Drinking Water Act.

(k) "Operating agency" means the entity responsible for the operation and maintenance of a covered building.

(l) "School building" means any of the following:

- (1) A structure used for the instruction of public school children, including a classroom, laboratory, library, research facility, or administrative facility.
- (2) An eating facility located in a school or a school kitchen.
- (3) A gymnasium or other facility used for athletic or recreational activities or for courses in physical education.
- (4) A dormitory or other living area of a residential school.
- (5) A maintenance, storage, or utility facility essential to the operation of a facility described in paragraphs (1) to (4), inclusive, which contains a potable water system.

(m) "State agency" has the same meaning as set forth in subdivision (g) of Section 15802 of the Government Code.

(n) "Water-conserving appliance" has the same meaning as set forth in subdivision (c) of Section 1630 of the Public Utilities Code.

(o) "Water-conserving plumbing fixture" has the same meaning as set forth in subdivision (e) of Section 1101.3 of the Civil Code.

14701. (a) Except as provided in subdivision (c), no later than January 1, 2027, the operating agency shall complete a water efficiency and quality assessment report for each covered building. The report shall include all of the following information, except as otherwise provided in this subdivision:

- (1) Name of the person or contractor preparing and certifying the report.
- (2) Address of the covered building.
- (3) An inventory of all noncompliant plumbing fixtures and noncompliant appliances in the covered building.
- (4) If the building contains a cooling tower, a determination if a water management program consistent with the most recent version of the ANSI/ASHRAE Standard 188 has been adopted for the building to reduce the risk of Legionella spread.
- (5) An evaluation of whether the building contains lead pipe or piping of unknown material that was installed prior to 1986.
- (6) An evaluation of whether the building contains non-lead-free pipe, lead pipe, or piping of unknown material that was installed prior to 2010.
- (7) Testing and assessment of water quality in the building's potable water systems for lead contamination. Testing for lead shall comply with the United States Environmental Protection Agency's "3Ts For Reducing Lead In Drinking Water in Schools and Child Care Facilities" manual. Buildings that do not have lead service lines and do not contain metal piping that was installed prior to 2010 are exempt from the requirement to test for lead. Buildings that have tested for lead contamination in drinking water within the last 10 years may rely on the results of that previous testing in lieu of performing new testing. The following entities are also exempt from the testing requirements of this paragraph:

(A) Schoolsites built or modernized on or after January 1, 2010.

(B) Local educational agencies that completed lead testing after January 1, 2009, and posted information about the lead testing online.

(C) Local educational agencies that have requested testing from their community water system.

(D) Local educational agencies that are permitted as a public water system and are currently testing water for lead.

(b) Water quality testing and assessment shall be conducted by qualified personnel.

(c) Invasive testing is not required to comply with this section. If determination of whether a building contains lead pipe would require invasive testing, the assessment may indicate that the building contains pipe of an unknown material in lieu of that testing.

(d) If an operating agency is responsible for the operation and maintenance of more than one covered building, the time period for completing a water efficiency and quality assessment report shall be as follows:

(1) A water efficiency and quality assessment report shall be completed for at least 25 percent of the covered buildings under the control of the operating agency on or before December 1, 2027.

(2) A water efficiency and quality assessment report shall be completed for at least 50 percent of the covered buildings under the control of the operating agency on or before December 1, 2028.

(3) A water efficiency and quality assessment report shall be completed for at least 75 percent of the covered buildings under the control of the operating agency on or before December 1, 2029.

(4) A water efficiency and quality assessment report shall be completed for all covered buildings under the control of the operating agency on or before December 1, 2030.

(e) The operating agency shall maintain a copy of the water efficiency and quality assessment report for at least three years and shall make it available to the public upon request.

14702. (a) If the water efficiency and quality assessment report required pursuant to Section 14701 identifies noncompliant plumbing fixtures and noncompliant appliances, the operating agency shall replace noncompliant plumbing fixtures and noncompliant appliances that fail to meet water efficiency standards with water-conserving plumbing fixtures and water-conserving appliances at the earliest practical time, subject to available funding.

(b) This section does not limit the discretion of the operating agency in determining how to allocate funds that are available for general or multiple purposes. Compliance with this section is required only if funding expressly earmarked for this purpose has been allocated or made available to the operating agency.

14703. (a) If the water efficiency and quality assessment report required pursuant to Section 14701 determines that a building's potable water system is contaminated with lead, the operating agency shall fit all drinking and cooking water sources with certified NSF/ANSI 42 and 53 filters, certified for particulate removal and lead reduction, respectively. Filters shall be installed as soon as possible, but no later than one year from receipt of the water efficiency and quality assessment report, subject to available funding.

(1) If the building contains lead pipe, the operating agency shall also replace the lead pipe at the earliest practical time, subject to available funding. Buildings that contain non-lead-free pipe shall be remediated by providing occupants access to drinking fountains with certified NSF/ANSI 42 and 53 filters, subject to available funding.

(2) Paragraph (1) does not limit the discretion of the operating agency in determining how to allocate funds that are available for general or multiple purposes.

(b) If the water efficiency and quality assessment report required pursuant to Section 14701 determines that a building contains pipe of unknown material that was installed prior to 2010, the operating agency shall either treat the pipe as lead pipe or test the pipe to determine if it meets the definition of lead pipe under this section. This requirement to treat unknown pipe as lead pipe does not apply if water quality testing demonstrates that no additional lead content is being added to the school drinking water system by the building plumbing system.

(c) If the lead pipe has not been replaced within 12 months of the completion of the water efficiency and quality assessment report required pursuant to Section 14701, the operating agency shall implement a water quality management plan to ensure that interim mitigation measures, including filters for drinking and cooking water sources, are in place and are properly maintained and tested.

(d) The water quality management plan shall be designed by a water management program team that shall include appropriately qualified personnel, such as a technician certified in accordance with ASSE/IAPMO/ANSI Series 12000: Professional Qualifications Standard for Water Management and Infection Control Risk Assessment for Building Systems, a person holding a nationally recognized degree or certification in the management of water quality in buildings, or other relevant training as determined by the state board.

(e) This section does not limit the discretion of the operating agency in determining how to allocate funds that are available for general or multiple purposes. Compliance with this section is required only if funding expressly earmarked for this purpose has been allocated or made available to the operating agency.

14704. (a) No later than one year after the completion of the water efficiency and quality assessment report required pursuant to Section 14701, an operating agency shall implement a Legionella management program for any covered building that is over ten stories in height and utilizes a cooling tower system.

(b) The Legionella management program required by this section shall be designed to minimize the growth and transmission of Legionella in the cooling tower system, consistent with ANSI/ASHRAE Standard 188, or comparable standards adopted by a nationally recognized organization and approved by the state board. At least one individual designing this program shall have qualifications that include any of the following:

(1) Certification in accordance with ASSE Series 12000-2018, Professional Qualifications Standards for Infection Control Risk Assessment for all Building Systems.

(2) A certificate or other documentation of completion of no less than four hours of training in Legionella management pursuant to ASHRAE Standard 188, as utilized in the federal Centers for Disease Control and Prevention's Toolkit for Controlling Legionella in Common Sources of Exposure.

(3) Training and current employment by a laboratory accredited for Legionella testing.

(4) A nationally recognized degree in the management of water quality in buildings.

(5) Other relevant training as determined by the state board.

(c) The Legionella management program shall be prepared by a water management program team that shall include qualified personnel.

(d) The Legionella management program shall include a schedule for routine bacteriological culture sampling and routine Legionella culture sampling, where appropriate, including, but not limited to, buildings that serve immunocompromised persons. The program shall also identify conditions or events that require immediate Legionella culture sampling and analysis.

(e) The Legionella management program shall include remediation and disinfection plans. It shall also include startup safety procedures for stagnant cooling towers that have been shut down without treatment and recirculation for more than five consecutive days.

(f) The operating agency shall ensure that any work or services required by the Legionella management program required under this section, including, but not limited to, testing, culture sampling and analysis, cleaning, flushing, disinfectant, testing, prevention, control or remediation measures shall be conducted in a manner consistent with ANSI/ASHRAE Standard 188, or comparable standards adopted by a nationally recognized organization and approved by the state board, and by at least one individual whose qualifications include any of the following:

(1) Certification in accordance with ASSE Series 12000-2018, Professional Qualifications Standards for Infection Control Risk Assessment for all Building Systems.

(2) A certificate or other documentation of completion of no less than four hours of training in Legionella management pursuant to ASHRAE Standard 188, as utilized in the federal Centers for Disease Control and Prevention's Toolkit for Controlling Legionella in Common Sources of Exposure.

(3) Training and current employment by a laboratory accredited for Legionella testing.

(4) A nationally recognized degree in the management of water quality in buildings.

(5) Other relevant training as determined by the state board.

(g) The operating agency shall retain a copy of the Legionella management program with sampling details and sampling results for at least three years.

(h) The state board may periodically monitor operating agencies to ensure that a Legionella management program is in place and designed and administered in compliance with the requirements of this section.

(i) The operating agency shall make the Legionella management program available upon request to an employee of the state board or any other agency with license or inspection authority for the covered building.

(j) The operating agency for a covered building with a cooling tower system shall annually review its Legionella management plan and shall conduct an additional review under any of the following conditions:

(1) If one or more cases of Legionnaires' disease are, or may be, associated with the covered building.

(2) Upon completion of any construction, modification or repair activities that may affect the potable water system of the covered building.

(3) Any other condition specified by the state board.

(k) The operating agency shall notify the local health department within 24 hours of receipt of a Legionella culture sampling analysis that exceeds 1,000 colony forming units per milliliter (CFU/mL). The operating agency shall also notify the public of the test result by posting notice in the outside lobby window of the building or other conspicuous place near the primary entrance and clearly visible to the public, or as otherwise required by the local health department or state board.

(l) This section does not apply to a school building if the cooling tower system was installed on or after January 1, 2013.

14705. On or before January 1, 2024, the state board shall adopt regulations necessary to implement the water efficiency and quality program for public schools and state buildings pursuant to Sections 14700 to 14704, inclusive. In adopting regulations, the state board may also include, but is not limited to, developing guidance documents for lead testing, sample plans, or any other information to assist the operating agencies with complying with the requirements of this chapter.

14706. (a) Funds appropriated or made available for purposes of complying with the requirements of this chapter shall not count toward satisfying the minimum funding obligation to school districts and community college districts imposed by Section 8 of Article XVI of the California Constitution.

(b) Where the provisions of this chapter conflict with other federal, state, or local ordinances, regulations, or statutes, the more restrictive provisions apply, except as otherwise provided by federal law.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.