

DRINKING WATER MANAGEMENT PLANS

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Senate Bill 88 (proposed substitute H-1)

Sponsor: Sen. Sylvia A. Santana

**House Committee: Natural Resources, Environmental,
Tourism and Outdoor Recreation [Discharged]**

Senate Committee: Energy and Environment

Complete to 10-5-23

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

Senate Bill 88 would amend 1973 PA 116, the child care licensing act, to require child care centers to develop a drinking water management plan and prescribe requirements regarding water filtering, water testing, and recordkeeping, among other things. The bill cannot take effect unless House Bills 4341 and 4342 are also enacted (see **Background**, below).

Specifically, the bill would require *child care centers* to develop a drinking water management plan within 15 months after the effective date of the bill and make it available upon request to the Department of Licensing and Regulatory Affairs (LARA), child care center staff, and parents and guardians of children enrolled in the center. The plan would have to specify all of the following:

- Locations where water outlets will be maintained to deliver water for human consumption, as drinking water or as a component of a food or beverage, categorized as follows:
 - Locations where filtered bottle-filling stations will be maintained.
 - Locations where filtered faucets will be maintained.
 - Locations where *filtered pitchers* will be maintained.
 - Locations where unfiltered drinking fountains or unfiltered *faucets* will be maintained.
 - Locations where drinking water from a *water delivery service* will be maintained.
- Locations where water outlets will be maintained for purposes other than the above.
- Locations where water outlets will be shut off or rendered permanently inoperable.
- Regular replacement of the filter cartridge for each filtered bottle-filling station, filtered faucet, and filtered pitcher in compliance with the manufacturer's instructions or recommendations of the Department of Environment, Great Lakes, and Energy (EGLE).

Child care center means a facility that is not a private home that receives one or more children under 13 years of age for care for periods of less than 24 hours a day. Child care center includes a facility that provides care for at least two consecutive weeks, regardless of the number of hours of care per day. Such a facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, before- or after-school program, or drop-in center.

Filtered pitcher would mean a container used for holding and pouring liquids that at the point of use includes a filter that is certified to meet NSF/ANSI standard 53 for lead reduction and NSF/ANSI standard 42 for particulate removal.

Faucet means a valve end of a water pipe by which water is drawn from the pipe or held within it.

Water delivery service would mean a service that delivers drinking water to a child care center and provides drinking water that meets the standards of the federal Safe Drinking Water Act.

Each child care center would have to review and update its plan at least once every five years and make changes as directed by LARA or as needed to comply with the bill.

Water sampling and testing

Water sampling and testing would have to be conducted at each child care center at least once every two years and as otherwise required by the bill. The child care center would have to collect the water for the water sampling and testing. The water would have to be drawn from all of the bubbler fixtures of the filtered bottle-filling stations and filtered faucets and would have to be collected in 250-milliliter bottles after a stagnation period of at least eight hours and before any water use occurs at the child care center. LARA would have to provide a child care center with a sufficient number of 250-milliliter bottles upon request. After the child care center collects the water, it would have to deliver, through the mail or in person, all of the bottles for water testing. The testing would have to be conducted at a laboratory certified for lead and copper testing for the approved EPA method.

If water sampling and testing indicates the presence of lead at a concentration of at least one part per billion but not more than five parts per billion, the child care center 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 cartridge if the status light indicates that replacement is or will soon be required.
- Ensure that the station or faucet is properly installed.
- Resample and retest the filtered water.
- If the resample and retest still indicate the presence of lead at a concentration of at least one part per billion but not more than five parts per billion, do both of the following:
 - Send LARA and EGGLE a copy of the results and a document listing the make and model of the bottle-filling station or faucet and filter cartridge.
 - Consult with EGGLE and the manufacturer of the bottle-filling station or faucet.

If water sampling and testing indicates the presence of lead at a concentration of more than five parts per billion, the child care center would have to do all of the following:

- Immediately shut off the water outlet or render it inoperable.

- Post a conspicuous sign near the water outlet stating that it is inoperable because of high lead concentration and maintain the sign until the outlet is returned to service.
- Replace the filter cartridge in the filtered bottle-filling station or filtered faucet.
- Resample and retest the water.
- If the resample and retest indicate the presence of lead at a concentration of at least one part per billion but not more than five parts per billion, return the water outlet to service and comply with the requirements described above for water with that level of lead.
- If the resample and retest still indicate the presence of lead at concentrations of more than five parts per billion, do both of the following:
 - Within 30 days after receiving the results, send a copy of the results to LARA, EGLE, and each parent or guardian of a child enrolled in the child care center.
 - Develop a remediation plan in consultation with LARA and EGLE and incorporate the remediation plan into the child care center’s drinking water management plan.

Other duties of a child care center

A child care center that installs a filtered bottle-filling station, filtered faucet, filtered putcher, or other filtered source would have to install, operate, and maintain them in accordance with the manufacturer’s instructions or recommendations of EGLE.

A child care center would have to retain the following documents for three years or until after any water sampling and testing occurs as described above, whichever is sooner, and make the documents available to LARA upon request:

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

MCL 722.111 and proposed MCL 722.113i

BACKGROUND:

Taken together, Senate Bill 88 and House Bills 4341 and 4342¹ would require schools and child care centers to develop a drinking water management plan within fifteen months after the bills take effect and update the plan at least every five years. The plan would specify the locations of water outlets, by water use and type of filtration, and regular replacement of filter cartridges. Water would have to be tested every year (schools) or two years (child care centers), and water could be provided for drinking only if the presence of lead was shown to be below specified levels. The bills include signage, notification, and reporting requirements. By the end of the 2024-2025 school year, outlets in schools providing water

¹ <http://legislature.mi.gov/doc.aspx?2023-HB-4341> and <http://legislature.mi.gov/doc.aspx?2023-HB-4342>

for human consumption would have to be either a filtered bottle-filling station or filtered faucet. Generally speaking, LARA and EGLE would have advisory responsibilities under the bills, and EGLE or its representative would be required to perform water testing for schools and create a program to assist schools and child care centers in meeting the bills' requirements.

FISCAL IMPACT:

Senate Bill 88 would create indeterminate, though potentially significant, costs for LARA. Under the bill, LARA would be required to supply child care centers, upon request, with 250mL bottles to collect water samples. The cost of providing these bottles is currently indeterminate, as the total cost would depend on the unit price for the bottles, the number of child care centers that request bottles, and the number of fixtures in the child care centers that require testing. LARA would also have responsibility for consulting with child care centers on drinking water remediation plans (in cooperation with EGLE), as well as completing other administrative functions.

Senate Bill 88 would also create additional costs for local units of government that operate child care centers by requiring centers to develop a drinking water management plan; make the plan available to LARA, staff members, and parents or guardians of a child enrolled in the center; conduct water sampling and testing at least once every two years; and update the water management plan at least once every five years.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.