

CHAPTER 399

HEALTH AND ENVIRONMENT

HOUSE BILL 17-1306

BY REPRESENTATIVE(S) McLachlan and Exum, Arndt, Becker K., Bridges, Buckner, Coleman, Danielson, Esgar, Garnett, Ginal, Gray, Hamner, Hansen, Herod, Hooton, Jackson, Kennedy, Kraft-Tharp, Lebsock, Lee, Lontine, Melton, Michaelson Jenet, Mitsch Bush, Pettersen, Salazar, Singer, Thurlow, Valdez, Weissman, Winter, Young, Duran, McKean, Rosenthal; also SENATOR(S) Coram and Donovan, Aguilar, Court, Crowder, Fenberg, Fields, Gardner, Holbert, Jahn, Jones, Kefalas, Kerr, Martinez Humenik, Merrifield, Moreno, Priola, Scott, Tate, Todd, Williams A., Zenzinger.

AN ACT

CONCERNING THE FINANCING OF TESTING FOR LEAD IN PUBLIC SCHOOLS' DRINKING WATER, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Short title. The short title of this act is the "Safe Water in Schools Act".

SECTION 2. In Colorado Revised Statutes, 25-1.5-203, **add** (1)(f) as follows:

25-1.5-203. Water - powers and duties of department - rules - repeal. (1) The department has, in addition to all other powers and duties imposed upon it by law, the powers and duties provided in this section as follows:

(f) **Public school lead testing grant program.** (I) TO ESTABLISH A GRANT PROGRAM TO PAY FOR TESTING TO DETECT THE PRESENCE AND CONCENTRATION OF LEAD IN DRINKING WATER IN A PUBLIC SCHOOL, AS THAT TERM IS DEFINED IN SECTION 22-1-101 (1), THAT RECEIVES ITS DRINKING WATER FROM A PUBLIC WATER SYSTEM; EXCEPT THAT, FOR PURPOSES OF THIS SECTION, "PUBLIC SCHOOL" INCLUDES: A PUBLIC SCHOOL DISTRICT; A CHARTER SCHOOL, AS THAT TERM IS DEFINED IN SECTION 22-30.5-103 (2), INCLUDING AN INSTITUTE CHARTER SCHOOL, AS THAT TERM IS DEFINED IN SECTION 22-30.5-502 (6); AND A BOARD OF COOPERATIVE SERVICES, AS THAT TERM IS DEFINED IN SECTION 22-5-103 (2). THE DEPARTMENT MAY SPECIFY TESTING PROTOCOLS AND GUIDELINES AND MAY PROVIDE TECHNICAL ASSISTANCE, AS NECESSARY AND FEASIBLE, TO APPLICANTS AND GRANT RECIPIENTS REGARDING THE GRANT APPLICATION, SAMPLING GUIDANCE, SAMPLING PLAN

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

REVIEW, AND COMMUNICATION GUIDANCE. THE COMMISSION MAY ADOPT RULES TO IMPLEMENT THE GRANT PROGRAM, WHICH RULES MAY INCLUDE CONSIDERATION OF A PUBLIC SCHOOL'S ABILITY TO PAY FOR TESTING IN ADMINISTERING THE PROGRAM.

(II) IN ADMINISTERING THE PROGRAM, THE DEPARTMENT SHALL PRIORITIZE GRANT RECIPIENTS IN THE FOLLOWING ORDER: THE OLDEST PUBLIC ELEMENTARY SCHOOLS; THE OLDEST PUBLIC SCHOOLS THAT ARE NOT ELEMENTARY SCHOOLS; AND ALL OTHER PUBLIC SCHOOLS. FOR PURPOSES OF THIS SUBSECTION (1)(f)(II), AN "ELEMENTARY SCHOOL" MEANS A PUBLIC SCHOOL THAT INCLUDES ANY OR ALL OF THE FOLLOWING: PRESCHOOL, KINDERGARTEN, AND GRADES ONE THROUGH FIVE. THE DEPARTMENT MAY ALSO DEVELOP AND APPLY SECONDARY CRITERIA AS ESTABLISHED THROUGH RULES PROMULGATED BY THE COMMISSION. A PUBLIC SCHOOL THAT IS SUBJECT TO THE FEDERAL LEAD AND COPPER RULE, 40 CFR PART 141, SUBPART I, OR HAS ALREADY TESTED OR IS IN THE PROCESS OF TESTING ITS DRINKING WATER FOR LEAD IS NOT ELIGIBLE FOR A GRANT PURSUANT TO THIS SUBSECTION (1)(f).

(III) THE DEPARTMENT SHALL APPLY ITS BEST EFFORTS TO COMPLETE ALL TESTING AND ANALYSIS BY JUNE 30, 2020.

(IV) A PUBLIC SCHOOL THAT RECEIVES A GRANT PURSUANT TO THIS SUBSECTION (1)(f) SHALL EITHER ENTER INTO A CONTRACT THAT REQUIRES COMPLIANCE WITH THE DEPARTMENT'S TESTING PROTOCOLS TO HAVE THE TESTING CONDUCTED OR FOLLOW THE DEPARTMENT'S TESTING PROTOCOLS AND PROVIDE THE TEST SAMPLES TO THE DEPARTMENT'S LABORATORY OR A LABORATORY CERTIFIED BY THE DEPARTMENT THAT IS EQUIPPED TO PERFORM THE REQUIRED TESTING AND ANALYSIS ON A TIMELY BASIS. THE PUBLIC SCHOOL SHALL PROVIDE THE TEST RESULTS TO ITS LOCAL PUBLIC HEALTH AGENCY, ITS SUPPLIER OF WATER, ITS SCHOOL BOARD, AND THE DEPARTMENT.

(V) THE DEPARTMENT SHALL USE MONEY FROM THE WATER QUALITY IMPROVEMENT FUND CREATED IN SECTION 25-8-608 (1.5) AS AUTHORIZED BY SECTION 25-8-608 (1.7)(d) TO IMPLEMENT THIS SUBSECTION (1)(f).

(VI) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE DEPARTMENT SHALL ANNUALLY REPORT BY FEBRUARY 1 OF EACH YEAR UNTIL FEBRUARY 1, 2021, TO THE GENERAL ASSEMBLY'S COMMITTEES OF REFERENCE WITH JURISDICTION OVER PUBLIC HEALTH REGARDING:

(A) THE NUMBER, TYPES, NAMES, AND LOCATIONS OF PUBLIC SCHOOLS THAT HAVE APPLIED FOR GRANTS PURSUANT TO THIS SUBSECTION (1)(f);

(B) THE NUMBER OF GRANTS THAT HAVE BEEN ISSUED; THE INDIVIDUAL AMOUNTS AND TOTAL AMOUNT OF GRANT MONEY AWARDED; AND THE NUMBER, TYPES, NAMES, AND LOCATIONS OF PUBLIC SCHOOLS THAT RECEIVED THE GRANTS;

(C) A SUMMARY OF THE TEST RESULTS; AND

(D) ANY LEGISLATIVE PROPOSALS THAT THE DEPARTMENT BELIEVES TO BE WARRANTED THAT WOULD PROVIDE FINANCIAL ASSISTANCE TO PUBLIC SCHOOLS TO FACILITATE THE TESTING FOR OR REMEDIATION OF HIGH LEAD LEVELS IN DRINKING

WATER.

(VII) THIS SUBSECTION (1)(f) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2021.

SECTION 3. In Colorado Revised Statutes, 25-8-608, **add** (1.7)(d) as follows:

25-8-608. Civil penalties - rules - fund created - temporary moratorium on penalties for minor violations - definitions - repeal. (1.7) (d) (I) IF THERE IS MONEY STILL AVAILABLE AFTER FULLY FUNDING ALL PURPOSES SPECIFIED IN SUBSECTION (1.7)(a) OF THIS SECTION, THE DEPARTMENT SHALL EXPEND THE FOLLOWING AMOUNTS:

(A) UP TO THREE HUNDRED THOUSAND DOLLARS FOR FISCAL YEAR 2017-18, THREE HUNDRED THOUSAND DOLLARS FOR FISCAL YEAR 2018-19, AND THREE HUNDRED THOUSAND DOLLARS FOR FISCAL YEAR 2019-20 FOR GRANTS FOR LEAD TESTING AS AUTHORIZED BY THE PUBLIC SCHOOL LEAD TESTING GRANT PROGRAM ESTABLISHED IN SECTION 25-1.5-203 (1)(f); AND

(B) ONE HUNDRED FORTY THOUSAND DOLLARS FOR FISCAL YEAR 2017-18, ONE HUNDRED THOUSAND DOLLARS FOR FISCAL YEAR 2018-19, AND ONE HUNDRED THOUSAND DOLLARS FOR FISCAL YEAR 2019-20 TO IMPLEMENT THE PUBLIC SCHOOL LEAD TESTING GRANT PROGRAM ESTABLISHED IN SECTION 25-1.5-203 (1)(f), INCLUDING TECHNICAL SUPPORT FOR SCHOOLS, GRANT ADMINISTRATION, AND REPORTING.

(II) THIS SUBSECTION (1.7)(d) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2021.

SECTION 4. Appropriation. (1) For the 2017-18 state fiscal year, \$431,803 is appropriated to the department of public health and environment for use by the water quality control division. This appropriation is from the water quality improvement fund created in section 25-8-608 (1.5), C.R.S. To implement this act, the division may use this appropriation as follows:

(a) \$121,290 for personal services related to the drinking water program, which amount is based on an assumption that the division will require an additional 1.3 FTE; and

(b) \$310,513 for operating expenses related to the drinking water program.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 8, 2017