



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-3539/1
MCP&KRP:skw

2019 BILL

1 **AN ACT to amend** 24.61 (3) (a) 2., 24.61 (3) (a) 3., 121.91 (3) (a) 1. and 281.61 (1)
2 (am); and **to create** 24.61 (3) (a) 1. dm., 24.61 (3) (a) 3m., 118.07 (6), 121.91 (3)
3 (a) 3. and 281.61 (8) (b) of the statutes; **relating to:** lead testing of potable water
4 sources in certain schools; providing loans for lead remediation in certain
5 schools; and providing an exception to referendum restrictions for lead
6 remediation.

Analysis 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.

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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

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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.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 **SECTION 1.** 24.61 (3) (a) 1. dm. of the statutes is created to read:
2 24.61 (3) (a) 1. dm. Remediating lead contamination in a school building.
- 3 **SECTION 2.** 24.61 (3) (a) 2. of the statutes is amended to read:
4 24.61 (3) (a) 2. A town, village, city, or county as provided under s. 67.04 or
5 otherwise authorized by law, or to remediate lead contamination in a school with
6 which the town, village, city, or county has contracted.
- 7 **SECTION 3.** 24.61 (3) (a) 3. of the statutes is amended to read:
8 24.61 (3) (a) 3. A technical college district as provided under s. 67.04 or
9 otherwise authorized by law, or to remediate lead contamination in a school with
10 which the district has contracted.
- 11 **SECTION 4.** 24.61 (3) (a) 3m. of the statutes is created to read:
12 24.61 (3) (a) 3m. A cooperative educational service agency for the purpose of
13 remediating lead contamination in a school with which the agency has contracted.
- 14 **SECTION 5.** 118.07 (6) of the statutes is created to read:
15 118.07 (6) (a) Except as provided under par. (d), the school board of a school in
16 a school district, operator of a charter school under s. 118.40 (2r) or (2x), or governing
17 body of a private school participating in a parental choice program under s. 118.60
18 or 119.23 or in the program under s. 115.7915 shall, at least once every 3 years, test

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1 all potable water sources at the school for lead concentration. The school board,
2 operator, or governing body shall conduct a test under this paragraph in accordance
3 with the guidance document and testing protocol published by the federal
4 environmental protection agency under 42 USC 300j-24 (b) and submit the test
5 sample for processing to the laboratory of hygiene or a certified laboratory, as defined
6 in s. 299.11 (1) (b).

7 (b) The school board of a school in a school district, operator of a charter school
8 under s. 118.40 (2r) or (2x), or governing body of a private school participating in a
9 parental choice program under s. 118.60 or 119.23 or in the program under s.
10 115.7915 shall, no later than 30 days after receiving the results of a test conducted
11 under par. (a), do all of the following:

12 1. Post the results on the school board's, operator's, or governing body's Internet
13 site or, if the school board, operator, or governing body does not have an Internet site,
14 make the results available to the public for examination on request.

15 2. Provide the results to the department.

16 (c) If the results of a test of a potable water source at a school conducted under
17 par. (a) show a concentration of lead that is greater than the concentration
18 considered safe for drinking under the Safe Drinking Water Act, 42 USC 300f et seq.,
19 the school board, operator, or governing body of the school shall do all of the following:

20 1. Immediately disconnect the water source and, if necessary, provide an
21 alternative drinking water supply until the school board, operator, or governing body
22 conducts a test of the water source in accordance with the requirements under par.
23 (a) the results of which show a concentration of lead that is equal to or less than the
24 concentration considered safe for drinking under the Safe Drinking Water Act, 42
25 USC 300f et seq.

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1 2. No later than 6 months after receiving the results, develop and submit a plan
2 to the department for remediating lead contamination in the water source.

3 3. No later than 30 days after submitting a remediation plan under subd. 2.,
4 post the plan on the school board's, operator's, or governing body's Internet site or,
5 if the school board, operator, or governing body does not have an Internet site, make
6 the plan available to the public for examination on request.

7 4. If a remediation plan submitted under subd. 2. may be paid for, in whole or
8 in part, by applying for a loan under s. 24.61 (3) (a) 1. dm., 2., 3., or 3m., notify and
9 provide the test results to the department of natural resources.

10 (d) If the school board of a school in a school district, operator of a charter school
11 under s. 118.40 (2r) or (2x), or governing body of a private school participating in a
12 parental choice program under s. 118.60 or 119.23 or in the program under s.
13 115.7915 conducts 2 consecutive tests under par. (a) in a school at least 3 years apart
14 the results of which show that the potable water sources in the school contain lead
15 levels not higher than one part per billion, the school board, operator, or governing
16 body is not required to conduct any additional tests under par. (a) at the school.

17 **SECTION 6.** 121.91 (3) (a) 1. of the statutes is amended to read:

18 121.91 (3) (a) 1. If a school board wishes to exceed the limit under sub. (2m)
19 otherwise applicable to the school district in any school year, it shall promptly adopt
20 a resolution supporting inclusion in the final school district budget of an amount
21 equal to the proposed excess revenue. The resolution shall specify whether the
22 proposed excess revenue is for a recurring or nonrecurring purpose, or, if the
23 proposed excess revenue is for both recurring and nonrecurring purposes, the
24 amount of the proposed excess revenue for each purpose. The resolution shall be filed
25 as provided in s. 8.37. Within 10 days after adopting the resolution, the school board

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1 shall notify the department that it will schedule a referendum for the purpose of
2 submitting the resolution to the electors of the school district for approval or rejection
3 and shall submit a copy of the resolution to the department. Except as provided in
4 ~~subd. subds. 2. and 3.~~, the school board shall schedule the referendum to be held at
5 the next regularly scheduled spring primary or election or partisan primary or
6 general election, provided such election is to be held not sooner than 70 days after
7 the filing of the resolution of the school board. A school board may proceed under this
8 subdivision and under s. 67.05 (6a) (a) 2. a. no more than 2 times in any calendar year.
9 The school district clerk shall certify the results of the referendum to the department
10 within 10 days after the referendum is held.

11 **SECTION 7.** 121.91 (3) (a) 3. of the statutes is created to read:

12 121.91 (3) (a) 3. If the school board of a school district receives results for a test
13 conducted under s. 118.07 (6) (a) that show a concentration of lead in a potable water
14 source at a school in the school district that exceeds the limit described under s.
15 118.07 (6) (c), the school board may call a special referendum to be held within the
16 6-month period immediately following the date on which the school board submits
17 a remediation plan regarding the water source to the department under s. 118.07 (6)
18 (c) 2., provided the special referendum is to be held not sooner than 70 days after the
19 filing of the resolution of the school board under subd. 1. A school board may call a
20 special referendum under this subdivision only to submit to the electors of the school
21 district for approval or rejection a resolution supporting inclusion in the final school
22 district budget of an amount equal to the proposed excess revenue attributable to
23 costs of lead remediation conducted in compliance with the remediation plan.

24 **SECTION 8.** 281.61 (1) (am) of the statutes is amended to read:

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1 281.61 (1) (am) “Local governmental unit” means a city, village, town, county,
2 town sanitary district, public inland lake protection and rehabilitation district, joint
3 local water authority created under s. 66.0823, or municipal water district, or a
4 school district, technical college district, or cooperative education service agency for
5 the purposes of s. 24.61 (3) (a) 1. dm., 3., and 3m.

6 **SECTION 9.** 281.61 (8) (b) of the statutes is created to read:

7 281.61 (8) (b) The department of administration shall allocate to projects for
8 remediating lead contamination in a school under s. 24.61 (3) (a) 1. dm., 2., 3., or 3m.
9 20 percent of the available funds in each fiscal year or such lesser amount that fully
10 funds those projects. Of this amount, the department of administration may allocate
11 funds for reducing principal payments only in the fourth quarter of any fiscal year,
12 and only if sufficient funds are available to fund all approved applications. If the
13 amount of funds available under this paragraph is not sufficient to fund all approved
14 applications for projects for remediating lead contamination in a school under s.
15 24.61 (3) (a) 1. dm., 2., 3., or 3m., the department of administration shall allocate
16 funding in an equitable manner to all approved applicants. Notwithstanding par.
17 (bL), in any fiscal year, applicants for projects for remediating lead contamination
18 under s. 24.61 (3) (a) 1. dm., 2., 3., or 3m. for schools that are located within a single
19 city, town, or village may not, in total, receive more than 20 percent of the amount
20 of financial assistance planned to be provided or committed for projects under this
21 paragraph for that fiscal year.

22 **SECTION 10. Nonstatutory provisions.**

23 (1) The school board of a school in a school district, operator of a charter school
24 under s. 118.40 (2r) or (2x), or governing body of a private school participating in a

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1 parental choice program under s. 118.60 or 119.23 or in the program under s.
2 115.7915 shall conduct the first test required under s. 118.07 (6) (a) as follows:

3 (a) For a school building or an addition to a school building constructed before
4 January 1, 1974, no later than 1 year after the effective date of this paragraph.

5 (b) For a school building or an addition to a school building constructed on or
6 after January 1, 1974, and before January 1, 1985, no later than 2 years after the
7 effective date of this paragraph.

8 (c) For a school building or an addition to a school building constructed on or
9 after January 1, 1985, no later than 3 years after the effective date of this paragraph.

10 (2) If the school board of a school in a school district, operator of a charter school
11 under s. 118.40 (2r) or (2x), or governing body of a private school participating in a
12 parental choice program under s. 118.60 or 119.23 or in the program under s.
13 115.7915 tested all potable water sources at the school in accordance with the
14 requirements under s. 118.07 (6) (a) no more than 5 years before the effective date
15 of this subsection, the school board, operator, or governing body shall do all of the
16 following:

17 (a) Notwithstanding sub. (1), conduct the first test required under s. 118.07 (6)
18 (a) no later than 6 years after the effective date of this paragraph.

19 (b) No later than 3 months after the effective date of this paragraph, provide
20 the test results to the department of public instruction.

21 (c) If the test results for a potable water source show a concentration of lead that
22 is greater than the concentration considered safe for drinking under the Safe
23 Drinking Water Act, 42 USC 300f et seq., no later than 6 months after providing the
24 test results to the department of public instruction under par. (b), develop and submit

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1 a remediation plan to the department of public instruction regarding the water
2 source.

3 (END)