

Department of Planning and Budget

2019 Fiscal Impact Statement

1. Bill Number: SB1622S1

House of Origin	<input type="checkbox"/> Introduced	<input checked="" type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: McPike

3. Committee: Rehabilitation and Social Services

4. Title: Child day programs; lead testing, potable water.

5. Summary: Requires each child day program that serves preschool-age children to develop and implement a plan to test potable water from sources identified by the U.S. Environmental Protection Agency (EPA) as high priority. The plan and results of testing must be submitted to and reviewed by the Commissioner of the Department of Social Services (Commissioner) and the Virginia Department of Health (VDH) Office of Drinking Water. If the results of any test conducted in accordance with the plan indicate a level of lead in the potable water that is at or above 15 parts per billion (ppb), then the program shall remediate the level of lead to below 15 ppb and confirm such remediation by retesting the water and submitting the results of the retests to the Commissioner and VDH. This bill also provides child day programs with the option of providing bottled water for human consumptive use in lieu of developing and implementing a plan. Programs that choose the bottled water option are required to notify the Commissioner and VDH. An enactment clause would make the law effective July 1, 2020.

6. Budget Amendment Necessary: See item #8.

7. Fiscal Impact Estimates: Indeterminate, see item #8.

8. Fiscal Implications: This bill, as amended, would have a fiscal impact on the Commonwealth, however the total cost cannot be determined at this time. This legislation requires licensed child day programs and certain other programs that serve pre-school age children to develop and implement a plan to test potable water from sources identified by the U.S. Environmental Protection Agency (EPA) as high priority. The bill requires such plan and the results of each test to be submitted to the Department of Social Services (DSS) and the Virginia Department of Health. The bill stipulates that if the results of any such test indicates a level of lead in the potable water that is at or above 15 parts per billion (ppb), the program shall remediate the level of lead in the potable water to below 15 (ppb) and confirm such remediation by retesting the water and submitting the results of the retest to DSS and VDH. The bill also provides such programs the option of using bottled water in lieu of testing or remediation.

Virginia Department of Health: The provisions of the bill would require VDH to develop a database to receive and file sampling plans and water sampling results from child day programs and other specified programs. VDH anticipates receiving sampling plans and water sampling results electronically and in paper form from child care programs. VDH states it would need more resources to accept and process results in paper format as compared to electronic.

There are approximately 4,246 licensed child day programs and 1,609 unlicensed programs throughout Virginia for a total of 5,855 programs that would be impacted by this bill. However, it is unknown the total number of priority water sources at each child care program including the number serving pre-school children. The bill states that high priority sources include bubbler-style and cooler-style drinking fountains, kitchen taps, classroom combination sinks and drinking fountains, home economics room sinks, teacher's lounge sinks, nurse's office sinks, classroom sinks in special education classrooms, and sinks known to be or visibly used for consumption.

VDH estimates, on average, each child care program would have between three and 15 water sources to test, which is dependent on the number of children served at each program. VDH also estimates that the average number of water sources will be on the lower end of the range for programs serving preschool-age children, at around five per program.

VDH cannot determine the exact number of programs and the frequency of lead and copper sampling by the supplying waterworks. This sampling is based on the number of results above an "action level" (15 ppb) in each sampling period. However, historically 80 percent of the waterworks in Virginia have a small enough number of sample results that are at or above 15 ppb that they conduct sampling once every three years, 10 percent are sampled once a year, and the remaining 10 percent are sampled every six-months.

Child care programs that receive water from each of these waterworks sources would be also required by the bill to conduct lead and copper sampling at the same frequency. If 50 percent of programs choose to collect, analyze, and report sampling (instead of providing bottled water), then VDH estimates that it would receive samples on these three different frequencies (every six months, once a year, once every three years) for an average of 5 high priority locations per program for a total of 8,300 samples each year. Additionally it takes approximately 30 minutes to receive and process sample results from each program. VDH estimates that it would receive approximately 340 remediation plans from programs that are above the action level. These plans require approximately one hour of staff time to review and comment on.

The agency estimates that 50 percent of programs would choose to provide bottled water in lieu of developing and implementing a testing plan and submitting routine water samples pursuant to the federal Safe Drinking Water Act. Programs that choose to provide bottled water must notify ODW.

The agency has estimated that the additional workload to review, compile and comment on plans from 2,928 programs (VDH estimates 50 percent would opt to provide bottle water), would require two environmental inspector positions (\$58,500 each) the first year for the initial surge of program plans. Once VDH has plans and notifications from programs, subsequent years will require one environmental inspector to review and compile sampling results from programs that do not provide bottled water.

Once a child day program develops a plan, performs sampling, and remediates lead sources (if present), there would not be any further requirements for monitoring at that facility. New child day programs would be required to either develop and implement a plan, or notify the Commissioner and VDH that they are using bottled water. In either case, after the majority of existing child day programs complete testing and any required remediation, which VDH expects to occur during the first two years following the effective date of the bill, VDH believes it can manage plans, monitoring, and follow-up in subsequent years with existing resources. However, there will be ongoing expenses to maintain the database.

VDH currently has a database for information about waterworks, but cannot use this database because it is specifically oriented for federal reporting of facilities subject to federal regulations and requirements. While the water sources identified are from the EPA, the testing requirement is not. Since the testing itself required by this bill is not for waterworks regulated by federal requirements, VDH will have to build out a new database at an estimated cost of \$195,950. The development cost would be a one-time expenditure. The ongoing operation and maintenance cost, including user access and support for the module is estimated to be \$45,700 per year. VDH estimates that additional costs are possible if the Virginia Information Technology Agency (VITA) were to require a project manager and VITA oversight of the database development and maintenance.

Department of Social Services: The legislation amends the Code of Virginia to add § 63.2-1705.1 which requires licensed child day programs and certain other programs that serve pre-school age children to develop and implement a plan to test potable water from sources identified by the U.S. Environmental Protection Agency (EPA) as high priority.

This bill, as amended, removes the reference to programs exempt from licensure that do not serve preschool children. In addition, it removes requirements for ongoing testing of potable water as required by the Virginia Department of Health's Office of Drinking Water and the requirement for retesting at six-month intervals when remediation is required. The substitute also adds that bottled water, water coolers, or other water source used in lieu of developing a plan, must meet U.S. Food and Drug Administration standards for bottled water.

Although it is unknown how many programs will be affected by this substitute legislation, it is assumed that any required administrative work will be minimal and can be absorbed with existing staff and resources.

9. Specific Agency or Political Subdivisions Affected: None.

10. Technical Amendment Necessary: No.

11. Other Comments: HB2004H1, introduced by Delegate Aird, is a companion bill.