Department of Planning and Budget
2020 Fiscal Impact Statement

1. **Bill Number:** SB393

House of Origin	☒	Introduced	☐	Substitute	☐ Engrossed
Second House	☐	In Committee	☐	Substitute	☐ Enrolled

2. **Patron:** McPike

3. **Committee:** Finance and Appropriations

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

5. **Summary:** Requires licensed child day programs and certain other programs that serve preschool-age children to develop and implement a plan to test potable water from sources identified by the U.S. Environmental Protection Agency as high priority. The bill requires such plan and the results of each such test to be submitted to and reviewed by the Commissioner of Social Services and the Department of Health's Office of Drinking Water. The bill stipulates that if the result of any such test indicates a level of lead in the potable water that is at or above 15 parts per billion, the program shall remediate the level of lead in the potable water to below 15 parts per billion, confirm such remediation by retesting the water, and submit the results of the retests to the Commissioner of Social Services and the Department of Health's Office of Drinking Water for review. The bill also provides such programs the option of using bottled water in lieu of testing or remediation. The bill has a delayed effective date of July 1, 2021.

6. **Budget Amendment Necessary**: Yes. Items 299 and 304.

7. **Fiscal Impact Estimates:**

7a. Expenditure Impact:

Fiscal Year	*Dollars*	*Positions*	*Fund*
2020	-	-	-
2021	195,950	-	General fund
2022	213,548	1.5	General fund
2023	197,015	1.5	General fund
2024	183,332	1.5	General fund
2025	97,302	0.5	General fund
2026	97,302	0.5	General fund

8. **Fiscal Implications:**

Department of Social Services

Although it is unknown exactly how many programs will be affected by this legislation, the Department of Social Services believes that any required administrative work at the agency

will be minimal and can be absorbed with existing staff and resources. However, the Department of Health will have a fiscal impact as a result of this legislation.

Department of Health

To meet the provisions of the bill, the Virginia Department of Health (VDH) would need to develop a database to receive and file water sample plans and results from child day programs and other specified programs. VDH anticipates receiving the plans and results electronically and in paper form. The agency believes it will need additional resources to accept and process plans or results in paper format as compared to the resources it requires for accepting and processing plans and results in electronic form.

Currently, there are approximately 4,246 licensed child day programs and 1,609 unlicensed child day programs in Virginia that could be affected by this bill. Neither VDH nor DSS have specific information about how many high priority potable water sources are at each child day program. DSS regulations specify that licensed child day centers must have one sink per 20 preschool children (22VAC40-185-320), but do not have other requirements for drinking fountains, kitchen sinks, or classroom sinks.

Office of Drinking Water (ODW): Assuming slightly more than half of the estimated 5,855 affected programs develop and implement a plan to test potable water and, on average, they test at 5 high priority sources, ODW could receive approximately 3,000 plans and another 2,800 notifications that the programs will provide bottled water. ODW would need 1 hour per plan, or 15 minutes per notification, to review and process the information that programs are required to submit, for a total of approximately 3,700 hours of staff time (3,000 plans * 1 hour + 2,800 notifications * 0.25 hours = 3,700 hours). Because of the time, effort, and cost for child day programs to develop a plan or implement a program for using bottled water, VDH expects the programs will either develop a plan or provide notification over a 3-year period following the effective date of the bill, with more programs making a decision and submitting information in the first year. (1,500 hours (FY 2022) + 1,200 hours (FY 2023) + 1,000 hours (FY 2024) = 3,700 hours).

Once a child day program develops a plan, performs sampling, and remediates lead sources (if present), the program would only need to retest for lead sources if there was a change in the water source or modification to the building plumbing or distribution lines serving the building. New child day programs would also be required to either develop and implement a plan, or notify DSS and ODW 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 three 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 a database with plans and results and for VDH's Office of Epidemiology to continue to evaluate health effects that may result from exposure to lead in water (see below).

In addition to submitting plans or notifications to VDH, the bill requires child day programs to provide results of any tests conducted in accordance with a plan to DSS and ODW. If

3,000 programs collect, analyze, and report results (instead of providing bottled water), then VDH estimates it would receive samples from most of the programs within three years of the effective date of the law, starting in FY 2022. VDH expects more than one-third of programs will submit plans and sample results in the first year (1,200 programs), and declining numbers submit information in the second and third years (1,000 and 800 respectively) because the bill does not specify a time to initiate or complete sampling. Allowing ODW 0.5 hours to review each set of results, staff would need 600 hours in FY 2022, 500 hours in FY 2023, and 400 hours in FY 2024 to review and process the results. VDH believes it can manage results after the third year with existing resources.

A recent study of lead in drinking water at child care centers in North Carolina[1] found that almost 75 percent of the centers tested had a measurable level of lead in at least one source. Although only a fraction of the total samples (1.3 percent) contained lead above the treatment-based standard for waterworks, 15 ppb (the standard proposed in this bill), lead exceeded 15 ppb in one out of every six (16 percent) centers. Conservatively assuming 20 percent of the programs in Virginia will receive results of lead testing that indicate at least one source exceeds 15 ppb, 600 programs would require some level of technical assistance for planning and remediation. VDH expects to spend, on average, 4 hours providing technical assistance to a program and 0.5 hours reviewing follow-up sample results and closing out each case at the affected 600 programs. This is equivalent to 2,700 hours, spread over three years: 1,200 programs * 20% * 4.5 hours = 1,080 hours in FY 2022; 1,000 programs * 20% * 4.5 hours = 900 hours in FY 2023; and 800 programs * 20% * 4.5 hours = 720 hours in FY 2024.

VDH assumes that one position works 2,080 hours per year, not accounting for holidays and leave. Therefore, VDH would need one position for ODW, plus support from a contractor to address the workload associated with reviewing, compiling and commenting on the initial surge of program plans, notifications, sample results, and requests for technical assistance received during each of the first three years. (For FY 2022: (1,500 hours + 600 hours + 1,080 hours) / 2,080 hours/year = 1.5 = 1 FTE per year + a contractor). Administrative staff would handle any potential overload. Once ODW has plans and notifications from the majority of programs, VDH believes it can manage results after FY 2024 with existing resources.

An Environmental Inspector and contractor could receive, review, and comment on plans to test potable water sources, review results of water samples, and process data for the database in the first three years following the effective date of the bill. The total personnel service cost (salary plus fringe benefits) is anticipated to be $116,246 during FY 2022; $99,713 during FY 2023; and $86,030 during FY 2024.

Office of Epidemiology (OEpi): This legislation will affect OEpi; particularly the Virginia Childhood Lead Poisoning Prevention Program (CLPPP), which is part of OEpi's Division of Surveillance and Investigation (DSI). The DSI CLPPP program would have the following

[1] Redmon et al., Safeguarding Children's Health: Time to Enact a Health-Based Standard and Comprehensive Testing, Mitigation, and Communication Protocol for Lead in Drinking Water. N C Med J. 2018: 79(5) 313-317. See also: https://www.rti.org/insights/one-step-closer-clean-water-carolina-kids (visited January 14, 2020).

responsibilities in the event that a child day program had potable water identified with lead at 15 parts per billion or higher:

1. Develop a toolkit of resources for local health district staff to respond to the investigation, including guidelines, fact sheets, FAQs and sample letters addressed to various audiences including child day program owners and staff, parents, and clinicians of children at the affected programs. These would need to be tailored to each specific incident.
2. Provide subject matter expert consultation to local health districts, when a child day program is identified with lead in potable water at or above 15 ppb. While ODW would provide technical advice regarding water testing and interpretation of water test results, along with remediation efforts, DSI CLPPP would focus on the human impact, concentrating on the need to test and monitor blood lead levels in students and staff over time.
3. DSI CLPPP may collaborate with local health districts to provide education and training to staff and parents and attendees of the affected child day program.

Cost estimates for response to this proposed legislation focus on staff time utilized specifically for child day programs. OEpi estimates that a Childhood Lead Program Coordinator would use 25 percent of their annual hours and a Childhood Lead Health Educator would use 25 percent of their annual hours responding to this legislation. Therefore, VDH estimates that it will need 0.5 positions to handle the workload increase associated with this legislation. Annual costs for this half of a position are estimated to be as high as $51,602 annually in the DSI.

Database Costs: In addition to funding for staff to implement the program, VDH will need funding to develop a database to compile and track plans and results that child day programs. VDH currently has a database for information about waterworks, but cannot use this since the plans and testing required by this bill are not for waterworks or being done as part of the requirements in the Virginia Waterworks Regulations. VDH will have to develop a new database at an estimated one-time cost of $195,950. The ongoing operation and maintenance costs, 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) requires a project manager and VITA oversight of the database development and maintenance.

In summary, the first year includes only the cost of database development, $195,950. For years 2022, 2023, and 2024 the costs include the $45,700 for database operation and maintenance, 1 FTE ($81,458), a contractor, and support for OEpi, which totals $213,548 (FY 2022), $197,015 (FY 2023), and $183,332 (FY 2024). Fiscal years 2025 and thereafter are only the ongoing operation and maintenance costs for the database at $45,700 per year plus costs associated with OEpi for a total of $97,302 annually.

Other Impacts: VDH also expects to incur costs in its local health districts when child day programs reach out for information about the health risks associated with exposure to lead,

risk communication, and public education. However, VDH cannot quantify the costs because the agency does not know with any level of certainty which buildings/schools/child day programs have plumbing and/or fixtures that contain lead. The experience of Virginia Beach Public Schools during the fall of 2019 demonstrates how VDH staff get involved in issues related to lead in drinking water, even when there is not a statutory requirement to do so. Officials from Virginia Beach Public Schools worked with ODW, the local health director, epidemiologists, and other staff in the Virginia Beach Health District to respond to questions from parents, teachers, federal, state, and local government officials, and the media about lead testing results. Collectively, VDH staff spent many hours helping school officials assess the test results and the threat to public health, develop a remediation plan, and communicate with parents, teachers, and the children who attend the Virginia Beach Public Schools.

9. **Specific Agency or Political Subdivisions Affected:** Department of Social Services, Virginia Department of Health

10. **Technical Amendment Necessary:** No.

11. **Other Comments:** None.