



"Leadership in Public School Governance"

JOHN H. ASHLEY, EXECUTIVE DIRECTOR

122 W. WASHINGTON AVENUE, MADISON, WI 53703  
PHONE: 608-257-2622 FAX: 608-257-8386

TO: Members, Senate Committee on Natural Resources and Energy  
FROM: Dan Rossmiller, WASB Government Relations Director  
DATE: October 1, 2019  
RE: SENATE BILL 423, relating to lead testing of potable water sources in certain schools; providing loans for lead remediation in certain schools; and providing an exception to referendum restrictions for lead remediation.

Thank you for the opportunity to share thoughts and comments about Senate Bill 423. I am here to speak for information.

The Wisconsin Association of School Boards (WASB) and its 421 member school boards take the matter of student health, safety and well-being seriously. Lead contamination of drinking water is a serious matter. Children are particularly susceptible to negative health consequences of the ingestion of lead.

My member school boards are also mindful that there are costs associated with detecting and remediating of environmental hazards such as lead and other harmful substances and that it may be difficult for schools to bear those costs.

WASB members have adopted a permanent resolution in support of legislation requiring the state and federal governments to provide and fund mandated environmental hazard inspections for school facilities and remediation services when contamination is found.

The bill before you today would address lead in school drinking water by requiring testing and, if necessary, requiring that contaminated water sources be taken offline and replaced with clean water sources. However, the bill provides no state funding for this purpose and leaves it to schools and communities to address the costs associated with these mandates, which are largely unknown.

That said, the WASB appreciates that the bill attempts to minimize potential costs by providing flexibility regarding how schools are to address lead contamination when it is found.

We have several suggestions about how to improve the bill.

This bill requires all K-12 schools that receive public funding to test all sources of drinking water, known as potable water, for lead contamination at least once every three years. Testing would be phased-in over three years. We think this requirement could be clarified.

Rather than using the term “potable” water, which is not well understood, we recommend targeting “water intended for human consumption” instead. We believe this provides clearer direction to school officials and the public.

We further recommend that the bill specifically authorize each school board or governing body of a school subject to the testing requirement to designate which water sources are intended for human consumption and therefore subject to testing. Along with this change, we recommend that these boards or governing bodies be authorized to post signs identifying water sources within a school that are not intended to be used for drinking or other human consumption to indicate this to the public.

Under the bill, if any source of drinking water, such as a drinking fountain, is found to contain lead levels that exceed the federal action standard of 15 parts-per-billion, that water source must be taken offline and, if necessary, alternative sources of drinking water must be provided. Additionally, a remediation plan must be developed, posted online or made available for examination upon request, and submitted to DPI within six months.

The bill requires that the results of all tests conducted on all drinking water sources must be posted on the school or district’s website. We believe this may cause confusion, particularly in larger school districts with multiple schools, due to the sheer numbers of results. The WASB suggests that this provision be amended to require website posting/notice of only those test results that show a concentration of lead a school is required to remediate or intends to remediate if not required to by this legislation. Our goal in making this suggestion is not to hide results but to make it easier for the public to identify the most problematic sources within school buildings.

The bill also requires that when any drinking water source in a school produces a test result above one part per billion, the school must continue testing that water sources every three years until or unless the results are essentially negligible. In cases where the public water supply providing water to the school contains at least some background level of lead, it will be difficult for a school to achieve a negligible test result without taking some additional remediation steps. This raises the possibility that some unknown number of schools will either find themselves in a perpetual cycle of required testing or will either have to install filtering devices on all water sources within the school that test above one part per billion or provide an alternative supply such as bottled water, perhaps permanently.

I am not a hydro chemist, but it is my understanding that current testing is neither accurate nor reliable below certain minimal threshold levels. In other words, available testing methodologies are generally not able to reliably differentiate levels of lead contamination below 5 parts per billion. If my understanding is accurate, below 5 parts per billion, a test cannot accurately or reliably indicate whether a sample contains one part per billion or four parts per billion. Perhaps there will be other witnesses who can or will testify to the accuracy, reliability and sensitivity of current sampling and testing procedures. My point is that rather than specifying a numeric standard in parts per billion that triggers continued testing, the authors of the bill may want to consider referencing a standard that is based on the degree or level of sensitivity available tests are able to reliably detect. This presumably could change over time as more sensitive and more accurate tests become more widely available.

Earlier, I spoke about the costs of remediation efforts. Under the bill, if remediation efforts are necessary and cannot be absorbed in the school district’s current budget, the district would be allowed under the bill to go to referendum outside of a regularly scheduled election.

A school district would be allowed to ask more than two referendum questions in one year, if necessary, for the exclusive purpose of addressing lead remediation. An unanswered question is what a school district is to do if district voters turn down the referendums.

While the bill does not directly provide state funding, it would allow schools to finance remediation through a School Trust Fund Loan from the Board of Commissioners of Public Lands (BCPL). In addition, the bill would allocate 20 percent of the total funding from the Safe Drinking Water Loan Program (SDWLP), which is largely federally funded, for the purposes of buying down the interest rate of schools using BCPL loans for lead remediation efforts.

The bill, however, is silent regarding the priority assigned to how these loans are awarded or allocated. It is our understanding that it may be problematic for the Legislature to try to impose restrictions on the BCPL as the BCPL is a constitutionally authorized body. Therefore, we would ask the BCPL, in awarding these loans, to assign priority to the greatest extent possible to districts with the highest lead concentrations first and to districts with relatively lower per pupil spending levels or per capita income levels second.

Our concern is that districts with relatively lower concentrations of lead in their drinking water that are not required under the bill to take remediation actions but that wish to take action and are readily able to pass referendums might be able to effectively crowd out districts that would be legally required under this bill to take remediation actions.

Thank you in advance for your consideration of these recommendations.