



Susan Wengraf
Councilmember District 6

CONSENT CALENDAR
April 24, 2018

To: Honorable Mayor and Members of the City Council

From: Councilmember Wengraf
Councilmember Hahn
Councilmember Droste
Councilmember Davila

Subject: Support of AB2370 (Holden), relating to lead exposure in drinking water of child day care facilities.

RECOMMENDATION

Submit a letter of support to Assembly Member Holden for his proposed legislation: AB 2370

FINANCIAL IMPLICATIONS

None

BACKGROUND

AB 2370 seeks to amend section 8270.3 of the Education Code and add Sections 1596.7996 and 116278 to the Health and Safety Code, relating to lead exposure.

AB 2370 would require that lead exposure prevention training be added to the mandatory health and safety training required of child care staff under the California Child Day Care Facilities Act. The bill would require that the child care facility ask the parent/guardian for documentation showing their child had a blood lead screening test when enrolling a child. If the child hasn't been screened, staff would be mandated to give the parent/guardian information about lead exposure.

The bill would require the state to adopt regulations for testing lead levels in drinking water at licensed child care centers. It would allow licensed child day care facilities to be eligible for loan funding, if needed, to make their facilities' drinking water lead-free and safe.

ENVIRONMENTAL SUSTAINABILITY

In alignment.

CONTACT PERSON

Councilmember Susan Wengraf Council District 6 510-981-7160

Attachments:

1: AB2370

2: Letter of Support


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AB-2370 Lead exposure: child day care facilities: family day care homes. (2017-2018)

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AMENDED IN ASSEMBLY MARCH 12, 2018

CALIFORNIA LEGISLATURE— 2017-2018 REGULAR SESSION

ASSEMBLY BILL

No. 2370

Introduced by Assembly Member Holden

February 14, 2018

An act to [amend section 8278.3 of the Education Code](#), and to amend Section 1596.866 of, and to add Sections 1596.7996 and 116278 to, the Health and Safety Code, relating to lead exposure.

LEGISLATIVE COUNSEL'S DIGEST

AB 2370, as amended, Holden. Lead exposure: child day care facilities: family day care homes.

(1) Under existing law, the California Child Day Care Facilities Act, the State Department of Social Services licenses and regulates child day care facilities, as defined, and family day care home licensees. The act requires that, as a condition of licensure and in addition to any other required training, at least one director or teacher at each day care center, and each family day care home licensee who provides care, have at least 15 hours of health and safety training, covering specified components. A willful or repeated violation of the act is a misdemeanor punishable by a fine not to exceed \$1,000 or by imprisonment in county jail for a period not to exceed 180 days, or by both the fine and imprisonment, and a serious violation of the act is subject to daily civil penalties, as specified.

This bill would additionally require, as a condition of licensure, the health and safety training include instruction in the prevention of lead exposure. The bill, for a license issued before January 1, 2019, would give the licensee 90 days to comply with these provisions. This bill would require a licensed child day care facility, upon enrolling a child, to request that the child's parent or guardian provide the facility with documentation demonstrating that the child had received a blood lead screening test. The bill would require the child day care facility to provide a parent or guardian who does not provide the documentation with information on the risks and effects of lead exposure and certain information about the availability of blood lead screening tests. By creating a new crime, this bill would impose a state-mandated local program. The bill would prohibit a parent or guardian's failure to provide a blood lead screening test from preventing the child's enrollment in the child day care facility.

(2) Existing law, the California Safe Drinking Water Act, requires the State Water Resources Control Board to administer provisions relating to the regulation of drinking water to protect public health, including, but not limited to, conducting research, studies, and demonstration programs relating to the provision of a dependable,

safe supply of drinking water, enforcing the federal Safe Drinking Water Act, adopting implementing regulations, and conducting studies and investigations to assess the quality of water in private domestic water supplies. Under the act, making a false statement or representation in a report submitted under the act is a crime.

~~The act requires a community water system that serves certain schoolsites to test for lead in the potable water system of the schoolsite, as specified. The act requires the community water system to report its findings to the schoolsite, as specified, and, if the schoolsite's lead level exceeds a certain level, to test a water sample from the point at which the schoolsite connects to the community water system's supply network. The act requires the local educational agency, if the lead level exceeds the specified level at a schoolsite, to notify the parents and guardians of the pupils who attend the schoolsite or preschool and requires the local educational agency to take immediate steps to make inoperable and shut down from use all fountains and faucets where the excess lead levels may exist. The act requires the local educational agency to work with the school site to ensure that a potable source of drinking water is provided for students. The act requires a community water system to prepare a sampling plan for each schoolsite where lead sampling is required under these provisions.~~

~~This bill would impose similar requirements on a community water system that serves a licensed child day care facility. This bill would require the community water system to report its findings to the child day care facility and the State Department of Social Services, as specified, thereby creating a new crime and imposing a state-mandated local program. The bill would require the state board, in collaboration with the State Department of Social Services, to develop informational materials and a notification template for a child day care facility to use when notifying parents and guardians about elevated lead levels.~~

This bill, on or before July 1, 2020, would require the State Department of Social Services, in conjunction with the state board, to adopt regulations for the testing of drinking water at licensed child care centers to ensure that the drinking water is lead free. The bill would require that the regulations include, among other things, a requirement that the drinking water testing results shall be submitted to the State Department of Social Services. By creating a new crime, this bill would impose a state-mandated local program.

(3) Existing law, the Child Care and Development Services Act, has a purpose of providing a comprehensive, coordinated, and cost-effective system of child care and development services for children from infancy to 13 years of age and their parents, including a full range of supervision, health, and support services through full- and part-time programs. Existing law establishes the Child Care Facilities Revolving Fund in the State Treasury to provide funding for loans for the renovation, repair, or improvement of an existing building to make the building suitable for licensure for child care and development services, and for the purchase of new relocatable child care facilities for the lease to local educational agencies and contracting agencies that provide child care and development services.

This bill would specify that a licensed child day care facility, which includes day care centers, is eligible to apply for, and receive, loan funding pursuant to these provisions. The bill would require a licensed child day care facility that receives loan funding pursuant to these provisions to demonstrate both a financial need and a lack of reasonable alternative funding sources.

~~(3)~~

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. *Section 8278.3 of the Education Code is amended to read:*

8278.3. (a) (1) The Child Care Facilities Revolving Fund is hereby established in the State Treasury to provide funding for loans for the renovation, repair, or improvement of an existing building to make the building suitable for licensure for child care and development services, and for the purchase of new relocatable child care facilities for lease to local educational agencies and contracting agencies that provide child care and development services, pursuant to this chapter. The Superintendent may transfer state funds appropriated for child care facilities into this fund for allocation to local educational agencies and contracting agencies, as specified, for the purchase, transportation, and installation of facilities for replacement and expansion of capacity. Local

educational agencies and contracting agencies using facilities purchased by the use of these funds shall be charged a leasing fee, either at a fair market value for those facilities or at an amount sufficient to amortize the cost of purchase and relocation, whichever amount is lower, over a 10-year period. Upon full repayment of the purchase and relocation costs, title shall transfer from the State of California to the local educational agency or contracting agency. Loans for renovation or repair shall be repaid within a period that does not exceed 10 years. The Superintendent shall deposit all revenue derived from the lease payments or renovation or repair loan repayments into the Child Care Facilities Revolving Fund.

(2) Notwithstanding Section 13340 of the Government Code, all moneys in the fund, including moneys deposited from lease payments or loan repayments, are continuously appropriated, without regard to fiscal years, to the Superintendent for expenditure pursuant to this article.

(3) Augmentations to the Child Care Facilities Revolving Fund made in the Budget Act of 2014 shall be used for loans for renovation or repair of existing local educational agency facilities to ensure those facilities meet applicable health and safety standards or the purchase of new relocatable child care facilities for lease to local educational agencies, for the purpose of expanding access to California state preschool program services pursuant to this chapter.

(b) On or before August 1 of each fiscal year, the Superintendent shall submit to the Department of Finance and the Legislative Analyst's Office a report detailing the number of funding requests received and their purpose, the types of agencies that received funding from the Child Care Facilities Revolving Fund, the increased capacity that these facilities generated, a description of the manner in which the facilities are being used, and a projection of the lease payments and loan repayments collected and the funds available for future use.

(c) A local educational agency that provides child care pursuant to the California School Age Families Education Program (Article 7.1 (commencing with Section 54740) of Chapter 9 of Part 29 of Division 4 of Title 2) is eligible to apply for and receive funding pursuant to this section.

(d) A licensed child day care facility, as defined in Section 1596.750 of the Health and Safety Code, is eligible to apply for, and receive, loan funding pursuant to this section to remediate lead contamination at its facility and to pay for drinking water system improvements that are necessary to ensure that the facility's drinking water is lead free. A licensed child day care facility that receives loan funding pursuant to this section shall demonstrate both a financial need and a lack of reasonable alternative funding sources.

SECTION 1. SEC. 2. Section 1596.7996 is added to the Health and Safety Code, to read:

1596.7996. (a) A licensed child day care facility, upon enrolling a child, shall request that the child's parent or guardian provide the child day care facility with documentation demonstrating that the enrolling child has received a blood lead screening test.

(b) If a parent or guardian does not provide the child day care facility with documentation that the child received a blood lead screening test, the child day care facility shall provide the parent or guardian with all of the following information:

(1) Risks and effects of lead exposure.

(2) Information on providers of blood lead screening tests and their locations.

(c) Failure of a parent or guardian to comply with subdivision (a) shall not prevent the child day care facility from enrolling the child.

(d) For purposes of this section, "child day care facility" has the same meaning as in Section 1596.750.

SEC. 2. SEC. 3. Section 1596.866 of the Health and Safety Code is amended to read:

1596.866. (a) (1) In addition to other required training, at least one director or teacher at each day care center, and each family day care home licensee who provides care, shall have at least 15 hours of health and safety training, and if applicable, at least one additional hour of training pursuant to clause (ii) of subparagraph (C) of paragraph (2).

(2) The training shall include the following components:

(A) Pediatric first aid.

(B) Pediatric cardiopulmonary resuscitation (CPR).

(C) (i) A preventive health practices course or courses that include instruction in the recognition, management, and prevention of infectious diseases, including immunizations, and prevention of childhood injuries.

(ii) For licenses issued on or after January 1, 2016, at least one director or teacher at each day care center, and each family day care home licensee who provides care, shall have at least one hour of childhood nutrition training as part of the preventive health practices course or courses.

(D) (i) Instruction in the prevention of lead exposure.

(ii) For licenses issued before January 1, 2019, the licensee shall have until April 1, 2019, to comply with this subparagraph, after which, if the licensee is not in compliance with this subparagraph, notwithstanding the provisional licensing provisions described in subdivision (c), the department may revoke the license.

(3) The training may include instruction in sanitary food handling, emergency preparedness and evacuation, and caring for children with special needs.

(b) Day care center directors and licensees of family day care homes shall ensure that at least one staff member who has a current course completion card in pediatric first aid and pediatric CPR issued by the American Red Cross, the American Heart Association, or by a training program that has been approved by the Emergency Medical Services Authority pursuant to this section and Section 1797.191 shall be onsite at all times when children are present at the facility, and shall be present with the children when children are offsite from the facility for facility activities. Nothing in this subdivision shall be construed to require, in the event of an emergency, additional staff members, who are onsite when children are present at the facility, to have a current course completion card in pediatric first aid and pediatric CPR.

(c) (1) The completion of health and safety training by all personnel and licensees described in subdivision (a) shall be a condition of licensure.

(2) Training in pediatric first aid and pediatric CPR by persons described in subdivisions (a) and (b) shall be current at all times. Training in preventive health practices as described in subparagraph (C) of paragraph (2) of subdivision (a) is a one-time only requirement for persons described in subdivision (a).

(3) The department shall issue a provisional license for otherwise qualified applicants who are not in compliance with this section. This provisional license shall expire 90 days after the date of issuance and shall not be extended.

(4) A notice of deficiency shall be issued by the department at the time of a site visit to any licensee who is not in compliance with this section. The licensee shall, at the time the notice is issued, develop a plan of correction to correct the deficiency within 90 days of receiving the notice. The facility's license may be revoked if it fails to correct the deficiency within the 90-day period. Section 1596.890 shall not apply to this paragraph.

(d) Completion of the training required pursuant to subdivisions (a) and (b) shall be demonstrated, upon request of the licensing agency, by the following:

(1) Current pediatric first aid and pediatric CPR course completion cards issued by the American Red Cross, the American Heart Association, or by a training program approved by the Emergency Medical Services Authority pursuant to Section 1797.191.

(2) (A) A course completion card for a preventive health practices course or courses as described in subparagraph (C) of paragraph (2) of subdivision (a) issued by a training program approved by the Emergency Medical Services Authority pursuant to Section 1797.191.

(B) Persons who, before September 21, 1998, have completed a course or courses in preventive health practices as described in clause (i) of subparagraph (C) of paragraph (2) of subdivision (a), and have a certificate of completion of a course or courses in preventive health practices, or certified copies of transcripts that identify the number of hours and the specific course or courses taken for training in preventive health practices, shall be deemed to have met the training in preventive health practices.

(3) In addition to training programs specified in paragraphs (1) and (2), training programs or courses in pediatric first aid, pediatric CPR, and preventive health practices offered or approved by an accredited college or university are considered to be approved sources of training that may be used to satisfy the training requirements of paragraph (2) of subdivision (a). Completion of this training shall be demonstrated to the licensing agency by a

certificate of course completion, course completion cards, or certified copies of transcripts that identify the number of hours and the specified course or courses taken for the training as defined in paragraph (2) of subdivision (a).

(e) The training required under subdivision (a) shall not be provided by a home study course. This training may be provided through in-service training, workshops, or classes.

(f) All personnel and licensees described in subdivisions (a) and (b) shall maintain current course completion cards for pediatric first aid and pediatric CPR issued by the American Red Cross, the American Heart Association, or by a training program approved by the Emergency Medical Services Authority pursuant to Section 1797.191, or shall have current certification in pediatric first aid and pediatric CPR from an accredited college or university in accordance with paragraph (3) of subdivision (d).

(g) The department shall have the authority to grant exceptions to the requirements imposed by this section in order to meet the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.).

(h) The department shall adopt regulations to implement this section.

~~SEC. 3. Section 116278 is added to the Health and Safety Code, to read:~~

~~116278.(a)(1)A community water system that serves a licensed child day care facility shall test for lead in the potable water system of the child care facility on or before July 1, 2020.~~

~~(2)The community water system shall report its findings to the child day care facility and the State Department of Social Services within 10 business days after the community water system receives the results from the testing laboratory or within two business days if it is found that the child day care facility's lead level exceeds 15 parts per billion.~~

~~(3)If the lead level exceeds 15 parts per billion, the community water system shall also test a water sample from the point in which the child day care facility connects to the community water system's supply network to determine the lead level of the water entering the child day care facility from the community water system's water supply network.~~

~~(b)(1)A licensed child day care facility shall allow the community water system access to conduct testing.~~

~~(2)If the lead level exceeds 15 parts per billion, the child day care facility shall notify the parents and guardians of the children who receive care at the child day care facility where the elevated lead levels are found. The state board, in collaboration with the State Department of Social Services, shall develop informational materials and a notification template for child day care facilities to use when notifying parents and guardians pursuant to this paragraph.~~

~~(c)(1)If lead levels exceed 15 parts per billion, the licensed child day care facility shall take immediate steps to make inoperable and shut down from use all fountains and faucets where the excess lead levels may exist. Additional testing may be required to determine if all or just some of the facility's fountains and faucets are required to be shut down.~~

~~(2)Each licensed child day care facility shall ensure that a potable source of drinking water is provided for children in the child day care facility's care if fountains or faucets have been shut down due to elevated lead levels. Providing a potable source of drinking water may include, but is not limited to, replacing any pipes or fixtures that are contributing to the elevated lead levels, providing onsite water filtration, or providing bottled water as a short term remedy.~~

~~(d)Each community water system, in cooperation with the State Department of Social Services, shall prepare a sampling plan for child day care facilities. The community water system and the State Department of Social Services may request assistance from the state board or any local health agency responsible for regulating community water systems in developing the plan.~~

~~(e)For purposes of this section, the following definitions apply:~~

~~(1)"Child day care facility" has the same meaning as in Section 1596.750.~~

~~(2)"Potable water system" means water fountains and faucets used for drinking or preparing food.~~

SEC. 4. Section 116278 is added to the Health and Safety Code, to read:

116278. (a) *On or before July 1, 2020, the State Department of Social Services, in conjunction with the state board, shall adopt regulations for the testing of drinking water at licensed child care centers to ensure that the drinking water is lead free. The regulations shall include, at a minimum, all of the following:*

(1) A requirement that a licensed child care center shall provide potable, noncontaminated drinking water to children in its care.

(2) A requirement that initial testing of drinking water at a licensed child care center shall be performed by January 1, 2022, and that periodic testing is performed every five years thereafter.

(3) A requirement that the drinking water testing results shall be submitted to the State Department of Social Services within three months of testing.

(4) A fair and reasonable enforcement mechanism.

(b) As used in this section, "noncontaminated drinking water" means, among other qualifications as determined by the State Department of Social Services, drinking water that is lead free.

SEC. 4. SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

April 24, 2018

Assembly Member Chris Holden
State Capitol
P.O. Box 942849
Sacramento, CA 94249-0041

To: Assembly Member Chris Holden

From: Berkeley City Council

RE: Support for AB 2370 (Lead exposure: child day care facilities: family day care homes)

Dear Assembly Member Holden:

The Berkeley City Council is in full support of your legislation AB 2370. Cities need the State's support to protect children from exposure to lead poisoning. Mandating that lead exposure prevention training be added to existing health and safety training will empower staff to take necessary steps to ensure safe drinking water. Asking parents or guardians for documentation of blood lead screening tests will normalize the testing. Adopting regulations for testing lead levels in child care center drinking water will set healthy standards. Allowing loans from the Child Care Facilities Revolving Fund to be used for making day care facilities' drinking water lead-free and safe helps the bill's measures serve all children, not just those in more affluent districts.

Since we know that very young children are at highest risk for lead poisoning, this bill is a critical step in education parents about lead poisoning and the steps that can be taken to prevent it. The City of Berkeley supports AB 2370 and thanks you for bringing it to the Assembly.

Respectfully,

The Berkeley City Council

Cc: Assembly Member Tony Thurmond, State Senator Nancy Skinner and Governor Jerry Brown

