A BILL TO BE ENTITLED

AN ACT

relating to lead in drinking water at schools and child care
facilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 341.040, Health and Safety Code, is
amended to read as follows:

Sec. 341.040. DEFINITIONS [DEFINITION]. In this
subchapter:

(1) "Child care facility" has the meaning assigned by
Section 88.001.

(2) "Commission" ["commission"] means the Texas
Commission on Environmental Quality.

(3) "Drinking water outlet" means any water fountain,
faucet, or tap regularly used for drinking or food preparation,
including ice-making and hot drink machines.

(4) "Elevated lead level" means a lead concentration
in drinking water that exceeds one part per billion.

(5) "Executive director" means the executive director
of the commission.

(6) "Lead service line" means a pipe and its fittings,
which are not lead free as defined by the federal Safe Drinking
Water Act (42 U.S.C. Section 300g-6), that connect a drinking water
main to a drinking water outlet.

(7) "Local health department" has the meaning assigned
by Section 88.001.

(8) "Open-enrollment charter school" and "private school" have the meanings assigned by Section 5.001, Education Code.

(9) "Public water system" has the meaning assigned by Section 15.602, Water Code.

SECTION 2. Subchapter C, Chapter 341, Health and Safety Code, is amended by adding Sections 341.051, 341.052, 341.053, 341.054, and 341.055 to read as follows:

Sec. 341.051. LEAD SERVICE LINE REPLACEMENT. (a) Each public water system shall fully replace lead service lines in each public school, private school, or child care facility that is served by the public water system. The replacement shall be paid for by the public water system, regardless of ownership of any portion of the service line, and shall be performed in coordination with the relevant municipality, school, or child care facility. The replacement must conform to the commission's technical guidance under Section 341.055.

(b) A public water system shall provide each school district, open-enrollment charter school, private school, and child care facility that the public water system serves any information in its possession relating to the location of lead service lines. Each school district, open-enrollment charter school, private school, and child care facility shall determine which of its buildings receive drinking water through lead service lines and report the information to the commission.

(c) The commission shall ensure that lead service lines are
disposed of in accordance with hazardous waste laws and not disposed of in a landfill or incinerated.

Sec. 341.052. PREVENTING LEAD CONTAMINATION. (a) Each public school, private school, and child care facility shall develop and adopt a plan of action to prevent elevated lead levels in all water used for drinking or cooking. The plan of action must include:

(1) installing and maintaining filters certified by the National Sanitation Foundation at all drinking water outlets in each school or facility building; and

(2) an inventory of lead-bearing parts within the school or facility's water delivery system, including fixtures and plumbing with lead soldering.

(b) A public school, private school, or child care facility may, if consistent with other obligations in law, remove some drinking water outlets from operation, instead of installing filters on those outlets, if every child has reasonable access to free, safe drinking water.

(c) To the extent that replacement is both feasible and cost-effective, each public school, private school, or child care facility shall replace the items identified in the lead-bearing parts inventory under Subsection (a)(2).

(d) The plan of action adopted under Subsection (a) may include any other measures to reduce lead contamination of drinking water outlets, consistent with the commission's technical guidance under Section 341.055.

(e) A public school, private school, or child care facility
may revise the school or facility's plan of action, especially in
response to public input, if the plan of action complies with the
commission's technical guidance under Section 341.055.

(f) A public school, private school, or child care facility
may seek the assistance of a local health department, a public water
system, or the commission to comply with the provisions of this
section.

(g) Nothing in this section prevents a public school,
private school, or child care facility from conducting more
immediate lead remediation when a test indicates that a drinking
water outlet has an elevated lead level, as provided by Section
341.053(c).

Sec. 341.053. TESTING AND REMEDIATION. (a) Each public
school, private school, or child care facility shall undertake
periodic testing of the drinking water outlets in each school or
child care facility for the presence of lead. Each test for lead
shall be conducted by a laboratory certified for this purpose by the
executive director, in accordance with the sampling and testing
methods specified in the technical guidance under Section 341.055.
Each school or child care facility shall perform the testing
required by this section at least once per year, unless the
executive director determines, on a case-by-case basis, that a
greater or lesser frequency of testing is necessary or sufficient
to ensure the public health, including timely testing after
replacement of lead service lines.

(b) Nothing in this section prevents a public school,
private school, or child care facility from conducting more
frequent testing than required under this section.

   (c) If testing reveals an elevated lead level at a drinking
water outlet, the public school, private school, or child care
facility shall, not later than 24 hours after receiving the test
results, close off access to the drinking water outlet and report
the test results to the commission. Not later than the 30th day
after receiving test results showing one or more drinking water
outlets have elevated levels of lead, the public school, private
school, or child care facility must either:

   (1) permanently shut or close off access to the
affected drinking water outlets and provide an alternative source
of safe water without elevated lead levels; or

   (2) install and maintain filters certified by the
National Sanitation Foundation at the drinking water outlets that
have elevated lead levels.

   (d) A public school, private school, or child care facility
shall take additional measures if necessary to eliminate elevated
lead levels at the drinking water outlets, consistent with the
technical guidance under Section 341.055.

Sec. 341.054. TRANSPARENCY AND PUBLIC RIGHT TO KNOW. (a)
Each public school, private school, or child care facility shall:

   (1) submit to the commission, the Texas Education
Agency, and the department:

      (A) the plan of action adopted under Section
341.052 and any modifications to the plan; and

      (B) information on testing activities conducted
under Section 341.053, including:
(i) the date the testing was completed;
(ii) the location and type of each drinking water outlet tested;
(iii) the complete results of each test; and
(iv) any measures being taken under Section 341.053(c) to remediate a drinking water outlet found to have an elevated lead level;

(2) maintain copies of information submitted under Subdivision (1) in a suitable location for inspection by the public and on the Internet website of the school or facility;

(3) notify parent, teacher, and employee organizations of the availability of the submitted information; and

(4) designate a person to serve as the contact person for communications with the commission and the public regarding the lead testing and remediation activities.

(b) If testing conducted under Section 341.053 reveals an elevated lead level at a drinking water outlet, the public school, private school, or child care facility shall, within one business day, directly notify teachers, school personnel, and the parent of or person standing in parental relation to each student through written notice, electronic mail, or other means approved by the commission. The notification must include:

(1) a summary of the results of the testing and information on the availability of the complete test results for public inspection at a suitable location and on the Internet website of the school or facility;
(2) a description of any remedial measures being taken under Section 341.053;

(3) general information on the public health effects and risks posed by lead in drinking water and information on the availability of additional resources concerning lead in drinking water, as outlined in the technical guidance under Section 341.055; and

(4) the name and contact information of the person designated under Subsection (a)(4) to communicate with the public.

(c) At each drinking water outlet, the public school, private school, or child care facility shall post an electronically accessible code with information on testing and remediation for that outlet. The information must include the maintenance schedule and log for installed filters certified by the National Sanitation Foundation, unless the drinking water outlet is equipped with a clearly visible indicator for filter replacement.

Sec. 341.055. TECHNICAL GUIDANCE. (a) The commission shall issue technical guidance that is at least as protective of the public health as the technical guidance for reducing lead in drinking water at schools issued by the United States Environmental Protection Agency. Provisions of the technical guidance related to testing to determine the presence and level of lead in water must be designed to maximize detection of lead in water and must prohibit sampling or testing methods that tend to mask lead contamination, including pre-stagnation flushing and removal of aerators prior to sampling.

(b) The commission shall provide the technical guidance
described by Subsection (a), a list of laboratories certified to
conduct lead testing, and any other information the commission
considers appropriate to each school district, open-enrollment
charter school, private school, and child care facility.

SECTION 3. (a) Not later than December 1, 2017, the Texas
Commission on Environmental Quality shall order each public water
system to replace all lead service lines at each public school,
private school, and child care facility as required by Section
341.051(a), Health and Safety Code, as added by this Act.

(b) Not later than September 1, 2020, each public water
system shall fully replace lead service lines at all public
schools, private schools, and child care facilities that it serves,
as required by Section 341.051(a), Health and Safety Code, as added
by this Act.

(c) Not later than October 1, 2017, each public water system
shall provide school districts, open-enrollment charter schools,
private schools, and child care facilities that it serves with
information relating to the location of lead service lines, as
required by Section 341.051(b), Health and Safety Code, as added by
this Act.

(d) Not later than November 1, 2017, each school district,
open-enrollment charter school, private school, and child care
facility shall inform the Texas Commission on Environmental Quality
which buildings are served by lead service lines as required by
Section 341.051(b), Health and Safety Code, as added by this Act.

(e) Not later than March 1, 2018, each public school,
private school, and child care facility shall adopt a plan of action
to prevent elevated lead levels in all water used for drinking or
cooking as required by Section 341.052(a), Health and Safety Code,
as added by this Act.

(f) Not later than March 1, 2019, each public school,
private school, and child care facility shall install and maintain
filters certified by the National Sanitation Foundation, as
required by Section 341.052(a), Health and Safety Code, as added by
this Act.

(g) Not later than September 1, 2019, each public school,
private school, and child care facility shall replace the items
identified in the lead-bearing parts inventory, as required by
Section 341.052(c), Health and Safety Code, as added by this Act.

(h) Not later than December 1, 2017, each public school,
private school, or child care facility shall perform an initial
test of each drinking water outlet, as required by Section
341.053(a), Health and Safety Code, as added by this Act.

(i) Not later than October 15, 2017, the Texas Commission on
Environmental Quality shall post the technical guidance required by
Section 341.055, Health and Safety Code, as added by this Act, on
the commission's Internet website.

SECTION 4. This Act takes effect immediately if it receives
a vote of two-thirds of all the members elected to each house, as
provided by Section 39, Article III, Texas Constitution. If this
Act does not receive the vote necessary for immediate effect, this
Act takes effect September 1, 2017.