

Date of Hearing: April 20, 2022

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
AB 2638 (Bloom) – As Amended March 28, 2022

[Note: This bill is double referred to the Assembly Environmental Safety and Toxic Materials Committee and will be heard by that Committee as it relates to issues under its jurisdiction.]

SUBJECT: School facilities: drinking water: water bottle filling stations

SUMMARY: Requires a school district and the governing body of a charter school to ensure that each school is equipped with water bottle filling stations. Specifically, **this bill:**

- 1) Defines “water bottle filling station” as a water dispenser accessible to all people in compliance with the federal Americans with Disabilities Act (42 U.S.C. Sec. 12101 et seq.) that dispenses clean drinking water directly into a water bottle or other drinking container.
- 2) Requires, beginning in the 2023–24 school year, a minimum of one water bottle filling station at each school.
- 3) Requires, beginning in the 2024–25 school year, a minimum of one water bottle filling station per 300 people at each school.
- 4) Requires water bottle filling stations to be placed in or near high traffic and common areas, such as all of the following:
 - a) Hallways;
 - b) Gymnasiums;
 - c) School food service areas;
 - d) Outdoor recreation areas; and
 - e) Faculty lounges.
- 5) Requires water bottle filling stations to meet all of the following requirements:
 - a) Dispense drinking water that meets primary drinking water standards and secondary drinking water standards, as defined in Section 116275 of the Health and Safety Code. Requires the water bottle filling station to dispense filtered water if necessary to meet those standards;
 - b) Be regularly cleaned to maintain sanitary conditions; and
 - c) Be maintained on a regular basis to ensure they function properly.
- 6) Authorizes water bottle filling stations to be combined with water fountains.

- 7) Encourages school districts and governing bodies of charter schools to do the following:
 - a) Install touchless bottle filling stations for sanitary reasons; and
 - b) Install water bottle filling stations that dispense cooled water if the water bottle filling stations are located near an electrical source.
- 8) Authorizes an existing water bottle filling station that was installed at a school before the enactment of this bill to count toward the minimum number of water bottle filling stations required provided that the water bottle filling station meets the requirements specified in (5).
- 9) Authorizes an existing water bottle filling station that was installed at a school before the enactment of this bill that does not meet the requirements of (5) to be repaired or improved by a school in order to meet the requirements, and count the water bottle filling station toward the minimum number of water bottle filling stations required pursuant to this bill.
- 10) Requires a school district or the governing body of a charter school to allow pupils, teachers, and staff to bring and carry water bottles and encourages a school district or the governing body of a charter school to develop and adopt policies about the type of water bottles that may be carried.
- 11) Provides that water bottles may be excluded from libraries, computer labs, science labs, and other places where it is deemed dangerous to have drinking water.
- 12) Requires the administrators of a school district or the governing body of a charter school to inform teachers, staff, parents, and pupils about their rights pursuant to this bill, including providing information in pupil and employee handbooks and making the information accessible on the internet website of the school district or charter school.
- 13) Requires the administrators of a school district or the governing body of a charter school to encourage water consumption through promotional and educational activities and signage that focus on the benefits of drinking water and highlight water bottle filling stations throughout schools.
- 14) Makes the provisions of this bill operative on July 1, 2023.
- 15) Requires the implementation of this bill to be contingent upon an appropriation of funds by the Legislature for its purposes.
- 16) Makes a number of findings and declarations, including that water is important for children's health and can prevent excess weight gain; adequate water intake can positively impact children's cognitive performance, particularly short-term memory; reduction in sugary drinks is a key public health goal; and access to water bottle filling stations increase water intake by as much as triple the amount children consume at a water fountain.

EXISTING LAW:

- 1) Requires a school district to provide access to free, fresh drinking water during meal times in the food service areas of the schools under its jurisdiction, including, but not necessarily limited to, areas where reimbursable meals under the National School Lunch Program or the

federal School Breakfast Program are served or consumed. Authorizes a school district to comply with this requirement by, among other means, providing cups and containers of water or soliciting or receiving donated bottled water.

- 2) Authorizes the governing board of a school district to adopt a resolution stating that it is unable to comply with the requirement to provide access to free, fresh drinking water during meal times and demonstrating the reasons why it is unable to comply due to fiscal constraints or health and safety concerns. Requires the resolution to be publicly noticed on at least two consecutive meeting agendas, first as an information item and second as an action item, and approved by at least a majority of the governing board.
- 3) Requires the California Department of Education (CDE) to consult with the California Department of Public Health (CDPH), the Department of Water Resources (DWR), and the State Water Resources Control Board (SWRCB) to identify available sources of funding, including, but not limited to, funding from Proposition 1, approved by the voters at the November 4, 2014, statewide General Election; funds for safe drinking water programs administered by the CDE, the CDPH, the DWR, and the SWRCB; other state funding; and federal funding available to fund school water quality and infrastructure.
- 4) Requires the CDE to post the information collected on the CDE's website and authorizes the CDE to receive funds transferred from any available state and federal source, to be allocated by the CDE to school districts for the purpose of complying with the requirement for schools to provide access to free, fresh drinking water during meal time.
- 5) Specifies that subject to all laws, guidelines, policies, and criteria applicable to the funds, school districts may use funds received for water quality projects including, but not limited to, water treatment, water facilities restructuring, water filling stations, and maintenance of water facilities.

FISCAL EFFECT: This bill has been keyed a possible state-mandated local program by the Office of the Legislative Counsel.

COMMENTS:

Need for the bill. According to the author, “Children are not consuming the amount of water they need to be healthy. On average, kids drink about 2.4 ounces of water when they drink directly from a water fountain (about the size of a condiment cup). When they have access to water bottle filling stations, they can increase their water intake by as much as triple. A 2009-2012 national survey found that one in two children aged 6-19 in the U.S. is not adequately hydrated, with disparities by race and gender. Furthermore, inadequate hydration was more prevalent among boys, non-Hispanic black and younger children, compared to girls, non-Hispanic white and older children. Low-income and minority children report more negative perceptions about tap water and have poorer beverage intake habits.

As students, teachers, and faculty return to campus and the classroom, increased access to free, safe, and appealing drinking water offers a host of benefits that will help address some of the negative impacts that the COVID-19 pandemic has had. The installation of water bottle filling stations will also help keep everyone safe upon their return to campus.”

Hydration and student performance. According to a 2015 American Journal of Public Health article, “Prevalence of Inadequate Hydration Among US Children and Disparities by Gender and Race/Ethnicity: National Health and Nutrition Examination Survey, 2009-2012,” adequate hydration is not only essential for health, mild dehydration can lead to “poorer physical performance and reduced cognitive functioning among both children and adults.” The article concludes that inadequate hydration has implications on the health and performance of students, including performance on cognitive tests.

Current requirements for schools. Under the California Plumbing Code, schools must install drinking water fountains sufficient for one for every 150 students. The Plumbing Code also authorizes bottle filling stations to be substituted for drinking fountains up to 50% of the requirements for drinking fountains. “Bottle filling station” is defined as “a plumbing fixture connected to the potable water distribution system and sanitary drainage system that is designed and intended for filling personal use drinking water bottles or containers not less than 10 inches (254 mm) in height. Such fixtures can be separate from or integral to a drinking fountain and can incorporate a water filter and a cooling system for chilling the drinking water.”

Current law requires school districts to provide free, fresh drinking water during meal times in the food service areas. A school district may provide cups and containers of water or bottled water to comply with this requirement. The goal of this provision of law is to reduce the consumption of sugar-sweetened beverage while increasing the consumption of water in an effort to reduce obesity among children.

Funds for drinking water at schools. SB 828 (Committee on Budget and Fiscal Review), Chapter 29, Statutes of 2016, established the Drinking Water for Schools Grant Program to improve access to, and the quality of, drinking water in public schools. The 2016-17 budget allocated \$9.5 million for this purpose. Seventy-six districts received funds, which could be used for installation or replacement of water bottle filling stations or drinking water fountains, and other repairs or fixtures to improve the safety or quality of drinking water. Priority for funding were given to small disadvantaged communities, as defined in the Health and Safety Code. An additional \$6.8 million was made available for the program in 2018, SB 862 (Committee on Budget), Chapter 449, Statutes of 2018. The SWRCB recently selected two community based organizations as program administrators to assist schools located in disadvantaged communities to develop and fund projects. Projects must be completed by February 28, 2023.

Recommended Committee amendment. Installation of one water bottle filling station may cost \$10,000 or more. Instead of a mandate, a more prudent approach would be to incorporate water bottle filling stations during modernization or new construction of new school facilities. ***Staff recommends that the bill be amended as follows:***

- 1) Strike the requirement to install water bottle filling stations by specified dates.
- 2) Require a school district or charter school to include water bottle filling stations in a modernization or new construction project submitted to the Division of State Architect three months after the date of a future election whereby a school facilities bond with funds for K-12 facilities is passed by voters.
- 3) Require a minimum of one water bottle filling station for modernization projects, and one water bottle filling station per 350 people for new construction projects.

4) Strike the operative date and contingency upon appropriations funding language.

Arguments in support. The American Heart Association, the sponsor of the bill, states, “When children do not have access to water, they tend to have more sugary drinks. It is estimated that they consume twice the calories from sugary drinks when compared to children who drink water. We know that consumption of sugary drinks is linked to chronic diseases such as type 2 diabetes and heart disease and is a risk factor for dental caries. When water is available from a drinking water fountain, children drink about 2.4 ounces of water (about the size of a condiment cup). When they have access to water bottle filling stations, they can increase their water intake by as much as triple. To ensure that every California public K-12 student can achieve proper hydration, water bottle filling stations should be placed in schools and made easily accessible.”

Related legislation. AB 2488 (Gonzalez), of the 2020-21 Session, made minor, non-substantive amendments in the Lead-Safe Schools Protection Act. This bill was held in the Assembly Education Committee.

AB 567 (Quirk-Silva), of the 2017-18 Session, would have required a school district to ensure that every drinking water fountain at each school is equipped with both a water fountain and a spigot, or a combination water fountain and spigot, for filling water bottles. This bill was held in the Assembly Education Committee.

AB 746 (Gonzalez), Chapter 746, Statutes of 2017, requires, at least once a year, a local education agency (LEA) to test for lead in the potable water system at every schoolsite with a building constructed before January 1, 1993, including preschool locations, within the jurisdiction of the LEA. The bill requires testing at schoolsites built after 1993 at least once every three years.

AB 496 (Rendon), Chapter 664, Statutes of 2015, requires CDE to identify sources of funds for safe drinking water programs and post the information on its website.

SB 1413 (Leno), Chapter 558, Statutes of 2010, required, by July 1, 2011, a school district to provide access to free, fresh drinking water during meal times in the food service areas of the schools under its jurisdiction, including, but not necessarily limited to, areas where reimbursable meals under the National School Lunch Program or the federal School Breakfast Program are served or consumed. The bill authorizes a school district to comply with this requirement by, among other means, providing cups and containers of water or soliciting or receiving donated bottled water.

AB 629 (Krekorian), of the 2009-2010 Session, would have required a school district, by January 1, 2010, to conduct a one-time analysis of the level of lead in water in schools with plumbing that has not been updated since 1993. This bill was held in the Assembly Appropriations Committee.

AB 2965 (Krekorian), of the 2007-08 Session, would have required a school district to conduct a one-time assessment of water toxicity levels at point of entry and delivery in schools 40 years of age or older, and states the intent of the Legislature that funding be made available from the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 for this purpose. This bill was held in the Assembly Appropriations Committee.

AB 2704 (Leno), of the 2007-08 Session, would have prohibited the governing board of a school district from entering or renewing a contract that prevents or discourages schools from providing free tap water in areas where school meals are served, and authorizes schools to provide free tap water in school meal areas. This bill was vetoed by Governor Schwarzenegger.

REGISTERED SUPPORT / OPPOSITION:

Support

American Heart Association (Sponsor)
American Cancer Society Cancer Action Network INC.
American Diabetes Association
Asian Pacific Partners for Empowerment, Advocacy and Leadership
California Dental Association
Californians Against Waste
Climate Reality Project, San Fernando Valley
Cultiva LA Salud
Dolores Huerta Foundation
Garden Valley Elementary
Heal the Bay
Monterey Bay Aquarium Foundation
Northern California Recycling Association
Plastic Oceans International
Plastic Pollution Coalition, a Project of Earth Island Institute
Public Health Advocates
Save Our Shores
Seventh Generation Advisors
The 5 Gyres Institute
The Center for Oceanic Awareness, Research, and Education
United States Healthful Food Council Inc., Dba Eat Real
Upstream
Wishtoyo Chumash Foundation
Zero Waste USA
Numerous individuals

Opposition

None on file

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