

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H.B. 825
Apr 11, 2017
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH40475-TAf-6A (01/26)

Short Title: Protect NC Children From Lead Exposure. (Public)

Sponsors: Representatives Warren, Faircloth, Horn, and Boswell (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE CERTAIN PUBLIC SCHOOLS AND CHILD CARE FACILITIES
3 IN NORTH CAROLINA TO TEST DRINKING WATER FOR THE PRESENCE OF
4 LEAD.

5 Whereas, lead is a metal known for its toxicity and potential to harm human health;
6 and

7 Whereas, lead has been shown to negatively affect almost every organ system in the
8 human body; and

9 Whereas, the most sensitive organ system affected by lead is the central nervous
10 system; and

11 Whereas, children six years of age and younger are particularly at risk when
12 exposed to lead; and

13 Whereas, low blood lead levels in children have been associated with reduced IQ
14 and attention span, learning disabilities, poor classroom performance, hyperactivity, behavioral
15 problems, impaired growth, and hearing loss; and

16 Whereas, the United States Centers for Disease Control and Prevention and the
17 United States Environmental Protection Agency have determined that there is no safe blood
18 lead level in children; and

19 Whereas, the Centers for Disease Control and Prevention recommends that all
20 sources of lead exposure to children be controlled or eliminated; and

21 Whereas, under the authority of the federal Safe Drinking Water Act, the United
22 States Environmental Protection Agency's Lead and Copper Rule requires public water systems
23 to test drinking water for the presence of lead in only a percentage of residences; and

24 Whereas, according to an evaluation of public water system data in the federal Safe
25 Drinking Water Information System database collected between 2012 and 2015, 79 water
26 systems in North Carolina were found to test higher than the Agency's action level for lead; and

27 Whereas, the 79 water systems that tested higher than the federal action level are
28 located in 44 counties across the State; and

29 Whereas, the lead testing protocols prescribed by the federal Lead and Copper Rule
30 that are employed by public water supply systems are aimed at identifying systemwide lead
31 problems rather than the presence of lead in outlets and taps within individual buildings; and

32 Whereas, neither the federal Lead and Copper Rule nor North Carolina law requires
33 testing for the presence of lead in drinking water in schools or child care facilities; and

34 Whereas, unless a school or child care facility is considered a public water system,
35 testing drinking water for the presence of lead is voluntary; and



1 Whereas, effective June 19, 1986, section 1417 of the federal Safe Drinking Water
2 Act prohibited the use of any pipe, any pipe or plumbing fitting or fixture, any solder, or any
3 flux that is not "lead free" in the installation or repair of facilities that provide water for human
4 consumption; and

5 Whereas, the United States Environmental Protection Agency strongly recommends
6 that schools and child care facilities test drinking water in their buildings and infrastructure for
7 lead; and

8 Whereas, Section 2107 of Public Law 114-332 (Water Infrastructure Improvements
9 for the Nation (WIIN) Act) directs the Administrator of the United States Environmental
10 Protection Agency to establish a voluntary school and child care facility lead testing grant
11 program to make grants available to states to assist local education agencies in testing for lead
12 contamination in drinking water in schools and child care facilities; Now, therefore,
13 The General Assembly of North Carolina enacts:

14
15 **PART I. PROTECT NORTH CAROLINA'S CHILDREN FROM LEAD EXPOSURE**

16 **SECTION 1.(a)** Chapter 130A of the General Statutes is amended by adding a new
17 Article to read:

18 "Article 10A.

19 "Protect North Carolina's Children From Lead Exposure Act.

20 **"§ 130A-332.1. Short title.**

21 This Article shall be known as the "Protect North Carolina's Children from Lead Exposure
22 Act."

23 **"§ 130A-332.2. Definitions.**

24 In addition to the terms defined in Article 10 of this Chapter, the following definitions shall
25 apply in this Article:

- 26 (1) "3Ts technical guidance" means the Agency's revised technical guidance
27 document "3Ts for Reducing Lead in Drinking Water in Schools," (October
28 2006, EPA 816-B-05-008) or any subsequent revision.
- 29 (2) "Agency" means the United States Environmental Protection Agency.
- 30 (3) "Child care facility" means a facility as defined in G.S. 110-86 and licensed
31 pursuant to Article 7 of Chapter 110 of the General Statutes, that was
32 permitted in accordance with either G.S. 153A-357 or G.S. 160A-417 and
33 receives water service from a supplier of water. For purposes of this section,
34 child care facility shall not include those facilities that are operated in a
35 private residence.
- 36 (4) "Division" means the Division of Public Health in the Department of Health
37 and Human Services.
- 38 (5) "Drinking water outlet" means any water fountain, faucet, or tap that is
39 regularly used for drinking or food preparation, including ice-making and
40 hot drink machines.
- 41 (6) "Elevated lead level" means a lead concentration in drinking water that
42 exceeds the lead trigger level established by and published in the Agency's
43 3Ts technical guidance.
- 44 (7) "Federal Lead and Copper Rule" means the federal regulation to minimize
45 lead and copper in drinking water in 40 C.F.R., Subpart I.
- 46 (8) "Lead trigger level" means the federal trigger level for lead in water in
47 schools, established by and published in the Agency's 3Ts technical
48 guidance.
- 49 (9) "Local health department" means a district health department, a public health
50 authority, or a county health department.

(10) "School" means a public school under the direction of a local board of education, a charter school, a regional school, a high school operated as part of The University of North Carolina, a school operated by the Department of Health and Human Services, or a school operated by the State Board of Education that was permitted in accordance with either G.S. 153A-357 or G.S. 160A-417 and serves students in kindergarten through grade five.

"§ 130A-332.3. Required testing for lead in drinking water outlets.

(a) Each supplier of water shall test drinking water for the presence of lead at drinking water outlets in each school or child care facility to which the supplier of water provides treated drinking water in accordance with G.S. 130A-332.5, except where the school or child care facility is itself the supplier of water and is already subject to monitoring for lead under Article 10 of this Chapter.

(b) Each test for the presence of lead shall be analyzed by a laboratory certified to analyze for lead in drinking water samples by the North Carolina State Laboratory for Public Health.

"§ 130A-332.4. Use of the 3Ts technical guidance.

Suppliers of water shall use the Agency's 3Ts technical guidance to establish drinking water sampling collection criteria and protocols to satisfy the requirements of this section.

"§ 130A-332.5. Preparation of a sampling plan, sampling locations, initial sampling and analysis, subsequent monitoring, and response.

(a) Sampling Plan. – A supplier of water required to conduct testing for lead under G.S. 130A-332.3 shall prepare and submit a drinking water sampling, collection, and analysis plan to the Department at least 90 days prior to the date on which the supplier implements the plan. At a minimum, the sampling plan shall include the following:

- (1) A unique identification number for each school and child care facility that will be tested.
- (2) The name, street address, city, and county of each school and child care facility that will be tested.
- (3) Unique identification codes and an accompanying description of each drinking water outlet and each location within or outside the school or child care facility that will be tested. The accompanying descriptions shall be sufficiently detailed to precisely identify the drinking water outlet associated with each sample taken and each reported analytical result.

(b) Required Initial Sampling and Analysis. – A minimum of five first-draw samples shall be collected and analyzed at each school and child care facility in locations specified in subsection (c) of this section and in accordance with the following testing timetable:

<u>Date on which the school or child care facility was constructed</u>	<u>Round 1</u>	<u>Round 2</u>
<u>On or before December 31, 1960</u>	<u>January 1, 2018 – June 30, 2018</u>	<u>July 1, 2018 – December 31, 2018</u>
<u>Between January 1, 1961, and December 31, 1986</u>	<u>January 1, 2019 – June 30, 2019</u>	<u>July 1, 2019 – December 31, 2019</u>
<u>On or after January 1, 1987</u>	<u>January 1, 2020 – June 30, 2020</u>	<u>July 1, 2020 – December 31, 2020</u>

(c) Round 1 Sample Locations. – A supplier of water shall select sampling locations from those drinking water outlets that are identified as used the most, in the highest frequency, and reflect those outlets to which children are exposed, in the school or child care facility. A supplier of water shall sample the widest variety of drinking water outlets and locations in each

1 school or child care facility, provided the sample locations and outlets satisfy the following
2 criteria:

- 3 (1) At least one sample is taken from the cold water drinking water outlet in the
4 food preparation area.
- 5 (2) At least one sample is taken from a cold water drinking water outlet that is
6 located as close as possible to the service connection to the public water
7 supply.
- 8 (3) At least three samples are taken from cold water drinking water outlets in
9 areas of the school or child care facility where drinking water is accessible
10 and available to children.

11 In the event that five separate drinking water outlets are not available for sampling in
12 accordance with this subsection, samples shall be collected from the same locations on different
13 days and collected in priority based on the most frequently accessed drinking water outlets
14 available to children. This sampling procedure shall be followed until such time as five samples
15 are collected.

16 (d) Round 2 Sample Locations. – If the sampling and analysis of the drinking water
17 from outlets taken from locations selected pursuant to subsection (c) of this section reveals a
18 lead level below the analytical detection limit, then the supplier of water shall select locations
19 and drinking water outlets that are different from those sampled and analyzed in Round 1. In
20 identifying new locations and drinking water outlets to sample for Round 2, the supplier of
21 water shall select locations that ensure the highest likelihood of detection of any lead that may
22 be present in the school or child care facility. There shall be a minimum of 30 days between the
23 dates on which the sampling for Round 1 and Round 2 is conducted.

24 (e) Deferral of Round 2 sampling. – If sampling and analysis of the drinking water
25 outlets taken from locations selected pursuant to subsection (c) of this section reveals an
26 elevated lead level and corrective actions are underway to address the elevated lead level in
27 accordance with G.S. 130A-332.8, then the school or child care facility may submit a written
28 request to the Department for a deferral from conducting the Round 2 sampling until such time
29 as the corrective actions are completed.

30 (f) Additional Sampling, Monitoring, and Reporting. – A supplier of water shall
31 conduct subsequent flush sampling, in accordance with the 3Ts technical guidance, for any
32 school or child care facility that reveals a drinking water outlet with elevated lead levels
33 pursuant to subsection (b) of this section.

34 (g) Limit on Liability. – A supplier of water shall not be responsible or held liable for
35 correcting or resolving any drinking water or drinking water infrastructure with lead
36 concentration above the lead trigger level within the premises or on the property of a school or
37 child care center.

38 (h) Use of Samples for Other Federal Requirements. – Any samples collected and
39 analyzed by a supplier of water pursuant to G.S. 130A-332.5 shall not be used for calculations
40 required by the federal Lead and Copper Rule unless they meet all site selection and sample
41 collection requirements provided in the federal Lead and Copper Rule.

42 (i) Exceedances. – If a lead action level exceedance pursuant to the federal Lead and
43 Copper Rule occurs, then, in addition to the requirements of the federal Lead and Copper Rule,
44 the supplier shall do all of the following:

- 45 (1) Conduct sampling and analyze drinking water from drinking water outlets in
46 all schools and child care facilities within the service area of the supplier of
47 water in accordance with the requirements set out in subsections (b) and (c)
48 of G.S. 130A-332.5.
- 49 (2) Notify the schools and child care facilities of the results of the sampling and
50 analysis conducted pursuant to this section and in accordance with the
51 requirements set out in G.S. 130A-332.6.

1 (3) Comply with any additional requirements as deemed necessary to protect
2 public health by either the Department or the Division.

3 (j) Certification. – A supplier of water shall provide certification of the delivery of all
4 monitoring results to each school and child care facility to the Department in the manner
5 provided in the Department's rules for public water systems.

6 **"§ 130A-332.6. Reporting by certified laboratory.**

7 The certified laboratory shall report the test results of the drinking water samples to the
8 supplier of water, the Department, and to each school or child care facility within five business
9 days of completing the analysis of each drinking water sample. For results revealing elevated
10 lead levels, the certified laboratory shall report test results to the Division and the Department
11 within 48 hours of completion of the analysis. The certified laboratory shall report all results of
12 the analytical testing in a format provided by the Department, which shall include electronic
13 reporting, and shall be filled out completely.

14 **"§ 130A-332.7. Notification requirements for schools and day care facilities.**

15 Upon receipt of the test results from the certified laboratory or supplier of water, schools
16 and child care facilities shall notify teachers, other school or facility personnel, and the parents
17 or guardians of children attending the school or child care facility of the results of the sampling
18 and analysis based on the concentration of lead in drinking water, as applicable:

19 (1) Lead concentration in drinking water is at or below lead trigger level. –
20 Within 10 business days of receiving the results of the drinking water
21 analyses, each school and each child care facility shall make the test results
22 available to the public, free of charge, and shall notify the parents or
23 guardians of the children attending each school and each child care facility
24 of the test results. To meet the requirements of this subdivision, the test
25 results may be posted on the Web site for the school, local school
26 administrative unit, or child care facility, as applicable.

27 (2) Lead concentration in drinking water is above lead trigger level. – Within 48
28 hours of receipt of a drinking water test result that indicates an elevated lead
29 level at a drinking water outlet or other locations within or outside the
30 building, the school or child care facility shall notify teachers, other school
31 or facility personnel, and the parents or guardians of children attending the
32 school or child care facility directly through written notice, electronic mail,
33 or other means approved by the Department of Public Instruction or the
34 Division of Child Development and Early Education of the Department of
35 Health and Human Services, as applicable. The notification shall include all
36 of the following:

37 a. A summary of the results of the tests conducted pursuant to this
38 Article and information as to the availability of the complete drinking
39 water test results for review at a public location and on the Web site
40 for the school, the local school administrative unit, or the child care
41 facility, as applicable.

42 b. A description of measures taken to restrict access to drinking water
43 outlets with elevated lead levels and actions taken to ensure the
44 provision of fresh, clean drinking water in the school or child care
45 facility, in accordance with G.S. 130A-332.8.

46 c. General information on the public health effects and risks posed by
47 the presence of lead in drinking water and information on the
48 availability of additional resources concerning lead in drinking water,
49 including those outlined in the 3Ts technical guidance and other State
50 or federal resources.

1 d. When directed by the Division, information on how and where
2 individuals may obtain blood testing for lead.

3 **"§ 130A-332.8. Corrective action for drinking water with elevated lead levels.**

4 (a) In addition to the notification requirements under G.S. 130A-332.6(b)(2), when a
5 drinking water outlet is subject to the requirements of this Part as provided in G.S. 130A-332.3,
6 is sampled and analyzed pursuant to G.S. 130A-332.5, and reveals an elevated lead level, the
7 school or child care facility shall do all of the following:

8 (1) Immediately restrict access to (i) any drinking water outlet with lead
9 concentrations above the lead trigger level and (ii) similar drinking water
10 outlets located on the same wing or floor of the building of the outlet
11 revealed to have elevated lead levels.

12 (2) Immediately take remedial action to ensure that all students and children
13 have access to free, fresh, clean drinking water in the school or child care
14 facility and are not exposed to drinking water with elevated lead levels.
15 Alternate drinking water supplies shall be provided until (i) the drinking
16 water is further analyzed and lead levels are found to be below the trigger
17 level and (ii) the Division determines and provides written documentation to
18 the school or child care facility, the Department of Public Instruction, or the
19 Division of Child Development and Early Education of the Department of
20 Health and Human Services, as appropriate, that the elevated lead levels
21 have been mitigated and the drinking water is safe for human consumption.

22 (3) With the assistance of the Division, Department, the Department of Public
23 Instruction, and the Division of Child Development and Early Education of
24 the Department of Health and Human Services, as applicable, determine the
25 source of lead and identify the necessary corrective action, including specific
26 measures that will be taken and an estimate of the costs of those measures, to
27 address the lead contamination.

28 **"§ 130A-332.9. Reports.**

29 The Division, in consultation with the Department, the Department of Public Instruction, or
30 the Division of Child Development and Early Education of the Department of Health and
31 Human Services, as applicable, shall report to (i) the chairs of the House Appropriations
32 Committees on Education, Health and Human Services, and Natural and Economic Resources,
33 (ii) the chairs of the Senate Appropriations Committees on Education/Higher Education, Health
34 and Human Services, and Natural and Economic Resources, and (iii) the Fiscal Research
35 Division on the implementation of this Article and the results of the sampling and analyses
36 conducted and received pursuant to this Article, on or before May 1 of each year, beginning in
37 2019. At a minimum, the report shall include:

38 (1) The number of schools and child care facilities and the name of each school
39 and facility tested, listed by county, and as appropriate, further designation
40 by local school administrative unit.

41 (2) The number of drinking water outlets tested at each school and child care
42 facility.

43 (3) Aggregate results for the drinking water testing performed at each school
44 and child care facility.

45 (4) The identity of each school and child care facility that has drinking water
46 outlets with elevated lead levels and for each school and facility so
47 identified:

48 a. The actions taken to remediate or restrict access to the source of lead
49 exposure.

1 b. An overview of the actions taken to notify students, their families,
2 and school and child care facility personnel of the findings of the
3 lead tests as required by G.S. 130A-332.6.

4 (5) A summary of the required corrective action and associated costs for a
5 school or child care facility to address confirmed lead contamination.

6 **"§ 130A-332.10. Enforcement powers and remedies.**

7 (a) The Department may enforce the requirements of this Article applicable to suppliers
8 of water through the powers and remedies provided in Article 10 of this Chapter.

9 (b) The Department of Health and Human Services may enforce the requirements of
10 this Article applicable to certified laboratories, schools, and child care facilities under the
11 powers and remedies provided by Part 2 of Article 1 of this Chapter.

12 **"§ 130A-332.11. Rule making.**

13 The Commission for Public Health may adopt rules to implement this Article."

14 **SECTION 1.(b)** G.S. 115C-12 is amended by adding a new subdivision to read:

15 "(46) Rules to Implement Protect North Carolina's Children from Lead Act. – The
16 State Board of Education shall adopt rules to implement testing, notification,
17 and corrective action related to lead in school water supplies as provided in
18 Article 10A of Chapter 130A of the General Statutes. These rules shall apply
19 to public schools and charter schools."

20 **SECTION 1.(c)** Pursuant to G.S. 130A-330.11, as established by Section 1 of this
21 act, if the Commission for Public Health elects to adopt rules to promulgate the provisions of
22 Article 10A of Chapter 130A of the General Statutes, the Commission shall adopt rules that are
23 substantively identical to the provisions of Article 10A of Chapter 130A of the General
24 Statutes. The Commission may reorganize or renumber any of its rules to which this Article
25 applies at its discretion. Rules adopted pursuant to this section are not subject to
26 G.S. 150B-21.4 or G.S. 150B-21.9 through G.S. 150B-21.14. Rules adopted pursuant to this
27 section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written
28 objections had been received as provided by G.S. 150B-21.3(b2).

29 **SECTION 1.(d)** State Agencies to Provide Technical and Advisory Assistance. –
30 On or before July 1, 2017, the Department and the Division shall develop and provide the
31 following information to the Department of Public Instruction and the Division of Child
32 Development and Early Education of the Department of Health and Human Services:

33 (1) The 3Ts technical guidance and best management practices documents for
34 reducing lead in drinking water at schools and child care facilities issued by
35 the Agency.

36 (2) General guidance on water line flushing after long periods of stagnation,
37 such as holidays, summer breaks, and track out.

38 (3) Any other information the Department and the Division deem appropriate.

39 **SECTION 1.(e)** Provision of Technical and Advisory Materials to Schools and
40 Child Care Facilities. – The Department of Public Instruction and the Division of Child
41 Development and Early Education of the Department of Health and Human Services shall
42 distribute the information provided pursuant to this subsection (a) of this section to each school
43 and each child care facility, respectively, on or before August 1, 2017.

44 **SECTION 1.(f)** Pursuant to G.S. 160A-314 and G.S. 153A-277, a supplier of water
45 may charge an additional fee to any school or child care facility for which the supplier of water
46 performs sampling, analysis, and reporting of drinking water in accordance with subsection (a)
47 of this section. Any additional fees or charges issued by a supplier of water shall be itemized on
48 the billing statement and shall reflect the actual costs of performing such sampling, analysis,
49 and reporting.

1 **SECTION 1.(g)** The following statutes are amended by deleting the language
2 "Articles 9 and 10 of this Chapter" wherever it appears and substituting "Articles 9, 10, and
3 10A of this Chapter": G.S. 130A-17, 130A-18, 130A-19, 130A-20, and 130A-23.

4 **SECTION 1.(h)** G.S. 130A-22(b) reads as rewritten:

5 "(b) The Secretary of Environmental Quality may impose an administrative penalty on a
6 person who violates ~~G.S. 130A-325.~~ G.S. 130A-325 or requirements imposed on water
7 suppliers in Article 10A of this Chapter. Each day of a continuing violation shall constitute a
8 separate violation. The penalty shall not exceed twenty-five thousand dollars (\$25,000) for each
9 day the violation continues."

10 **SECTION 1.(i)** G.S. 130A-24(e) reads as rewritten:

11 "(e) The appeals procedures enumerated in this section shall apply to appeals concerning
12 the enforcement of rules, the imposition of administrative penalties, or any other action taken
13 by the Department of Environmental Quality pursuant to Articles 8, 9, 10, 10A, 11, and 12 of
14 this Chapter."

15 16 **PART II. SAMPLE DRINKING WATER FOR LEAD IN EXISTING BUILDINGS AND** 17 **STRUCTURES REPURPOSED FOR SCHOOLS**

18 **SECTION 2.(a)** Article 37 of Chapter 115C of the General Statutes is amended by
19 adding a new section to read:

20 **"§ 115C-532.1. Sample drinking water for lead.**

21 (a) Sampling Protocol. – Whenever a local board of education acquires existing sites or
22 existing property for use as a schoolhouse or other school facility in accordance with this
23 Article, the board shall provide for the sampling of the widest variety of drinking water outlets
24 and locations in the proposed site or property for the presence of lead, provided the sample
25 locations and outlets satisfy the following criteria:

- 26 (1) At least one sample is taken from the cold water drinking water outlet in the
27 proposed food preparation area.
28 (2) At least one sample is taken from a cold water drinking water outlet that is
29 located as close as possible to the service connection to the public water
30 supply.
31 (3) At least three samples are taken from cold water drinking water outlets in
32 areas of the school where drinking water will be accessible and available to
33 children.

34 In the event that five separate drinking water outlets are not available for sampling in
35 accordance with this subsection, samples shall be collected from the same locations on different
36 days and collected in priority based on the most accessible drinking water outlets that will be
37 available to children. This sampling procedure shall be followed until such time as five samples
38 are collected.

39 (b) The local board of education shall sample, analyze, and report the results of the
40 analyses conducted pursuant to this section in accordance with Article 10A of Chapter 130A of
41 the General Statutes."

42 **SECTION 2.(b)** G.S. 115C-218.1 reads as rewritten:

43 **"§ 115C-218.1. Eligible applicants; contents of applications; submission of applications** 44 **for approval.**

45 (a) Any nonprofit corporation seeking to establish a charter school may apply to
46 establish a charter school. If the applicant seeks to convert a public school to a charter school,
47 the application shall include a statement signed by a majority of the teachers and instructional
48 support personnel currently employed at the school indicating that they favor the conversion
49 and evidence that a significant number of parents of children enrolled in the school favor
50 conversion.

51 (b) The application shall contain at least the following information:

- 1 (1) A description of a program that implements one or more of the purposes in
2 G.S. 115C-218.
- 3 (2) A description of student achievement goals for the school's educational
4 program and the method of demonstrating that students have attained the
5 skills and knowledge specified for those student achievement goals.
- 6 (3) The governance structure of the school including the names of the initial
7 members of the board of directors of the nonprofit, tax-exempt corporation
8 and the process to be followed by the school to ensure parental involvement.
9 A teacher employed by the board of directors to teach in the charter school
10 may serve as a nonvoting member of the board of directors for the charter
11 school.
- 12 (4) The local school administrative unit in which the school will be located.
- 13 (5) Admission policies and procedures.
- 14 (6) A proposed budget for the school and evidence that the financial plan for the
15 school is economically sound.
- 16 (7) Requirements and procedures for program and financial audits.
- 17 (8) A description of how the school will comply with G.S. 115C-218.20,
18 115C-218.25, 115C-218.30, 115C-218.40, 115C-218.45, 115C-218.50,
19 115C-218.55, 115C-218.60, 115C-218.65, 115C-218.70, 115C-218.75,
20 115C-218.80, 115C-218.85, and 115C-218.90.
- 21 (9) Types and amounts of insurance coverage, including bonding insurance for
22 the principal officers of the school, to be obtained by the charter school.
- 23 (10) The term of the charter.
- 24 (11) The qualifications required for individuals employed by the school.
- 25 (12) The procedures by which students can be excluded from the charter school
26 and returned to a public school. Notwithstanding any law to the contrary,
27 any local board may refuse to admit any student who is suspended or
28 expelled from a charter school due to actions that would lead to suspension
29 or expulsion from a public school under G.S. 115C-390.5 through
30 G.S. 115C-390.11 until the period of suspension or expulsion has expired.
- 31 (13) The number of students to be served, which number shall be at least 80, and
32 the minimum number of teachers to be employed at the school, which
33 number shall be at least three. However, the charter school may serve fewer
34 than 80 students or employ fewer than three teachers if the application
35 contains a compelling reason, such as the school would serve a
36 geographically remote and small student population.
- 37 (14) Information regarding the facilities to be used by the ~~school~~ school,
38 including documentation that shows drinking water in the facilities has been
39 sampled and analyzed, and the results of the analyses are reported pursuant
40 to (i) G.S. 115C-218.35(e) and, as applicable, (ii) Article 10A of Chapter
41 130A of the General Statutes, and the manner in which administrative
42 services of the school are to be provided.
- 43 (15) The process for conducting a weighted lottery that reflects the mission of the
44 school if the school desires to use a weighted lottery.

45"

46 **SECTION 2.(c)** G.S. 115C-218.35 is amended by adding a new subsection to read:
47 **"§ 115C-218.35. Charter school facilities.**

48 ...

49 (e) If the charter school moves to a location or space different from that which was
50 approved pursuant to G.S. 115C-218.5, and is permitted in accordance with either
51 G.S. 153A-357 or G.S. 160A-417, then the charter school shall sample the widest variety of

1 drinking water outlets and locations in the proposed location or space for the presence of lead,
2 provided the sample locations and outlets satisfy the following criteria:

- 3 (1) At least one sample is taken from the cold water drinking water outlet in the
4 proposed food preparation area.
- 5 (2) At least one sample is taken from a cold water drinking water outlet that is
6 located as close as possible to the service connection to the public water
7 supply.
- 8 (3) At least three samples are taken from cold water drinking water outlets in
9 areas of the school where drinking water will be accessible and available to
10 children.

11 In the event that five separate drinking water outlets are not available for sampling in
12 accordance with this subsection, samples shall be collected from the same locations on different
13 days, and collected in priority based on the most accessible drinking water outlets that will be
14 available to children. This sampling procedure shall be followed until such time as five samples
15 are collected."

16 **SECTION 2.(d)** G.S. 115C-218.5 is amended by adding a new subsection to read:

17 **"§ 115C-218.5. Final approval of applications for charter schools.**

- 18 (a) The State Board may grant final approval of an application if it finds the following:
 - 19 (1) The application meets the requirements set out in this Article and such other
20 requirements as may be adopted by the State Board of Education.
 - 21 (2) The applicant has the ability to operate the school and would be likely to
22 operate the school in an educationally and economically sound manner.
 - 23 (3) Granting the application would achieve one or more of the purposes set out
24 in G.S. 115C-218.

25 In reviewing applications for the establishment of charter schools within a local school
26 administrative unit, the State Board is encouraged to give preference to applications that
27 demonstrate the capability to provide comprehensive learning experiences to students identified
28 by the applicants as at risk of academic failure.

29 (a1) The State Board shall not grant final approval of an application if it finds, that based
30 on the results of drinking water analyses submitted pursuant to G.S. 115C-218.1(b)(14), that
31 the drinking water in the location or space intended for the school reveals lead in
32 concentrations above the lead trigger level. The State Board may authorize the applicant
33 additional time to identify and implement any necessary corrective action to remove the source
34 of lead from drinking water outlets and other locations within or outside the location or space
35 intended for the school.

36 (b) The State Board shall make final decisions on the approval or denial of applications
37 by August 15 of a calendar year on all applications it receives prior to a date established by the
38 Office of Charter Schools for receipt of applications in that application cycle. The State Board
39 may make the final decision for approval contingent upon the successful completion of a
40 planning period prior to enrollment of students.

41 (c) The State Board of Education may authorize a school before the applicant has
42 secured its space, equipment, facilities, and personnel if the applicant indicates the authority is
43 necessary for it to raise working capital. The State Board shall not allocate any funds to the
44 school until the school has obtained space.

45 (d) The State Board of Education may grant the initial charter for a period not to exceed
46 10 years.

47 (e), (f) Repealed by Session Laws 2016-79, s. 1.1, effective June 30, 2016, and
48 applicable beginning with the 2016-2017 school year."

49 **SECTION 2.(e)** G.S. 115C-218.6 reads as rewritten:

50 **"§ 115C-218.6. Review and renewal of charters.**

1 (a) The State Board of Education shall review the operations of each charter school at
2 least once prior to the expiration of its charter to ensure that the school is meeting the expected
3 academic, financial, and governance standards.

4 (b) The State Board of Education shall renew a charter upon the request of the
5 chartering entity for subsequent periods of 10 years, unless one of the following applies:

6 (1) The charter school has not provided financially sound audits for the
7 immediately preceding three years.

8 (2) The charter school's student academic outcomes for the immediately
9 preceding three years have not been comparable to the academic outcomes
10 of students in the local school administrative unit in which the charter school
11 is located.

12 (3) The charter school is not, at the time of the request for renewal of the
13 charter, substantially in compliance with State law, federal law, the school's
14 own bylaws, or the provisions set forth in its charter granted by the State
15 Board of Education.

16 (4) The charter school elects to move to a new location or space that is different
17 from the location or space previously approved pursuant G.S. 115C-218.5,
18 without conducting the sampling, analysis, and reporting required pursuant
19 to G.S. 115C-218.35(e).

20 If one of the conditions set forth in subdivisions (1) through ~~(3)~~-(4) of this subsection
21 applies, then the State Board may renew the charter for a period of less than 10 years or not
22 renew the charter."
23

24 **PART III. EFFECTIVE DATE**

25 **SECTION 3.** This act is effective when it becomes law.