

BILL ANALYSIS

S.B. 2384
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Public Health
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Texas is home to a number of mining, smelting, and refining companies. Among these companies was ASARCO, which operated a smelter plant in El Paso for decades. ASARCO was a major source of hazardous substances in the environment and soils of El Paso, accounting for 50 percent of the concentration of the elements zinc, lead, arsenic, and cadmium. High concentrations of these elements have been implicated in significant health problems. According to the Environmental Protection Agency, children are especially vulnerable since these elements have carcinogenic effects and can also retard a child's physical and mental growth and development. Children can be exposed to these elements in numerous ways, including through contamination of water sources, emissions of toxic fumes, and contamination of playgrounds.

In the 1970s, a study by the Centers for Disease Control and Prevention found that the ASARCO smelter in El Paso was responsible for abnormally high lead levels in children who lived nearby. Furthermore, in 1994, the Texas Department of Health investigated an unusually large concentration of El Paso residents affected by multiple sclerosis and related environmental concerns. These residents attended Mesita or E.B. Jones Elementary Schools between 1948 and 1970. The rate of multiple sclerosis in this area of El Paso was twice as high as expected, based on national estimates, and the study conjectured that the elements and toxic fumes emitted by ASARCO may have contributed to the unusually high rate of multiple sclerosis in the Kern Place-Mission Hills area of El Paso. This bill seeks to prevent further exposure of Texas' children to lead poisoning and soil contamination.

S.B. 2384 amends current law relating to children's exposure to area-wide soil contamination in certain counties.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 2384 amends the Health and Safety Code to require the Department of State Health Services (DSHS), in cooperation with the Texas Commission on Environmental Quality, the commissioner of education, and local school and health districts in a county having a population of 600,000 or more and located on the international border, to assist schools and child-care facilities in one or more areas of such a county selected by DSHS to reduce the potential for children's exposure to area-wide soil contamination and to develop best management practice guidelines for schools and child-care facilities located in an area with area-wide soil contamination that recommend a range of methods for reducing exposure to contaminated soil, considering the concentration, extent, and location of contamination and the nature and frequency of child use of the area. The bill requires DSHS to identify schools and child-care facilities located in the geographic area in the county selected by DSHS; to conduct qualitative evaluations of the selected geographic area to determine the potential for children's exposure to

area-wide soil contamination; to conduct soil samples at a property not later than 120 days after the date the evaluation is completed if the qualitative evaluation indicates children may be routinely exposed to area-wide soil contamination at that property; and to notify schools and child-care facilities regarding the test results and the steps necessary to implement best management practices if soil sample results confirm the presence of area-wide soil contamination.

S.B. 2384 requires the superintendent or board of directors of a school or the owner or operator of a child-care facility, if the school or facility has area-wide soil contamination and fails to implement best management practices within six months of receiving written notification from DSHS, to provide written notice of the results of the soil tests to the parent or legal guardian of each child attending that school or facility and requires DSHS to prepare the written notice for distribution by the school or facility. The bill requires DSHS to recognize a school or child-care facility that successfully implements best management practices by providing to the school or facility a certification letter stating that the facility has successfully implemented those practices. The bill requires schools and child-care facilities to cooperate with DSHS to provide DSHS with site access for soil sampling at times most convenient for all parties. The bill authorizes DSHS to establish a grant program to assist a school or child-care facility in implementing best management practices. The bill defines "area-wide soil contamination," "department," and "school."

S.B. 2384 requires DSHS to develop the best management practice guidelines for schools and child-care facilities not later than January 1, 2010. The bill establishes that the bill's provisions do not make an appropriation, and that a provision in the bill creating a new governmental program, creating a new entitlement, or imposing a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

EFFECTIVE DATE

September 1, 2009.