



Susan Wengraf
Councilmember District 6

CONSENT CALENDAR
May 31, 2022

To: Honorable Mayor and Members of the City Council

From: Councilmember Wengraf (Author) Councilmember Taplin (Co-sponsor),
Councilmember Hahn (Co-Sponsor)

Subject: Support for SB-1076 Lead-based paint (Archuleta)

RECOMMENDATION

Send a letter of support to Senator Archuleta for his proposed legislation: SB-1076 Lead-based paint, with a copy to Nancy Skinner.

FINANCIAL IMPLICATIONS

None.

BACKGROUND

Berkeley has old housing stock in neighborhoods throughout the city. Housing built before 1978 may contain lead paint. Exposure to lead can seriously harm a child's health, including damage to the brain and nervous system, slowed growth and development, learning and behavior problems, and hearing and speech issues. Children from low-income households and those who live in housing built prior to 1978 are at the greatest risk of lead exposure.

Lead-based paint was used in over 38 million homes in the U.S. until it was banned from residential use in 1978. As a result, 7.8 million homes in California that were built before 1978 are considered at high risk of lead contamination. Renovation, repair and painting projects disturb surfaces covered in lead-based paint and create lead-contaminated dust that endangers residents young and old, and workers repairing the building. Lead is harmful to children and adults, though children under the age of six years old are most vulnerable to lead poisoning. Lead can affect children's developing brains and nervous systems, causing reduced IQ, learning disabilities, and behavioral problems with life-long impacts. Lead poisoning in adults can cause high blood pressure and reproductive harm. Lead poisoning can also cause premature birth and miscarriage.

Low-income communities of color are exposed to lead at higher rates due to lack of access to affordable housing in good repair. In Los Angeles County, for example, 85% of elevated blood lead levels in children under six years of age are Latinos. Workers doing painting, remodeling and repair are also at high risk of exposure, as are their

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families, because dust contaminated with lead may be tracked in to homes from work clothes and shoes.

While California's lead protection laws and the federal Renovation and Repair Program (RRP) complement each other in many ways, subtle differences and inconsistencies between the two make the regulatory framework confusing. Renovators and contractors have to figure out how to deal with the inconsistencies on their own, and as a consequence, they can easily, and unintentionally, violate both California or federal lead laws. Federal enforcement of the RRP is also lacking. Only a few federal employees are assigned to a multi-state region to enforce the RRP's requirements, and most federal enforcement efforts target large, or high-profile contractors -- not the typical contractors performing renovations and repairs in local neighborhoods. The solution to this confusing situation is to align state and federal lead laws so that the state of California can assume management and enforcement of the RRP. Such alignment would also allow the state to recoup certification fees that are currently paid to the US Treasury, and use those revenues to fund programs and enforcement activities.

SB 1076 (Archuleta), is a bill that addresses the confusing inconsistencies in current regulations and aims to coordinate state and federal training and certification requirements for lead safe work practices. If SB 1076 passes, California would also assume management of the Lead Renovation, Repair, and Painting (RRP) program.

ENVIRONMENTAL SUSTAINABILITY

Lead-based paint chips and dust blow into soil, contaminating any food grown in the soil as well as the dirt itself. Contaminated soils are also toxic for animal life, streams and the run off into the bay. This legislation would reduce the distressing consequences lead paint continues to have on our environment.

CONTACT PERSON

Councilmember Wengraf

Council District 6

510-981-7160

Attachments:

1: Letter

2: [SB-1076 Lead-based paint](#)

May 31, 2022

The Honorable Bob Archuleta
California State Senate
1021 O Street, Suite 6720
Sacramento, CA 95814

**RE: SB-1076 Lead-based paint
Support from the Berkeley City Council**

Dear Senator Archuleta,

Thank you for your proposed legislation, SB-1076, to help reduce lead poisoning. The City of Berkeley has concentrations of old housing stock with lead-based paint in neighborhoods throughout the city. As you know, exposure to lead can seriously harm a child's health, including damage to the brain and nervous system, slowed growth and development, learning and behavior problems, and hearing and speech issues. Children from low-income households and those who live in housing built before 1978 are at the greatest risk of lead exposure. As Councilmembers charged with protecting the health and safety of our residents, we are committed to working towards zero lead-paint contact for everyone.

The City of Berkeley is in full support of SB-1076. It is a bill that addresses confusing inconsistencies in current regulations that are currently reducing regulation compliance. SB-1076 would coordinate state and federal training and certification requirements for lead safe work practices. Your bill would also allow California to assume management of the Lead Renovation, Repair, and Painting (RRP) program. SB-1076 is a bill that reduces lead poisoning.

In support,

The Berkeley City Council

cc:

State Senator Nancy Skinner

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AMENDED IN SENATE APRIL 18, 2022

AMENDED IN SENATE MARCH 7, 2022

SENATE BILL

No. 1076

Introduced by Senator Archuleta

February 15, 2022

An act to amend Section 105254 of, and to add Section 105250.5 to, the Health and Safety Code, relating to lead-based paint.

LEGISLATIVE COUNSEL'S DIGEST

SB 1076, as amended, Archuleta. Lead-based paint.

Existing law requires the State Department of Public Health to implement and administer a residential lead-based paint hazard reduction program, as specified, including adopting regulations regarding accreditation of providers of health and safety training to employees who engage in or supervise lead-related construction work, as defined, and certification of employees who have successfully completed that training. Existing law requires the department to adopt regulations to establish and impose fees for those accreditations and certifications and for licensing entities engaged in lead-related occupations, as specified. Existing law requires those fees to be deposited into the Lead-Related Construction Fund, as specified, and to be available for specified uses upon appropriation by the Legislature.

This bill would require the department to review and amend its regulations governing lead-related construction work, including training and certification for workers and accreditation for trainers in lead-safe work practices, to comply with existing state regulations and the United States Environmental Protection Agency's Lead Renovation, Repair, and Painting Rule, as specified. The bill would require the adoption of those regulations to establish fee provisions for those certifications and

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accreditations. The bill would require the fees to be deposited into the Lead-Related Construction Fund. The bill would require the department to adopt emergency regulations to implement these provisions, as specified.

Existing law requires certain persons engaged in lead construction work to have a certificate. A violation of that provision is a crime.

This bill, on and after January 1, 2024, would further require a firm, as defined, and at least one person onsite and employed by a firm, doing renovation, repair, or painting work that will disturb lead-based paint or presumed lead-based paint, as defined, to have a certificate. The bill would also make a violation of these provisions punishable by imprisonment in the county jail, by a fine of not more than \$37,500, or by both that imprisonment and fine. *a civil or criminal penalty, as specified.* By creating a new crime, the bill would impose a state-mandated local program.

This bill, on or before July 1, 2023, would require the department and the Contractors State License Board to collaborate to develop and implement an education and outreach program for every person and firm that is required to have a certificate, to include information on who is required to have a certificate and the requirements and process to obtain a certificate.

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.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 105250.5 is added to the Health and
- 2 Safety Code, to read:
- 3 105250.5. (a) The department shall review and amend its
- 4 regulations governing lead-related construction work, including
- 5 training and certification for workers and accreditation for trainers
- 6 in lead-safe work practices to comply with regulations adopted
- 7 pursuant to Sections 105250 and 124160 and the United States
- 8 Environmental Protection Agency's Lead Renovation, Repair and
- 9 Painting Rule (40 C.F.R. 745).

1 (b) The amended regulations adopted pursuant to subdivision
 2 (a) shall include, but not be limited to, requiring a copy of the
 3 worker and firm certification to be provided before the start of the
 4 job to the prime contractor or other employers on the site and to
 5 be posted on the job site beside the Division of Occupational Safety
 6 and Health Lead-Work Pre-Job Notification required by
 7 subdivision (p) of Section 1532.1 of Title 8 of the California Code
 8 of Regulations.

9 (c) Consistent with Section 105250, the department shall also
 10 adopt regulations establishing fees for the certifications or
 11 accreditations established pursuant to this section. The fees
 12 imposed under this section shall be established at levels not
 13 exceeding an amount sufficient to cover the costs of developing,
 14 administering, and enforcing the standards and regulations adopted
 15 under this section. The fees established pursuant to this section
 16 shall be deposited into the Lead-Related Construction Fund,
 17 established pursuant to Section 105250.

18 (d) (1) Notwithstanding the rulemaking provisions of the
 19 Administrative Procedure Act (Chapter 3.5 (commencing with
 20 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
 21 Code), the department may implement and administer this section
 22 through all-county letters or similar instructions from the
 23 department until regulations are adopted. The department shall
 24 adopt emergency regulations implementing these provisions. The
 25 department may readopt any emergency regulation authorized by
 26 this section that is the same as, or substantially equivalent to, an
 27 emergency regulation previously adopted under this section.

28 (2) The initial adoption of emergency regulations pursuant to
 29 this section and one readoption of emergency regulations shall be
 30 deemed an emergency and necessary for the immediate
 31 preservation of the public peace, health, safety, or general welfare.
 32 Initial emergency regulations and the one readoption of emergency
 33 regulations authorized by this section shall be exempt from review
 34 by the Office of Administrative Law. The initial emergency
 35 regulations and the one readoption of emergency regulations
 36 authorized by this section shall be submitted to the Office of
 37 Administrative Law for filing with the Secretary of State, and each
 38 shall remain in effect for no more than 180 days, by which time
 39 final regulations may be adopted.

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1 SEC. 2. Section 105254 of the Health and Safety Code is
2 amended to read:

3 105254. (a) The following persons engaged in the following
4 types of lead construction work shall have a certificate:

5 (1) Persons who receive pay for doing lead hazard evaluations,
6 including, but not limited to, lead inspections, lead risk
7 assessments, or lead clearance inspections, in residential or public
8 buildings.

9 (2) Persons preparing or designing plans for the abatement of
10 lead-based paint or lead hazards from residential or public
11 buildings.

12 (3) Persons doing work designed to reduce or eliminate lead
13 hazards on a permanent basis (to last 20 years or more) from
14 residential or public buildings.

15 (4) Persons inspecting for lead or doing lead abatement activities
16 in a public elementary school, preschool, or day care center.

17 (5) Persons doing lead-related construction work in a residential
18 or public building that will expose a person to airborne lead at or
19 above the eight-hour permissible exposure limit of 50 micrograms
20 per cubic meter.

21 (b) On and after January 1, 2024, the following shall also have
22 a certificate: a firm, as defined by Section 745.83 of Title 40 of
23 the Code of Federal Regulations, and at least one person onsite
24 and employed by a firm, doing renovation, repair, or painting work
25 for compensation in a residential or public building that will disturb
26 lead-based paint, as defined in Section 35033 of Title 17 of the
27 California Code of Regulations, or presumed lead-based paint, as
28 defined in Section 35043 of Title 17 of the California Code of
29 Regulations, which regulations were adopted by the State
30 Department of Public Health pursuant to Sections 105250 and
31 124160.

32 (c) Persons performing routine maintenance and repairs in
33 housing are not required to have a certificate if they are not
34 performing any of the activities listed under subdivisions (a) and
35 (b).

36 (d) The department may adopt regulations to modify certification
37 requirements for persons engaged in lead construction work based
38 on changes to state or federal law, or programmatic need.

39 (e) The department or any local enforcement agency may,
40 consistent with Section 17972, enter, inspect, and photograph any

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1 premises where abatement, a lead hazard evaluation, or renovation,
2 repair, or painting is being conducted or has been ordered, enter
3 the place of business of any person who conducts abatement, lead
4 hazard evaluations, or renovation, repair, or painting, and inspect
5 and copy any business record of any person who conducts
6 abatement, lead hazard evaluation, or renovation, repair, or painting
7 to determine whether the person is complying with this section.

8 (f) (1) A violation of subdivision (a) shall be punishable by
9 ~~imprisonment for not more than six months in the county jail, a~~
10 ~~fine of not more than one thousand dollars (\$1,000), or by both~~
11 ~~that imprisonment and fine. a civil penalty of no less than five~~
12 ~~thousand dollars (\$5,000), per violation per day.~~

13 (2) A violation of subdivision (b) shall be punishable by
14 ~~imprisonment for not more than six months in the county jail, by~~
15 ~~a fine of not more than thirty-seven thousand five hundred dollars~~
16 ~~(\$37,500), or by both that imprisonment and fine. a civil penalty~~
17 ~~of no less than ten thousand dollars (\$10,000), per violation per~~
18 ~~day.~~

19 (3) *Each subsequent violation of this section may be subject to*
20 *imposition of a civil penalty of no more than thirty-seven thousand*
21 *five hundred dollars (\$37,500) per violation per day or punishable*
22 *by imprisonment for no more than six months in the county jail, a*
23 *fine of no more than one thousand dollars (\$1,000), or by both*
24 *that imprisonment and fine. In assessing the amount of the criminal*
25 *or civil penalty, any one or more of the relevant circumstances*
26 *shall be considered: the nature and seriousness of the misconduct,*
27 *the number of violations, the persistence of the misconduct, the*
28 *length of time over which the misconduct occurred, the willfulness*
29 *of the misconduct, and the violator’s assets, liabilities, net worth,*
30 *and other relevant factors.*

31 (g) The State Department of Public Health and the Contractors
32 State License Board shall collaborate to develop and implement
33 an education and outreach program for every person and firm that
34 is required to have a certificate pursuant to subdivisions (a) and
35 (b). The program shall include information on who is required to
36 have a certificate and the requirements and process to obtain a
37 certificate. The program shall be implemented on or before July
38 1, 2023.

39 SEC. 3. No reimbursement is required by this act pursuant to
40 Section 6 of Article XIII B of the California Constitution because

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1 the only costs that may be incurred by a local agency or school
2 district will be incurred because this act creates a new crime or
3 infraction, eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section 17556 of
5 the Government Code, or changes the definition of a crime within
6 the meaning of Section 6 of Article XIII B of the California
7 Constitution.

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