

# Senate Bill 886

Sponsored by Senator DEMBROW, Representative KENY-GUYER; Senators GELSER, MONNES ANDERSON, PROZANSKI, RILEY, TAYLOR, Representatives DOHERTY, GORSEK, GREENLICK, HERNANDEZ, HOLVEY, LININGER, MALSTROM, NOSSE, PILUSO, POWER, SANCHEZ

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires Department of Education, in consultation with Oregon Health Authority, to disseminate information, processes and model plans regarding school testing for elevated levels of toxics. Requires schools to adopt testing plan and schedule and provide test results.

Establishes Healthy School Facilities Fund. Appropriates fund moneys to department for purpose of providing schools with financial assistance related to testing for toxics.

Requires initial testing for certain toxics on or before January 1, 2022.

## A BILL FOR AN ACT

1  
2 Relating to toxics in schools; creating new provisions; and amending ORS 332.166 and 332.167.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. The Healthy School Facilities Fund is established in the State Treasury,**  
5 **separate and distinct from the General Fund. Interest earned by the Healthy School Facili-**  
6 **ties Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to**  
7 **the Department of Education for the purpose of providing financial assistance to schools in**  
8 **carrying out testing and reporting as provided under ORS 332.166 and 332.167 and in under-**  
9 **taking mitigation action as warranted by the results of testing carried out under ORS 332.166**  
10 **and 332.167.**

11 **SECTION 2. As used in ORS 332.166 and 332.167, "toxics" means:**

12 **(1) Asbestos;**

13 **(2) Carbon monoxide;**

14 **(3) Lead;**

15 **(4) Mold;**

16 **(5) Radon; and**

17 **(6) Any other substance that the Department of Education determines by rule is likely**  
18 **to be present in a school and, if present at elevated levels, would present an undue danger**  
19 **to school occupants.**

20 **SECTION 3. ORS 332.166 is amended to read:**

21 332.166. (1) The **Department of Education, in cooperation with the** Oregon Health  
22 Authority, shall disseminate information related to elevated levels of [*radon*] **toxics** to each school  
23 district in this state. Information disseminated under this section must include:

24 (a) Information about [*radon*] **toxics** and the dangers associated with elevated levels of [*radon*]  
25 **toxics;**

26 (b) [*The level of radon*] **Any level for a toxic** at which the United States Environmental Pro-  
27 tection Agency recommends schools take action to reduce **the** indoor [*radon*] concentrations **of the**  
28 **toxic;**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (c) Processes by which schools may be tested for elevated levels of [radon] **toxics**; and

2 (d) Model plans developed pursuant to ORS 332.167.

3 (2) Dissemination of information under subsection (1)(c) of this section must take into account  
4 **any** industry standards for testing buildings for elevated levels of [radon] **toxics**.

5 (3) [*Upon request, the State Board of Education shall assist the authority in disseminating the in-*  
6 *formation described in this section.*] Dissemination of information may occur by any reasonable  
7 means, including posting the information on a website maintained by the **department or the** au-  
8 thority [*or the Department of Education*] and providing each school district with instructions on how  
9 to access the information.

10 **SECTION 4.** ORS 332.167 is amended to read:

11 332.167. (1) A school district shall develop a plan for testing schools for elevated levels of  
12 [radon] **toxics**. At a minimum, plans developed under this subsection must:

13 (a) Provide for [*the testing of radon*] **all toxics to be tested for** in any frequently occupied room  
14 [*in contact with the ground or located above a basement or a crawlspace*] **in which the toxics are**  
15 **likely to be present**; and

16 (b) Provide for [*the testing of radon*] **all toxics to be tested for** in a school at least once every  
17 10 years.

18 (2) The **Department of Education, in consultation with the** Oregon Health Authority, shall  
19 develop model plans for school districts to follow in implementing the requirements of this section.  
20 The **department and the** authority shall seek the input of the Oregon School Boards Association  
21 in developing the model plans. **To the extent consistent with the protection of school occu-**  
22 **pants, the model plans must allow flexibility in testing and reporting schedules sufficient for**  
23 **a school to conduct testing and reporting on a schedule that minimizes disruption, allows**  
24 **more efficient use of resources or otherwise reduces the burden on the school.**

25 (3) Results of a test performed under this section must be:

26 (a) Provided to the district school board;

27 (b) Provided to the [*authority*] **department** in a manner prescribed by the [*authority*] **depart-**  
28 **ment**; and

29 (c) Made readily available to parents, guardians, students, school employees, school volunteers,  
30 administrators and community representatives at the school's office or school district's office or on  
31 a website for the school or school district.

32 (4) Information provided and made available under subsection (3) of this section must [*include*  
33 *the level of radon*] **identify the level, if any, of each toxic detected and include any level for**  
34 **that toxic** at which the United States Environmental Protection Agency recommends schools take  
35 action to reduce **the** indoor [radon] concentrations **of the toxic**.

36 **SECTION 5.** (1) **The Department of Education, in cooperation with the Oregon Health**  
37 **Authority, shall disseminate information to school districts concerning toxics described in**  
38 **section 2 (1) to (4) of this 2017 Act no later than January 1, 2019.**

39 (2) **A school district shall submit a plan developed under ORS 332.167 for the testing of**  
40 **toxics described in section 2 (1) to (4) of this 2017 Act to the department on or before Janu-**  
41 **ary 1, 2020.**

42 (3) **Notwithstanding ORS 332.167 (1)(b), plans described in subsection (2) of this section**  
43 **shall require initial testing of schools for toxics described in section 2 (1) to (4) of this 2017**  
44 **Act on or before January 1, 2022.**

45 (4) **Subsection (3) of this section does not apply to a school with regard to a toxic for**

1 which the school conducted testing in accordance with industry standards on or after Janu-  
2 ary 1, 2014, and before January 1, 2019. A school must submit the results of testing described  
3 in this subsection to the department and the district school board and make the results  
4 readily available to parents, guardians, students, school employees, school volunteers, ad-  
5 ministrators and community representatives at the school's office or school district's office  
6 or on a website for the school or school district.

7 (5) No later than January 1, 2019, the authority shall provide the department with a copy  
8 of any school plans, testing schedules and reported test results for radon received by the  
9 authority prior to January 1, 2019.

10 SECTION 6. The amendments to ORS 332.166 and 332.167 by sections 3 and 4 of this 2017  
11 Act do not invalidate any information, processes or model plans for radon testing developed  
12 by the Oregon Health Authority prior to the effective date of this 2017 Act or invalidate any  
13 school testing plan or schedule developed in accordance with the information, processes or  
14 model plans. For purposes of ORS 332.166 and 332.167, the information, processes and model  
15 plans for radon testing developed by the authority prior to the effective date of this 2017 Act  
16 shall be treated as information, processes and model plans developed by the Department of  
17 Education until amended, superseded or repealed by the department.

18