

ASSEMBLY, No. 1262

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman GARY S. SCHAER

District 36 (Bergen and Passaic)

Assemblywoman BRITNEE N. TIMBERLAKE

District 34 (Essex and Passaic)

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Co-Sponsored by:

Assemblyman Benson, Assemblywomen Sumter and Chaparro

SYNOPSIS

Requires public water systems to develop lead service line inventories and replace lead service lines.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 12/7/2020)

1 **AN ACT** concerning the replacement of lead service lines and
2 supplementing Title 58 of the Revised Statutes.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. As used in this act:

8 “Board” means the Board of Public Utilities or any successor
9 agency.

10 “Department” means the Department of Environmental
11 Protection.

12 “Director” means the Director of Local Government Services in
13 the Department of Community Affairs.

14 “Government-owned public water system” means a public water
15 system established, pursuant to law, by a political subdivision of
16 this State or any agency or instrumentality of one or more thereof.

17 “Investor-owned public water system” means a public water
18 system that is a public utility as defined in R.S.48:2-13 and subject
19 to the jurisdiction of the board pursuant to Title 48 of the Revised
20 Statutes.

21 “Lead service line” means a service line that is found to contain
22 lead.

23 “Public water system” shall have the same meaning as defined in
24 section 3 of P.L.1977, c.224 (C.58:12A-3). “Public water system”
25 shall not include a water company not under the jurisdiction of the
26 board as provided in section 1 of P.L.1997, c.203 (C.48:2-13.2).

27 “Service line” means the pipe, tubing, and fittings connecting a
28 water main to a building that serves a customer of a public water
29 system.

30

31 2. a. No later than 18 months after the effective date of this
32 act, each public water system in the State shall compile and submit
33 to the department an inventory of all known lead service lines in use
34 in its distribution system. In compiling the lead service line
35 inventory pursuant to this section, the public water system shall
36 make a reasonable effort to determine the existence or absence of a
37 lead service line at each service connection in its distribution
38 system. The department may require a public water system to
39 update its lead service line inventory periodically until the
40 department determines that the lead service line inventory is
41 complete.

42 b. No later than 90 days after the effective date of this act, the
43 department shall develop and publish on its Internet website a
44 guidance document to assist public water systems in compiling the
45 lead service line inventories required pursuant to this section. The
46 guidance document shall reference industry best practices and
47 standards for identifying lead service lines.

1 c. A public water system shall make its lead service line
2 inventory available upon request and at no cost to appropriate State
3 and local government officials served by the public water system.
4

5 3. a. No later than 90 days after submission of its lead service
6 line inventory pursuant to section 2 of this act, and periodically
7 thereafter as the department may require, a public water system
8 shall send to each customer and, if a landlord-tenant relationship is
9 known, to each head of household tenant of a property that is served
10 by a lead service line, a notice of the existence of a lead service line
11 serving the customer's property. The notice shall be in a form and
12 manner as determined by the department, and shall include, but not
13 be limited to, information about the sources of lead in drinking
14 water, including lead service lines and household plumbing, the
15 health effects of lead exposure, and steps customers can take to
16 reduce their exposure to lead in drinking water.

17 b. If a public water system serves a municipality in which the
18 primary language of 10 percent or more of the residents is a
19 language other than English, the public water system shall provide
20 the notice required pursuant to subsection a. of this section in both
21 English and that other language to residents of that municipality.
22

23 4. a. If a public water system determines that a customer in its
24 distribution system is served by a lead service line, the public water
25 system shall replace the entire lead service line. A public water
26 system shall not, under any circumstances, conduct a partial lead
27 service line replacement.

28 b. A public water system that undertakes the replacement of a
29 lead service line pursuant to this section shall first provide notice of
30 the planned replacement to the owner of the property that is served
31 by the lead service line. The owner shall provide the public water
32 system with reasonable access to the owner's property to undertake
33 the replacement in accordance with any rules and regulations
34 adopted by the department.

35 c. To assist a public water system finance or reduce its lead
36 service line replacement costs, and before recouping those costs
37 from its customers pursuant to sections 5 and 6 of this act, a public
38 water system shall make a reasonable effort to obtain grants, low
39 interest loans, or other financial assistance that may be available
40 from the State or federal government, including, but not limited to,
41 the New Jersey Infrastructure Bank created pursuant to section 4 of
42 P.L.1985, c.334 (C.58:11B-4). The department shall publish
43 information on its Internet website about the availability of that
44 financial assistance.
45

46 5. a. Twenty-five percent of the costs of undertaking the
47 replacement of lead service lines pursuant to this act shall be borne
48 by all of the customers of an investor-owned public water system

1 and those costs may be included in the investor-owned public water
2 system's rate base or otherwise be recoverable from customers in a
3 manner determined by the board. The remaining 75 percent of the
4 costs shall come from existing resources of an investor-owned
5 public water system and the board shall not allow as an operating
6 expense the remaining 75 percent of those costs incurred by an
7 investor-owned public water system.

8 b. Before an investor-owned public water system may recoup
9 the cost of lead service line replacement from its customers
10 pursuant to subsection a. of this section, the board shall, in a
11 manner determined by the board in consultation with the
12 department, first approve the investor-owned public water system's
13 plan for the replacement of the lead service lines connected to the
14 investor-owned public water system's distribution system. The
15 investor-owned public water system's plan shall address the
16 following:

17 (1) the availability of grants or low interest loans and how the
18 investor-owned public water system plans to use available grants or
19 low interest loans to help the investor-owned public water system
20 finance or reduce the lead service line replacement costs;

21 (2) a description of how the replacement of lead service lines
22 will be accomplished in conjunction with other investor-owned
23 public water system distribution system replacement projects;

24 (3) the estimated savings in costs per lead service line that
25 would be realized by the investor-owned public water system
26 replacing a customer-owned portion of a lead service line versus the
27 anticipated replacement costs if a customer was required to replace
28 the customer-owned portion of a lead service line;

29 (4) the investor-owned public water system's proposal for
30 addressing the costs of site restoration work necessitated by
31 structures or improvements located within the investor-owned
32 public water system's distribution system used to connect with the
33 customer-owned portion of lead service lines;

34 (5) the investor-owned public water system's proposal for:

35 (a) communicating with a customer the investor-owned public
36 water system's plan to replace the lead service line; and

37 (b) documenting the customer's consent or lack of consent to
38 have the investor-owned public water system replace the lead
39 service line; and

40 (6) the estimated total cost to replace all customer-owned
41 portions of lead service lines within or connected to the investor-
42 owned public water system's distribution system and an estimated
43 range for the annual cost to be incurred by the investor-owned
44 public water system under the investor-owned public water system's
45 lead service line replacement plan.

46
47 6. a. Twenty-five percent of the costs of undertaking the
48 replacement of lead service lines pursuant to this act shall be borne

1 by all of the customers of a government-owned public water system
2 and those costs may be assessed to customers of a government-
3 owned public water system in a manner determined by the director.
4 The remaining 75 percent of the costs shall come from existing
5 resources of a government-owned public water system and the
6 director shall not allow as an operating expense the remaining 75
7 percent of those costs incurred by a government-owned public
8 water system

9 b. Before a government-owned public water system may
10 recoup the cost of lead service line replacement from its customers
11 pursuant to subsection a. of this section, the director shall, in a
12 manner determined by the director in consultation with the
13 department, first approve the government-owned public water
14 system's plan for the replacement of the lead service lines connected
15 to the government-owned public water system's distribution system.
16 The government-owned public water system's plan shall address the
17 following:

18 (1) the availability of grants or low interest loans and how the
19 government-owned public water system plans to use available
20 grants or low interest loans to help the government-owned public
21 water system finance or reduce the lead service line replacement
22 costs;

23 (2) a description of how the replacement of lead service lines
24 will be accomplished in conjunction with other government-owned
25 public water system distribution system replacement projects;

26 (3) the estimated savings in costs per lead service line that
27 would be realized by the government-owned public water system
28 replacing a customer-owned portion of a lead service line versus the
29 anticipated replacement costs if a customer was required to replace
30 the customer-owned portion of a lead service line;

31 (4) the government-owned public water system's proposal for
32 addressing the costs of site restoration work necessitated by
33 structures or improvements located within the government-owned
34 public water system's distribution system used to connect with the
35 customer-owned portion of lead service lines;

36 (5) the government-owned public water system's proposal for:

37 (a) communicating with a customer the government-owned
38 public water system's plan to replace the lead service line; and

39 (b) documenting the customer's consent or lack of consent to
40 have the government-owned public water system replace the lead
41 service line; and

42 (6) the estimated total cost to replace all customer-owned
43 portions of lead service lines within or connected to the
44 government-owned public water system's distribution system and an
45 estimated range for the annual cost to be incurred by the
46 government-owned public water system under the government-
47 owned public water system's lead service line replacement plan.

1 7. a. No later than one year after submission of the lead
2 service line inventory pursuant to subsection a. of section 2 of this
3 act, each public water system shall submit to the department a
4 schedule for the replacement of known lead service lines in use in
5 its distribution system. The schedule shall include a range for the
6 number of lead service lines estimated to be replaced annually and a
7 range for the total feet of lead service lines estimated to be replaced
8 annually. The schedule shall provide that at least 10 percent all
9 known lead service lines as of the date of that submission shall be
10 replaced by the public water system annually and that all known
11 lead service lines shall be replaced by the public water system
12 within 10 years from the date of that submission.

13 b. No later than 30 days after submission of a lead service line
14 replacement schedule pursuant to subsection a. of this section, the
15 department shall approve or deny the schedule, based on
16 requirements or standards it establishes pursuant to subsection a. of
17 this section. If the department fails to act within 30 days after
18 submission of a schedule, the schedule shall be deemed approved.
19 If the department denies a schedule, it shall provide a written
20 explanation for why the schedule was denied and propose a revised
21 schedule to the public water system. If a public water system
22 rejects the department's proposed revised schedule, the public water
23 system and the department shall develop a compromise schedule
24 within 30 days.

25 c. No later than December 31 of each year, a public water
26 system shall submit to the department and publish on its Internet
27 website a report, in a form and manner as may be determined by the
28 department, detailing the public water system's progress in
29 replacing lead service lines pursuant to this act. Once the
30 department determines that a public water system has completed the
31 replacement of all lead service lines within the public water
32 system's service area, the public water system shall no longer be
33 required to submit the report.

34

35 8. a. The Department of Environmental Protection may adopt,
36 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
37 (C.52:14B-1 et seq.), any rules and regulations necessary to
38 implement sections 2, 3, 4, and 7 of this act.

39 b. The Board of Public Utilities may adopt, pursuant to the
40 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
41 seq.), any rules and regulations necessary to implement section 5 of
42 this act.

43 c. The Department of Community Affairs may adopt, pursuant
44 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
45 1 et seq.), any rules and regulations necessary to implement section
46 6 of this act.

47

48 9. This act shall take effect immediately.

STATEMENT

This bill requires a public water system (PWS) to develop a lead service line inventory and schedule for the replacement of lead service lines in its distribution system. Current law defines a PWS as a system providing the public with potable water if the system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.

Specifically, within 18 months after the effective date of the bill, each PWS in the State is required to compile and submit to the Department of Environmental Protection (DEP) an inventory of known lead service lines in use in its distribution system. In compiling the lead service line inventory, the PWS is required to make a reasonable effort to determine the existence or absence of a lead service line at each service connection in the distribution system. The DEP is to publish guidance on its Internet website to assist a PWS in compiling its lead service line inventory. A PWS is required to make its inventory available upon request and at no cost to State and local government officials served by the PWS.

Within 90 days after submission of its lead service line inventory to the DEP, the bill requires a PWS to send to each customer and, if a landlord-tenant relationship is known, to each head of household tenant of a property that is served by a lead service line, a notice of the existence of the lead service line serving the customer's property. The notice is to include information about the sources of lead in drinking water, including lead service lines and household plumbing, the health effects of lead exposure, and steps customers can take to reduce their exposure to lead in drinking water.

Under the bill, if a PWS determines that a customer in its distribution system is served by a lead service line, the PWS is to be required to replace the entire lead service line. A PWS is prohibited from conducting a partial lead service line replacement. A PWS that undertakes the replacement of a lead service line is to first provide notice of the planned replacement to the property owner served by a lead service line. The property owner is to provide the PWS with reasonable access to the property to undertake that replacement. To assist a PWS finance or reduce its lead service line replacement costs and before recouping those costs from its customers, the bill requires a PWS to make a reasonable effort to obtain grants, low interest loans, or other financial assistance that may be available from the State or federal government, including, but not limited to, the New Jersey Infrastructure Bank.

The bill allows a PWS to assess to all of its customers 25 percent of the costs of replacing lead service lines and establishes a process by which a PWS is to submit a cost reimbursement plan to either the Board of Public Utilities for a private utility, or the Director of Local Government Services in the Department of Community Affairs for a government utility, prior to plan approval. The

1 remaining 75 percent of the costs are to come from existing
2 resources of the PWS. The PWS's plan is to address:

3 1) the availability of grants or low interest loans and how the
4 PWS plans to use that financing to help the PWS finance or reduce
5 the lead service line replacement costs;

6 2) a description of how the replacement of lead service lines
7 will be accomplished in conjunction with other PWS distribution
8 system replacement projects;

9 3) the estimated savings in costs per lead service line that
10 would be realized by the PWS replacing a customer-owned portion
11 of a lead service line versus the anticipated replacement costs if a
12 customer was required to replace the customer-owned portion of a
13 lead service line;

14 4) the PWS's proposal for addressing the costs of site
15 restoration work necessitated by structures or improvements located
16 within the PWS's distribution system used to connect with the
17 customer-owned portion of lead service lines;

18 5) the PWS's proposal for communicating with a customer the
19 PWS's plan to replace the lead service line and documenting the
20 customer's consent or lack of consent to have the PWS replace the
21 customer-owned portion of a lead service line; and

22 6) the estimated total cost to replace all customer-owned
23 portions of lead service lines within or connected to the PWS's
24 distribution system and an estimated range for the annual cost to be
25 incurred by the PWS under their lead service line replacement plan.

26 Under the bill, within one year after submission of its lead
27 service line inventory, each PWS is required to submit to the DEP a
28 schedule for the replacement of known lead service lines in use in
29 its distribution system for the DEP's approval, provided that at least
30 10 percent all known lead service lines are to be replaced by the
31 PWS annually and that all known lead service lines are to be
32 replaced by the PWS within 10 years from the date of that
33 submission. Further, no later than December 31 of each year, a
34 PWS is required to submit to the DEP and publish on its Internet
35 website a report detailing the PWS's progress in replacing lead
36 service lines as required under the bill. Once the DEP determines
37 that a PWS has completed the replacement of all lead service lines
38 within the PWS's service area, the PWS is no longer required to
39 submit the report.