

SENATE, No. 253

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

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District 14 (Mercer and Middlesex)

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: 1/27/2020)

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 act,
32 each public water system in the State shall compile and submit to the
33 department an inventory of all known lead service lines in use in its
34 distribution system. The department may prescribe data management
35 means and methods to provide for the receipt of uniform submissions
36 by public water systems. In compiling the lead service line inventory
37 pursuant to this section, the public water system shall make a
38 reasonable effort, which may be achieved through statistical analysis
39 to determine the existence or absence of a lead service line at each
40 service connection in its distribution system. The department may
41 require a public water system to update its lead service line inventory
42 periodically until the department determines that the lead service line
43 inventory is complete.

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

1 guidance document shall reference industry best practices and
2 standards for identifying lead service lines.

3 c. A public water system shall make its lead service line
4 inventory available upon request and at no cost to appropriate State
5 and local government officials served by the public water system, and
6 shall publish its lead service line inventory on its Internet website.

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

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

25
26 4. a. If a public water system determines that a customer in its
27 distribution system is served by a lead service line, the public water
28 system shall replace the entire lead service line. A public water
29 system shall not, except upon the department's approval for
30 circumstances in which there are emergent public health risks, conduct
31 a partial lead service line replacement.

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

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

1 5. a. Twenty-five percent of the costs of undertaking the
2 replacement of lead service lines pursuant to this act shall be borne
3 by all of the customers of an investor-owned public water system
4 and those costs may be included in the investor-owned public water
5 system's rate base or otherwise be recoverable from customers in a
6 manner determined by the board. The remaining 75 percent of the
7 costs shall come from existing resources of an investor-owned
8 public water system and the board shall not allow as an operating
9 expense the remaining 75 percent of those costs incurred by an
10 investor-owned public water system.

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

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

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

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

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

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

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

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

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

1 6. a. Twenty-five percent of the costs of undertaking the
2 replacement of lead service lines pursuant to this act shall be borne
3 by all of the customers of a government-owned public water system
4 and those costs may be assessed to customers of a government-
5 owned public water system in a manner determined by the director.
6 The remaining 75 percent of the costs shall come from existing
7 resources of a government-owned public water system and the
8 director shall not allow as an operating expense the remaining 75
9 percent of those costs incurred by a government-owned public
10 water system

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

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

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

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

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

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

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

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

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

1 government-owned public water system under the government-
2 owned public water system's lead service line replacement plan.

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4 7. a. No later than one year after submission of the lead service
5 line inventory pursuant to subsection a. of section 2 of this act, each
6 public water system shall submit to the department a schedule for the
7 replacement of known lead service lines in use in its distribution
8 system. The schedule shall include a range for the number of lead
9 service lines estimated to be replaced annually and a range for the total
10 feet of lead service lines estimated to be replaced annually. The
11 schedule shall provide that at least 10 percent of all known lead service
12 lines as of the date of that submission shall be replaced by the public
13 water system annually and that all known lead service lines shall be
14 replaced by the public water system within 10 years from the date of
15 that submission; provided, however, that a public water system may
16 apply to the department for a reasonable extension of these deadlines if
17 the public water system adequately demonstrates that it is warranted
18 due to the need to prioritize a non-lead public health risk within the
19 system.

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

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

39

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

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

1 c. The Department of Community Affairs may adopt, pursuant
2 to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-
3 1 et seq.), any rules and regulations necessary to implement section
4 6 of this act.

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6 9. This act shall take effect immediately.

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9 STATEMENT

10
11 This bill requires a public water system (PWS) to develop a lead
12 service line inventory and schedule for the replacement of lead
13 service lines in its distribution system. Current law defines a PWS
14 as a system providing the public with potable water if the system
15 has at least 15 service connections or regularly serves an average of
16 at least 25 individuals daily at least 60 days out of the year.

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

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

39 Under the bill, if a PWS determines that a customer in its
40 distribution system is served by a lead service line, the PWS is to be
41 required to replace the entire lead service line. A PWS is prohibited
42 from conducting a partial lead service line replacement, except
43 upon the DEP’s approval for a situation in which there are emergent
44 public health risks. A PWS that undertakes the replacement of a
45 lead service line is to first provide notice of the planned
46 replacement to the property owner served by a lead service line.
47 The property owner and any head of household tenant is required to
48 provide the PWS with reasonable access to the property to

1 undertake that replacement. To assist a PWS finance or reduce its
2 lead service line replacement costs and before recouping those costs
3 from its customers, the bill requires a PWS to make a reasonable
4 effort to obtain grants, low interest loans, or other financial
5 assistance that may be available from the State or federal
6 government, including, but not limited to, the New Jersey
7 Infrastructure Bank.

8 The bill allows a PWS to assess to all of its customers 25 percent
9 of the costs of replacing lead service lines and establishes a process
10 by which a PWS is to submit a cost reimbursement plan to either
11 the Board of Public Utilities for a private utility, or the Director of
12 Local Government Services in the Department of Community
13 Affairs for a government utility, prior to plan approval. The
14 remaining 75 percent of the costs are to come from existing
15 resources of the PWS. The PWS's plan is to address:

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

19 2) a description of how the replacement of lead service lines
20 will be accomplished in conjunction with other PWS distribution
21 system replacement projects;

22 3) the estimated savings in costs per lead service line that
23 would be realized by the PWS replacing a customer-owned portion
24 of a lead service line versus the anticipated replacement costs if a
25 customer was required to replace the customer-owned portion of a
26 lead service line;

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

31 5) the PWS's proposal for communicating with a customer the
32 PWS's plan to replace the lead service line and documenting the
33 customer's consent or lack of consent to have the PWS replace the
34 customer-owned portion of a lead service line; and

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

39 Under the bill, within one year after submission of its lead
40 service line inventory, each PWS is required to submit to the DEP a
41 schedule for the replacement of known lead service lines in use in
42 its distribution system for the DEP's approval, provided that at least
43 10 percent of all known lead service lines are to be replaced by the
44 PWS annually and that all known lead service lines are to be
45 replaced by the PWS within 10 years from the date of that
46 submission, except that a PWS may apply to the DEP for a
47 reasonable extension of these deadlines if the PWS adequately
48 demonstrates that it is warranted due to the need to prioritize a non-

S253 SINGLETON, GREENSTEIN

9

1 lead public health risk within the system. Further, no later than
2 December 31 of each year, a PWS is required to submit to the DEP
3 and publish on its Internet website a report detailing the PWS's
4 progress in replacing lead service lines as required under the bill.
5 Once the DEP determines that a PWS has completed the
6 replacement of all lead service lines within the PWS's service area,
7 the PWS is no longer required to submit the report.