

[First Reprint]

SENATE, No. 253

STATE OF NEW JERSEY
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Sponsored by:

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District 7 (Burlington)

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SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Senate Community and Urban Affairs Committee on January 27, 2020, with amendments.



(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 ¹“Customer-owned lead service line” means that the portion of
11 the pipe, tubing, and fittings of a lead service line connecting a
12 water main to a building that serves a customer of a public water
13 system that is owned by the customer.¹

14 “Department” means the Department of Environmental
15 Protection.

16 “Director” means the Director of Local Government Services in
17 the Department of Community Affairs.

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

21 “Investor-owned public water system” means a public water
22 system that is a public utility as defined in R.S.48:2-13 and subject
23 to the jurisdiction of the board pursuant to Title 48 of the Revised
24 Statutes. ¹“Investor-owned public water system” shall not include a
25 water company not under the jurisdiction of the board as provided
26 in section 1 of P.L.1997, c.203 (C.48:2-13.2).¹

27 “Lead service line” means a service line that is found to contain
28 lead.

29 “Public water system” shall have the same meaning as defined in
30 section 3 of P.L.1977, c.224 (C.58:12A-3). ¹**["Public water**
31 **system” shall not include a water company not under the**
32 **jurisdiction of the board as provided in section 1 of P.L.1997, c.203**
33 **(C.48:2-13.2).] ¹**

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

37 ¹“Utility-owned lead service line” means that portion of the pipe,
38 tubing, and fittings of a lead service line connecting a water main to
39 a building that serves a customer of a public water system that is
40 owned by a government-owned public water system or an investor-
41 owned public water system.¹

42

43 2. a. ¹(1)¹ No later than ¹**[18 months]** 30 days¹ after the
44 effective date of this act, each public water system in the State shall
45 compile and submit to the department an inventory of all known ¹,

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SCU committee amendments adopted January 27, 2020.

1 at the time of the effective date,¹ lead service lines in use in its
2 distribution system ¹; and no later than 90 days after the effective
3 date of this act, each public water system in the State shall compile
4 and submit to the department a complete inventory of all lead
5 service lines in use in its distribution system. The department may
6 grant no more than two 30-day extensions of each of these
7 deadlines upon application of a public water system¹.

8 ¹(2)¹ The department may prescribe data management means and
9 methods to provide for the receipt of uniform submissions by public
10 water systems.

11 ¹(3)¹ In compiling the lead service line inventory pursuant to this
12 section, the public water system shall make a reasonable effort,
13 which may be achieved through statistical analysis to determine the
14 existence or absence of a lead service line at each service
15 connection in its distribution system.

16 ¹(4)¹ The department may require a public water system to
17 update its lead service line inventory periodically until the
18 department determines that the lead service line inventory is
19 complete.

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

26 c. A public water system shall make its lead service line
27 inventory available upon request and at no cost to appropriate State
28 and local government officials served by the public water system,
29 and shall publish its lead service line inventory on its Internet
30 website.

31 ¹d. The department shall create, maintain, and update, as
32 appropriate, a centralized online portal in the form of an Internet
33 website, for the purpose of collecting electronically a public water
34 system's initial and updated lead service line inventory as required
35 pursuant to paragraph (1) of subsection a. of this section.¹

36
37 3. a. No later than 90 days after submission of its ¹complete¹
38 lead service line inventory pursuant to section 2 of this act, and
39 periodically thereafter as the department may require, a public
40 water system shall send to each customer and, if a landlord-tenant
41 relationship is known, to both the landlord and each head of
42 household tenant of a property that is served by a lead service line,
43 a notice of the existence of a lead service line serving the
44 ¹customer's ¹customer's¹ property. The notice shall be in a form
45 and manner as determined by the department, and shall include, but
46 not be limited to, information about the sources of lead in drinking
47 water, including lead service lines and household plumbing, the

1 health effects of lead exposure, and steps customers can take to
2 reduce their exposure to lead in drinking water.

3 b. If a public water system serves a municipality in which the
4 primary language of 10 percent or more of the residents is a
5 language other than English, the public water system shall provide
6 the notice required pursuant to subsection a. of this section in both
7 English and that other language to residents of that municipality.
8

9 4. a. If a public water system determines that a customer in its
10 distribution system is served by a lead service line, the public water
11 system shall replace the entire lead service line. A public water
12 system shall not, except upon the department's approval for
13 circumstances in which there are emergent public health risks,
14 conduct a partial lead service line replacement.

15 b. A public water system that undertakes the replacement of a
16 lead service line pursuant to this section shall first provide notice of
17 the planned replacement to the owner of the property that is served
18 by the lead service line ¹and any head of household tenant no less
19 than 30 days prior to commencing the replacement¹. The owner ¹of
20 the property¹ and any head of household tenant shall provide the
21 public water system with reasonable access to the ¹**['owner' s]**
22 owner's¹ property to undertake the replacement in accordance with
23 any rules and regulations adopted by the department.

24 c. To assist a public water system finance or reduce its lead
25 service line replacement costs, and before recouping those costs
26 from its customers pursuant to sections 5 and 6 of this act, a public
27 water system shall make a reasonable effort to obtain grants, low
28 interest loans, or other financial assistance that may be available
29 from the State or federal government, including, but not limited to,
30 an application to the New Jersey Infrastructure Bank created
31 pursuant to section 4 of P.L.1985, c.334 (C.58:11B-4) or an
32 application for loans issued through the department. The
33 department shall publish information on its Internet website about
34 the availability of that financial assistance.
35

36 5. a. ¹**['Twenty-five percent of the']** (1) The¹ costs of
37 undertaking the replacement of ¹utility-owned¹ lead service lines
38 ¹**['pursuant to this act']**¹ shall be borne by all of the customers of an
39 investor-owned public water system and those ¹prudently incurred¹
40 costs may be included in the investor-owned public water system's
41 rate base or otherwise be recoverable from customers in a manner
42 determined by the board ¹, including the imposition of a board-
43 approved distribution system infrastructure charge or similar charge
44 on customers as authorized pursuant to any rule and regulation
45 promulgated by the board¹.

46 ¹(2) Forty percent of the costs of undertaking the replacement of
47 customer-owned lead service lines in an investor-owned public

1 water system shall be borne by all customers of an investor-owned
2 public water system in a manner determined by the board.¹ The
3 remaining ¹~~75~~ 60¹ percent of the costs shall come from existing
4 resources of an investor-owned public water system and the board
5 shall not allow as an operating expense the remaining ¹~~75~~ 60¹
6 percent of those costs incurred by an investor-owned public water
7 system.

8 ¹(3) Nothing in this section shall be construed to allow an
9 investor-owned public water system to recover property that is not
10 used and useful investor-owned public water system property in
11 rates.¹

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

21 (1) ¹an analysis of the investor-owned public water system's
22 costs and financing options for replacing lead service lines,
23 including the estimated cost of replacements, costs of debt service,
24 and impact on rates, and¹ the availability of grants or low interest
25 loans and how the investor-owned public water system plans to use
26 available grants or low interest loans to help the investor-owned
27 public water system finance or reduce the lead service line
28 replacement costs;

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

32 (3) the estimated savings in costs per lead service line that
33 would be realized by the investor-owned public water system
34 replacing a customer-owned portion of a lead service line versus the
35 anticipated replacement costs if a customer was required to replace
36 the customer-owned portion of a lead service line;

37 (4) the investor-owned public water system's proposal for
38 addressing the costs of site restoration work necessitated by
39 structures or improvements located within the investor-owned
40 public water system's distribution system used to connect with the
41 customer-owned portion of lead service lines;

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

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

45 (b) documenting the customer's consent or lack of consent to
46 have the investor-owned public water system replace the lead
47 service line; ¹~~and~~¹

1 (6) the estimated total cost to replace all customer-owned
2 portions of lead service lines within or connected to the investor-
3 owned public water system's distribution system and an estimated
4 range for the annual cost to be incurred by the investor-owned
5 public water system under the investor-owned public water system's
6 lead service line replacement plan ¹; and

7 (7) a plan for prioritizing the replacement of lead service lines
8 in structures occupied or used by vulnerable populations, including
9 but not limited to schools, daycare facilities, and hospitals.

10 c. In considering any petition from an investor-owned public
11 water system for a proposed rate increase in response to increased
12 costs incurred from lead service line replacements, the board shall
13 consider the cost impact of any rate increase imposed on customers
14 of that investor-owned public water system within the past 24
15 months of the date of the petition¹.

16
17 6. a. ¹~~Twenty-five percent of the~~ (1) ¹The costs of
18 undertaking the replacement of ¹utility-owned¹ lead service lines
19 ¹~~pursuant to this act~~¹ shall be borne by all of the customers of a
20 government-owned public water system and those costs may be
21 assessed to customers of a government-owned public water system
22 in a manner determined by the director.

23 ¹(2) Forty percent of the costs of undertaking the replacement of
24 customer-owned lead service lines in a government-owned public
25 water system shall be borne by all customers of a government-
26 owned public water system in a manner determined by the director.¹

27 The remaining ¹~~75~~ 60¹ percent of the costs shall come from
28 existing resources of a government-owned public water system and
29 the director shall not allow as an operating expense the remaining
30 ¹~~75~~ 60¹ percent of those costs incurred by a government-owned
31 public water system

32 b. Before a government-owned public water system may
33 recoup the cost of lead service line replacement from its customers
34 pursuant to subsection a. of this section, the director shall, in a
35 manner determined by the director in consultation with the
36 department, first approve the government-owned public water
37 system's plan for the replacement of the lead service lines connected
38 to the government-owned public water system's distribution system.
39 The government-owned public water system's plan shall address the
40 following:

41 (1) ¹an analysis of the government-owned public water system's
42 costs and financing options for replacing lead service lines,
43 including the estimated cost of replacements, costs of debt service,
44 and impact on rates, as well as¹ the availability of grants or low
45 interest loans and how the government-owned public water system
46 plans to use available grants or low interest loans to help the

1 government-owned public water system finance or reduce the lead
2 service line replacement costs;

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

6 (3) the estimated savings in costs per lead service line that
7 would be realized by the government-owned public water system
8 replacing a customer-owned portion of a lead service line versus the
9 anticipated replacement costs if a customer was required to replace
10 the customer-owned portion of a lead service line;

11 (4) the government-owned public water system's proposal for
12 addressing the costs of site restoration work necessitated by
13 structures or improvements located within the government-owned
14 public water system's distribution system used to connect with the
15 customer-owned portion of lead service lines;

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

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

19 (b) documenting the customer's consent or lack of consent to
20 have the government-owned public water system replace the lead
21 service line; ¹**[and]**¹

22 (6) the estimated total cost to replace all customer-owned
23 portions of lead service lines within or connected to the
24 government-owned public water system's distribution system and an
25 estimated range for the annual cost to be incurred by the
26 government-owned public water system under the government-
27 owned public water system's lead service line replacement plan ¹;
28 and

29 (7) a plan for prioritizing the replacement of lead service lines
30 in structures occupied or used by vulnerable populations, including
31 but not limited to schools, daycare facilities, and hospitals¹.

32

33 7. a. No later than one year after submission of the lead service
34 line inventory pursuant to subsection a. of section 2 of this act, each
35 public water system shall submit to the department a schedule for the
36 replacement of known lead service lines in use in its distribution
37 system. The schedule shall include a range for the number of lead
38 service lines estimated to be replaced annually and a range for the total
39 feet of lead service lines estimated to be replaced annually. The
40 schedule shall provide that at least 10 percent of all known lead service
41 lines as of the date of that submission shall be replaced by the public
42 water system annually and that all known lead service lines shall be
43 replaced by the public water system within 10 years from the date of
44 that submission; provided, however, that a public water system may
45 apply to the department for a reasonable extension of these deadlines if
46 the public water system adequately demonstrates that it is warranted
47 due to the need to prioritize a non-lead public health risk within the
48 system.

1 b. No later than 30 days after submission of a lead service line
2 replacement schedule pursuant to subsection a. of this section, the
3 department shall approve or deny the schedule, based on requirements
4 or standards it establishes pursuant to subsection a. of this section. If
5 the department fails to act within 30 days after submission of a
6 schedule, the schedule shall be deemed approved. If the department
7 denies a schedule, it shall provide a written explanation for why the
8 schedule was denied and propose a revised schedule to the public
9 water system. If a public water system rejects the department' s
10 proposed revised schedule, the public water system and the department
11 shall develop a compromise schedule within 30 days.

12 c. No later than December 31 of each year, a public water system
13 shall submit to the department and publish on its Internet website a
14 report, in a form and manner as may be determined by the department,
15 detailing the public water system' s progress in replacing lead service
16 lines pursuant to this act. Once the department determines that a
17 public water system has completed the replacement of all lead service
18 lines within the public water system' s service area, the public water
19 system shall no longer be required to submit the report.
20

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

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

29 c. The Department of Community Affairs may adopt, pursuant
30 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
31 1 et seq.), any rules and regulations necessary to implement section
32 6 of this act.
33

34 9. This act shall take effect immediately.