

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 3459

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 17, 2021

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3459 (1R), with committee amendments.

This bill would revise various public finance laws to remove existing restrictions on the ability of local governments and authorities to finance the costs of lead service line replacements. P.L.2018, c.114 authorized municipalities and affiliated public water purveyors to levy special assessments, and issue bonds, to replace certain lead-contaminated water service lines. However, the provisions of P.L.2018, c.114 apply only to service line replacement projects that are: (1) undertaken as environmental infrastructure projects, as defined under section 3 of P.L.1985, c.334 (C.58:11B-3); and (2) funded either by loans from the New Jersey Infrastructure Bank or by loans issued through the Department of Environmental Protection (DEP). This bill would remove these restrictions. The bill would also add a definition of "lead service line" to the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.). Specifically, the bill would define "lead service line" to mean a water supply connection that is made of, or lined with, a material containing lead, and which connects a water main to a building inlet. The definition expressly includes lead pigtails, goosenecks, and other lead fittings, regardless of the composition of the service line or other portions of the piping to which such piece is attached. A galvanized service line would also be considered to be a lead service line. The bill would specify, moreover, that a lead service line may be owned by the public community water system, by the property owner, or both. The bill would further clarify that P.L.2018, c.114 applies to the replacement of water service lines that connect publicly-owned water systems to residential, commercial, or institutional properties.

Additionally, the bill would extend to 30 years the period of time over which a municipality may allow a property owner to pay assessments attributable to the replacement of lead service lines. Current law allows assessments to be paid over the lesser of: the period of years for which the bonds were issued, or 20 years.

The bill would supplement the "Local Budget Law," N.J.S.40A:4-1 et seq., and the "Local Authorities Fiscal Control Law," P.L.1983, c.313 (C.40A:5A-1 et seq.), to require local governments that supply water to their residents and authorities to conduct a periodic study of the rates that they charge, and submit the study to the Director of the Division of Local Government Services in the Department of Community Affairs (DCA). The Local Finance Board in the DCA would be required to adopt the procedures, requirements, and frequency of the study. The bill would also authorize the Local Finance Board to hold hearings based on the study and to order the local government or authority to adjust its rates, or take such other action as the board deems appropriate to ensure the integrity of the water infrastructure operated by the local government or authority.

The bill would also amend the "Local Budget Law" to require local governments to include infrastructure improvements required under the "Water Quality Accountability Act," P.L.2017, c.133 (C.58:31-7) (WQAA) and the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) in the capital budget and statement of capital undertakings of the local government. If a budget fails to include the improvements, the bill would authorize the Director of the Division of Local Government Services to order the inclusion of the improvements, along with any revenues or appropriations necessary to fund them. Similarly, the bill would amend the "Local Authorities Fiscal Control Law" to require authorities to include improvements required under the WQAA and the "Water Pollution Control Act" in the authority's budget and would authorize the Director of the Division of Local Government Services to order their inclusion and a means of financing them.

Under the bill, whenever there is available an undesignated fund balance or unreserved retained earnings held by a municipal utilities authority that is being dissolved by a municipality, no more than five percent of the annual costs of operation of the authority could be appropriated by the municipality for uses not directly related to drinking water management, unless the Local Finance Board determines that the municipality has demonstrated a need for greater than five percent based on a showing of significant fiscal distress.

The bill would amend the "New Jersey Water Supply Public-Private Contracting Act," P.L.1995, c.101 (C.58:26-19 et al.), to require that any contract entered into pursuant to that law include provisions addressing the allocation of responsibility for compliance with the provisions of the WQAA. The bill would also require the Local Finance Board to verify that a contract includes the provisions, prior to giving its approval.

As amended and reported by the committee, this bill is identical to Assembly Bill No. 5407 (1R), which also was reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amendments clarify that P.L.2018, c.114 applies to the replacement of water service lines that connect publicly-owned water systems to residential, commercial, or institutional properties. The amendments also revise the definition of “lead service line.”

FISCAL IMPACT:

The Office of Legislative Services (OLS) determines that the bill will result in indeterminate increases to annual State and local government expenditures. Local governments that supply water to their residents will be required to conduct a periodic study of the rates that they charge and submit the study to the Director of the Division of Local Government Services in the Department of Community Affairs (DCA). The bill would authorize the Local Finance Board to hold hearings based on the study and to order the local government or authority to adjust its rates, or take such other action as the board deems appropriate. The increased oversight by the DCA may increase state costs, and local governments may have to adjust rates, which would have an indeterminate impact on their revenues.

The OLS determines that there will be a marginal increase to the Local Finance Board in the DCA to adopt the procedures, requirements, and frequency of the study required to be performed by local governments. The OLS determines this is a one-time cost that could be subsumed within existing duties.

Local governments are also required to include infrastructure improvements required under the Water Quality Accountability Act and Water Pollution Control Act in their capital budgets. Failure to do so would allow the Division of Local Government Services to order the inclusion along with any appropriations necessary to fund them. Local governments may incur additional costs to carry out these capital improvements while the DCA may experience costs related to ensuring that local governments include these improvements in their capital budgets.

The bill allows local governments to issue bonds for up to 30 years to finance lead service line replacements and also extends to 30 years the period of time over which a municipality may allow a property owner to pay assessments attributable to the replacement of lead service lines. Longer dated bonds will increase the expenditures of local governments choosing to use this financing method due to additional interest payments. They will also realize greater revenue from the related assessments used to pay for the capital improvements. Based on financial decisions made, these revenues may or may not offset the expenditure increases.