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

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

1. As used in this act:
   “Board” means the Board of Public Utilities or any successor agency.
   “Customer-owned lead service line” means that portion of the pipe, tubing, and fittings of a lead service line connecting a water main to a building that serves a customer of a public water system that is owned by the customer.
   “Department” means the Department of Environmental Protection.
   “Director” means the Director of Local Government Services in the Department of Community Affairs.
   “Government-owned public water system” means a public water system established, pursuant to law, by a political subdivision of this State or any agency or instrumentality of one or more thereof.
   “Investor-owned public water system” means a public water system that is a public utility as defined in R.S.48:2-13 and subject to the jurisdiction of the board pursuant to Title 48 of the Revised Statutes.
   “Investor-owned public water system” shall not include a water company not under the jurisdiction of the board as provided in section 1 of P.L.1997, c.203 (C.48:2-13.2).
   “Lead service line” means a service line that is found to contain lead.
   “Public water system” shall have the same meaning as defined in section 3 of P.L.1977, c.224 (C.58:12A-3).
   “Public water system” shall not include a water company not under the jurisdiction of the board as provided in section 1 of P.L.1997, c.203 (C.48:2-13.2).
   “Service line” means the pipe, tubing, and fittings connecting a water main to a building that serves a customer of a public water system.
   “Utility-owned lead service line” means that portion of the pipe, tubing, and fittings of a lead service line connecting a water main to a building that serves a customer of a public water system that is owned by a government-owned public water system or an investor-owned public water system.

2. a. No later than 18 months after the effective date of this act, each public water system in the State shall compile and submit to the department an inventory of all known lead service line.

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

The department may prescribe data management means and methods to provide for the receipt of uniform submissions by public water systems.

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

The department may require a public water system to update its lead service line inventory periodically until the department determines that the lead service line inventory is complete.

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

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

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

3. a. No later than 90 days after submission of its complete lead service line inventory pursuant to section 2 of this act, and periodically thereafter as the department may require, a public water system shall send to each customer and, if a landlord-tenant relationship is known, to both the landlord and each head of household tenant of a property that is served by a lead service line, a notice of the existence of a lead service line serving the customer’s property. The notice shall be in a form and manner as determined by the department, and shall include, but not be limited to, 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.

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

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

b. A public water system that undertakes the replacement of a lead service line pursuant to this section shall first provide notice of the planned replacement to the owner of the property that is served by the lead service line and any head of household tenant no less than 30 days prior to commencing the replacement. The owner of the property and any head of household tenant shall provide the public water system with reasonable access to the owner’s property to undertake the replacement in accordance with any rules and regulations adopted by the department.

c. To assist a public water system finance or reduce its lead service line replacement costs, and before recouping those costs from its customers pursuant to sections 5 and 6 of this act, a public water system shall 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, an application to the New Jersey Infrastructure Bank created pursuant to section 4 of P.L.1985, c.334 (C.58:11B-4) or an application for loans issued through the department. The department shall publish information on its Internet website about the availability of that financial assistance.

5. a. Twenty-five percent of the costs of undertaking the replacement of utility-owned lead service lines pursuant to this act shall be borne by all of the customers of an investor-owned public water system and those prudently incurred costs may be included in the investor-owned public water system’s rate base or otherwise be recoverable from customers in a manner determined by the board, including the imposition of a board-approved distribution system infrastructure charge or similar charge on customers as authorized pursuant to any rule and regulation promulgated by the board.

(2) Forty percent of the costs of undertaking the replacement of customer-owned lead service lines in an investor-owned public
water system shall be borne by all customers of an investor-owned public water system in a manner determined by the board. The remaining 1[75] 60 percent of the costs shall come from existing resources of an investor-owned public water system and the board shall not allow as an operating expense the remaining 1[75] 60 percent of those costs incurred by an investor-owned public water system.

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

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

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

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

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

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

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

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

(b) documenting the customer's consent or lack of consent to have the investor-owned public water system replace the lead service line; 1[and] 1
(6) the estimated total cost to replace all customer-owned portions of lead service lines within or connected to the investor-owned public water system's distribution system and an estimated range for the annual cost to be incurred by the investor-owned public water system under the investor-owned public water system's lead service line replacement plan; and

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

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

6. a. [Twenty-five percent of the] (1) The costs of undertaking the replacement of utility-owned lead service lines pursuant to this act shall be borne by all of the customers of a government-owned public water system and those costs may be assessed to customers of a government-owned public water system in a manner determined by the director.

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

The remaining 75 percent of the costs shall come from existing resources of a government-owned public water system and the director shall not allow as an operating expense the remaining 75 percent of those costs incurred by a government-owned public water system.

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

(1) an analysis of the government-owned public water system’s costs and financing options for replacing lead service lines, including the estimated cost of replacements, costs of debt service, and impact on rates, as well as the availability of grants or low interest loans and how the government-owned public water system plans to use available grants or low interest loans to help the
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government-owned public water system finance or reduce the lead service line replacement costs;

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

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

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

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

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

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

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

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

7. a. No later than one year after submission of the lead service line inventory pursuant to subsection a. of section 2 of this act, each public water system shall submit to the department a schedule for the replacement of known lead service lines in use in its distribution system. The schedule shall include a range for the number of lead service lines estimated to be replaced annually and a range for the total feet of lead service lines estimated to be replaced annually. The schedule shall provide that at least 10 percent of all known lead service lines as of the date of that submission shall be replaced by the public water system annually and that all known lead service lines shall be replaced by the public water system within 10 years from the date of that submission; provided, however, that a public water system may apply to the department for a reasonable extension of these deadlines if the public water system adequately demonstrates that it is warranted due to the need to prioritize a non-lead public health risk within the system.
b. No later than 30 days after submission of a lead service line replacement schedule pursuant to subsection a. of this section, the department shall approve or deny the schedule, based on requirements or standards it establishes pursuant to subsection a. of this section. If the department fails to act within 30 days after submission of a schedule, the schedule shall be deemed approved. If the department denies a schedule, it shall provide a written explanation for why the schedule was denied and propose a revised schedule to the public water system. If a public water system rejects the department’s proposed revised schedule, the public water system and the department shall develop a compromise schedule within 30 days.

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

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

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

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

9. This act shall take effect immediately.