

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 253

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 27, 2020

The Senate Community and Urban Affairs Committee reports favorably Senate Bill No. 253, with committee amendments.

As amended, this bill requires a public water system (PWS) to develop a lead service line (LSL) inventory and schedule for the replacement of LSLs in its distribution system.

Specifically, within 30 days 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 LSLs in use in its distribution system and no later than 90 days after the effective date of the bill, each PWS is to compile and submit to the DEP a complete inventory of all LSLs in use in its distribution system. In compiling the inventory, the PWS is required to make a reasonable effort to determine the existence or absence of a LSL 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 LSL 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, and to publish its inventory on its Internet website. The DEP is to create, maintain, and update, as appropriate, a centralized online portal in the form of an Internet website, for the purpose of collecting electronically a PWS's initial and updated LSL inventory.

Within 90 days after submission of its LSL inventory, the bill requires a PWS to 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 LSL, a notice of the existence of the LSL serving the customer's property. The notice is to include information about the sources of lead in drinking water, including LSLs 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 LSL, the PWS is to be required to replace the entire LSL. A PWS is prohibited from conducting a partial LSL replacement, except upon the DEP's approval for a situation in which there are emergent public health risks. A PWS that undertakes the replacement of a LSL is to first provide notice of the planned

replacement to the property owner and each head of household tenant of a property served by a LSL no less than 30 days prior to commencing the replacement. The property owner and any head of household tenant is required to provide the PWS with reasonable access to the property to undertake that replacement. To assist a PWS finance or reduce its LSL 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 recover from all of its customers the costs of replacing the PWS-owned portion of a LSL. For a customer-owned portion of a LSL, the bill allows a PWS to assess to all of its customers 40 percent of the costs of replacing customer-owned LSLs and establishes a process by which a PWS is to submit a cost reimbursement plan to either the Board of Public Utilities (BPU) for an investor-owned PWS, or the Director of Local Government Services in the Department of Community Affairs for a government-owned PWS, prior to plan approval. The remaining 60 percent of these costs are to come from existing resources of the PWS. The PWS's plan is to address:

- (1) an analysis of the PWS's costs and financing options for replacing LSLs, including the estimated cost of replacements, costs of debt service, and impact on rates, and the availability of grants or low interest loans and how the PWS plans to use that financing to help the PWS finance or reduce the LSL replacement costs;

- (2) a description of how the replacement of LSLs will be accomplished in conjunction with other PWS distribution system replacement projects;

- (3) the estimated savings in costs per LSL that would be realized by the PWS replacing a customer-owned portion of a LSL versus the anticipated replacement costs if a customer was required to replace the customer-owned portion of a LSL;

- (4) the PWS's proposal for addressing the costs of site restoration work necessitated by structures or improvements located within the PWS's distribution system used to connect with the customer-owned portion of LSLs;

- (5) the PWS's proposal for communicating with a customer the PWS's plan to replace the LSL and documenting the customer's consent or lack of consent to have the PWS replace the customer-owned portion of a LSL;

- (6) the estimated total cost to replace all customer-owned portions of LSLs within or connected to the PWS's distribution system and an estimated range for the annual cost to be incurred by the PWS under their LSL replacement plan; and

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

Under the bill, within one year after submission of its LSL inventory, each PWS is required to submit to the DEP a schedule for the replacement of known LSLs in use in its distribution system for the DEP's approval, provided that at least 10 percent of all known LSLs are to be replaced by the PWS annually and that all known LSLs are to be replaced by the PWS within 10 years from the date of that submission, except that a PWS may apply to the DEP for a reasonable extension of these deadlines if the PWS adequately demonstrates that it is warranted due to the need to prioritize a non-lead public health risk within the system. Further, no later than December 31 of each year, a PWS is required to submit to the DEP and publish on its Internet website a report detailing the PWS's progress in replacing LSLs as required under the bill. Once the DEP determines that a PWS has completed the replacement of all LSLs within the PWS's service area, the PWS is no longer required to submit the report.

This bill was pre-filed for introduction in the 2020-2021 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) provide definitions for a customer-owned LSL and a PWS-owned LSL;

(2) establish two separate deadlines for a PWS's LSL inventory submission to the DEP, change the date for known inventory submissions, and allow the DEP to grant up to two 30-day submission deadline extensions;

(3) require the DEP to create, maintain, and update, as appropriate, a centralized online portal in the form of an Internet website, for the purpose of collecting electronically a PWS's initial and updated LSL inventory;

(4) allow a PWS to recover from its customers all of the costs of replacing the PWS-owned portion of a LSL; and for an investor-owned PWS, allows for the imposition of a distribution system infrastructure charge as a means to accomplish this, while prohibiting it from recovering property that is not used and useful in its rates;

(5) change from 25 to 40 percent the allocation of costs a PWS is to charge to all of its customers and from 75 to 60 percent the costs to come from existing resources of a PWS for the replacement of the customer-owned portion of a LSL, and for an investor-owned PWS, the BPU is to consider the cost impact of any petition for a rate increase within the last 24 months of the date of any prior petition of a rate increase; and

(6) require a PWS to include in its replacement plan an analysis of the PWS's costs and financing options for replacing LSLs, including the estimated cost of replacements, costs of debt service, and impact on rates and a plan for prioritizing the replacement of LSLs in structures occupied or used by vulnerable populations, including but not limited to schools, daycare facilities, and hospitals.