

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

## **ASSEMBLY, No. 5343**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 17, 2021

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 5343 (1R), with committee amendments.

As amended, this bill would require each public community water system (PCWS) in the State to develop a service line inventory of lead service lines and suspected lead service lines and adopt a plan that provides for the replacement of all lead service lines in the system's service area within 10 years after the bill's effective date. The bill also authorizes an investor-owned PCWS to recoup the costs of lead service line replacements by increasing the rates it charges to its customers.

The bill would require each PCWS to submit to the Department of Environmental Protection (DEP), no later than 60 days after the bill's effective date, an initial count of its lead service lines and service lines of unknown composition, as well as the number that are to be replaced annually. The bill would then require each PCWS to submit an initial service line inventory to the DEP no later than six months after the bill's effective date, and a more detailed and updated service line inventory within one year after the bill's effective date. Commencing two years after the bill's enactment, and until such time as all lead service lines have been replaced, the bill would require each PCWS to annually submit to the DEP an updated service line inventory, as well as a statement certifying that the PCWS is in compliance with the bill's provisions. The bill would further require each PCWS to make its most recent service line inventory available on its Internet website or, if there is no available Internet website, in another publicly accessible location. The bill would authorize the DEP to direct PCWSs to excavate service lines, when necessary, to determine whether or not they contain lead.

The bill would provide for a PCWS, no later than 30 days after submitting its initial service line inventory to the DEP, and periodically thereafter, to send written notice, by certified mail, to each residential, commercial, or institutional address affected by a known lead service line, which notice is to be addressed to the primary resident or commercial or institutional occupant thereof, as appropriate. Notice is to be sent to all affected addresses, regardless of whether the resident or occupant is a system customer (i.e., is the property owner or lessee who receives and pays a water utility bill) or is a non-paying customer (i.e., is a lessee or primary occupant of residential or commercial space in the

service area, who does not receive or pay the water bill for the property). If the recipient of the notice is the owner or operator of an apartment building, group home, or other multi-family or multi-unit dwelling, the owner or operator will be required to provide a hard copy of the notice to each existing resident of the multi-family or multi-unit dwelling and additionally post a copy of the notice in a conspicuous location in a common area of the dwelling. The owner or operator will also be required to inform new residents of the existence of a lead service line, prior to their residence at the multi-family or multi-unit dwelling, and provide a hard copy of the notice thereto, upon the commencement of their residence. The bill further requires the written notice to be sent, by certified mail, to each off-site owner of property affected by the known lead service line, which notice is to be addressed to the property owner's last known address, as determined through the review of local property tax or other available records.

No later than 12 months after the bill's enactment, the bill would require each PCWS to submit to the DEP an initial plan for replacing all lead service lines within its service area. The plan is to provide for: 1) the annual replacement of at least 10 percent of all lead service lines that are known to the PCWS on the date it submits its initial plan to the DEP; and 2) the replacement of all lead service lines within the PCWS's service area no later than 10 years after the bill's effective date, whether or not such lines were known or unknown at the time the PCWS submits its initial plan. Each replacement plan is to be annually updated to be consistent with the PCWS's updated service line inventory, and is to remain in effect until all lead service lines in the service area have been identified and replaced. Under the bill, each lead service line replacement plan is to provide for the replacement of all lead service lines within 10 years after the bill's effective date. Notwithstanding that requirement, and despite the fact that a PCWS will be encouraged to complete its service line replacement goals within 10 years, the bill provides that a PCWS will be authorized to continue lead service line replacement activities for a maximum period of 15 years if necessary to enable the PCWS to fully comply with the bill's provisions. A PCWS will be prohibited from suspending the water service of a customer solely because the customer denies access to the property owner-side of a lead service line.

The bill would require an investor-owned PCWS to recoup the costs of lead service line replacements from its customers, using board-approved recoupment methodologies. Any investor-owned PCWS seeking to recoup these costs will be required to submit a petition to the BPU, for approval at its next general rate case proceeding, which petition is to include a cost recoupment proposal providing certain specific information about the PCWS's proposed recoupment methodologies and anticipated replacement costs.

Similarly, the bill would provide that, notwithstanding the provisions of R.S.40:56-1 to the contrary, any expenditures that are incurred by a government-owned PCWS to replace lead service lines, pursuant to the bill's provisions, may be borne by all the customers of

the system, or all or a portion of the costs may be assessed to a property of a property owner in the same manner provided for the assessment of local improvements pursuant to R.S.40:56-1 et seq., upon notice to the Director of the Division of Local Government Services (DLGS) in the Department of Community Affairs.

Finally, the bill would require each PCWS to submit an annual report to the DEP, by December 31 of each year, detailing the PCWS's progress in replacing lead service lines in accordance with the bill's provisions. A PCWS would be required to make its report available on its Internet website or, if there is no available website, in another publicly accessible location. If the DEP determines that the PCWS has completed the replacement of all service lines within the service area, the PCWS will no longer be required to submit an annual report showing its progress under the bill. Both the DEP and the BPU will be authorized, in consultation with DLGS, to adopt rules and regulations to implement the bill's provisions.

As amended and reported by the committee, Assembly Bill No. 5343 (2R) is identical to Senate Bill No. 3398 (1R), which was also reported by the committee on this date, with committee amendments.

#### COMMITTEE AMENDMENTS:

The committee amendments to the bill would:

(1) provide that PCWSs may complete a partial service line replacement during the course of a water main replacement, subject to the same provisions as an emergency partial service line replacement;

(2) clarify that PCWSs are to undertake partial service line replacements only as a last resort;

(3) clarify language in the bill that prohibits a person's water service from being suspended if the person denies access to the property owner-side of a service line;

(4) clarify that the proportionate share of project costs for the replacement of the system side of a lead service line may be incorporated into the PCWS's rate base as capital assets, or may be recovered through the use of a Distributed System Improvement Charge;

(5) provide that PCWSs can recover the costs of the replacement of the property owner side of a lead service line through a separate, semi-annual lead service line expense surcharge; and

(6) delete language specifying that nothing in section 6 of the bill should be construed to allow an investor-owned PCWS to earn a return, in rates, on any costs associated with property that is not used and useful investor-owned PCWS property.

#### FISCAL IMPACT:

Fiscal information is currently unavailable for this bill.