

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 3398

STATE OF NEW JERSEY 219th LEGISLATURE

DATED: JUNE 24, 2021

SUMMARY

- Synopsis:** Requires public community water systems to inventory and replace lead service lines within 10 years; provides for recoupment of costs by investor-owned public water systems.
- Type of Impact:** Annual expenditure and revenue increases to the State and local governments.
- Agencies Affected:** Department of Environmental Protection and local government units.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Expenditure Increase	Indeterminate
Local Expenditure Increase	Indeterminate
State Revenue Increase	Indeterminate
Local Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) estimates that local governments and the State will incur indeterminate annual expenditure increases to compile an inventory of all lead service lines in government-owned public community water systems (PCWS) and to replace them. Based on certain assumptions, it is estimated that the initial costs to complete the inventory could be about \$29 million for local governments and \$50,000 for the State. However, these costs will vary depending on the extent of existing service line inventories available to government entities, the methods used by the PCWS to arrive at the number of lead service lines in their systems, and any additional planning expenses required prior to replacement of the lead service lines.
- The annual costs for local governments and the State to replace all existing lead service lines following the completion of their inventory are indeterminate because a number of variables, including the number and size of service lines being replaced, the ease of accessibility to the lines, and the financing method used to fund the replacements, will affect the size of the expenditures. Based on certain assumptions detailed below, total local government costs could

be \$2.65 billion over 10 years, or \$265 million annually. State costs are estimated to be \$4.5 million, or \$450,000, over the same timeframe and based on the same assumption. This amount approximates an estimate of \$2.3 billion to replace all PWCS lead service lines in the State, excluding some additional costs, provided by the DEP in response to FY 2020 OLS Discussion Points, which the OLS finds to be a plausible estimation. It is important to note that this bill encourages PCWS to complete its service line replacement goals within 10 years, but the bill provides that a PCWS is authorized to continue lead service line replacement activities for a maximum period of 15 years. Any extension beyond 10 years would alter these annual cost estimates for the State and local governments.

- Local governments and the State will experience an indeterminate increase in annual revenue as the bill allows PCWS to recoup their costs for lead service line replacements through an increase in rates paid by water system customers. Based on financial decisions made the PCWS, these revenues may or may not equal the expenditure increases.

BILL DESCRIPTION

This bill would require each PCWS in the State to develop a service line inventory and a replacement plan for all lead service lines in the State within 10 years and would authorize each PCWS to recoup the costs of replacements by increasing the rates it charges to its customers.

Specifically, the bill would require each PCWS to submit an initial count of its lead service lines and service lines of unknown composition to the Department of Environmental Protection (DEP) no later than 60 days after the bill's enactment. The bill would then require each PCWS to submit an initial lead service line inventory to the DEP no later than six months after the bill's enactment. One year after the date of enactment, the bill would require PCWS to submit a more detailed inventory. Beginning two years after the bill's enactment, and until such time as all lead service lines have been replaced, the bill would require PCWSs 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 authorize the DEP to direct PCWS to excavate service lines, when necessary, to determine whether or not they contain lead.

The bill would require a PCWS, no later than 30 days after submitting its initial inventory to the DEP and periodically thereafter, to send written notice via certified mail, and in a separate mailing from the bill, to each property owner and customer served by a lead service line. Notice is to be sent to all affected addresses, regardless of whether the resident or occupant is a system customer or is a non-paying customer. 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 would be required to provide for the annual replacement of at least 10 percent of all lead service lines known to the PCWS on the date it submits its initial plan to the DEP, and replacement of all lead service lines within the service area no later than 10 years after the bill's enactment. The bill would require each PCWS to update its replacement plan annually and make it consistent with the updated service line inventory. 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. The bill would provide that any expenditures that are incurred by a government-owned public water system to replace lead service lines may be borne by all the customers of the system, or all or a portion of the costs may be assessed to a property owner, in the same manner provided for the assessment of local improvements, upon notice to the Director of the Division of Local Government Services in the Department of Community Affairs.

The bill would require each PCWS to submit a report to the DEP detailing its progress in replacing lead service lines in accordance with the provisions of the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that local governments and the State will incur indeterminate annual expenditure increases to compile an inventory of all lead service lines in government-owned PCWS and to replace them. They will also experience an indeterminate increase in annual revenues because the bill allows public water systems to recoup their costs through higher water customer rates. Based on the financial decisions of the PCWS, these revenue increases may or may not equal the expenditure increases.

Public drinking water systems consist of community and non-community systems. Further, a PCWS means a public water system that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents. A nonpublic water system is a water system that is not a public water system and includes non-transient non-community systems and transient non-community systems. There are approximately 3,700 water systems in the State, which consist of: (1) 582 PCWS such as those that serve municipalities; (2) 720 non-transient non-community systems that serve businesses, hotels, and schools; and (3) 2,372 transient non-community systems that serve businesses, camps, churches, hotels, and restaurants. Non-transient non-community systems and transient non-community systems are not subject to the requirements of the bill, and the DEP stated in response to OLS Discussion Points as part of the FY 2020 budget process that it was not aware of any non-transient non-community water systems in the State having a lead service line.

One-Time Costs to Prepare Lead Service Line Inventories

Each PCWS has service lines leading from a water main to a house or building and each service line takes approximately one hour to inspect. Third party lead field service technicians are paid between \$13 and \$25 per hour and can complete an inspection through the use of a swab test or by visual inspection of the service line. If using a swab test, one Environmental Protection Agency-recognized 3M LeadCheck Swab test costs around \$2.75.

The 582 PCWS have a total of 2.4 million service lines of which about 1 million are owned by investor-owned utilities, 1.4 million are owned by local government entities, and about 2,400 are owned by the State. In performing the analysis below regarding the cost of compiling a lead service line inventory, the OLS makes the following assumptions: (a) all government-owned PCWS use a third party lead field service technician paid \$19 per hour and each service line takes one hour to inspect; (b) 50 percent of service line inspections use a swab test at \$2.75 per swab; (c) there is no existing inventory of service lines; and (d) all service lines are easily accessible for

the purposes of inspection. Under these assumptions, the one-time cost to compile the required inventory would be about \$29 million for local governments and \$50,000 for the State. However, under the bill, these costs would be recouped by the local governments and the State as the bill authorizes the owner of the PCWS to increase the rates it charges to its customers to cover the cost of the lead service line inventory. These costs will vary, though, depending on the extent to which existing service line inventories are available, the accessibility of the service lines, and the types of personnel and methods used by government-owned PCWS to arrive at the number of lead service lines in their systems. However, it is noted that in response to OLS Discussion Points during the FY 2020 budget hearings, the DEP indicated that many water systems have outdated and inaccurate records concerning their lead service lines and that changes may have been made on the homeowner side of the service line without the department being informed. Therefore, a comprehensive, ground up inventory may have to be under taken by many government-owned PCWS.

The OLS notes that the costs of compiling an inventory of lead service lines in a local government or State system may be mitigated if: (a) existing staff is used to perform inspections; (b) inspections are performed during routine maintenance; (c) there is an existing inventory of service lines compiled and available; and (d) most tests are performed through a visual inspection rather than through use of a swab test. On the other hand, costs may be higher if service lines cannot be readily accessed and excavation is authorized by DEP. There will also be additional costs for the State and local governments for certified mailings and other administrative functions related to the bill.

Annual Expenditure and Revenue Increases Related to Lead Service Line Replacement

The annual costs for local governments and the State to replace all of their existing lead service lines are indeterminate because a number of unknown variables, including the number and size of lead lines being replaced, the ease of accessibility to the service lines, and the financing method used to fund the replacements, will affect the size of the expenditures.

In performing the analysis below, the OLS makes the following simplifying assumptions regarding the replacement of lead service lines in a government-owned PCWS: (a) the cost to replace a lead service line is \$7,500; (b) no lead service lines have been previously replaced; (c) all service lines are easily accessible for the purposes of replacement; (d) the costs to replace all lead service lines are spread evenly over 10 years; and (e) 25 percent of service lines are found to contain lead. Based on these assumptions, the total cost to replace all lead service lines owned by government entities would be about \$2.65 billion, with more than 99% of this amount borne by local and regional government-owned PCWS and less than 1 percent borne by the State. This amount approximates an estimate of \$2.3 billion to replace all PCWS lead service lines in the State, excluding some additional costs, provided by the DEP in response to FY 2020 OLS Discussion Points.

Assuming that 10 percent of all known lead service lines would be replaced annually, then the total annual cost, for 10 years, to local governments would be about \$265 million and the annual cost to the State government would be \$450,000. It is important to note that this bill encourages PCWS to complete its service line replacement goals within 10 years, but the bill provides that a PCWS will be authorized to continue lead service line replacement activities for a maximum period of 15 years. Any extension beyond 10 years would alter the annual cost estimates for the State and local governments. Further, the annual expenditures incurred for the replacement of lead service lines owned by PCWS are permitted by the bill to be treated as an operating expense of the water system and can be directly passed on to customers in the form of higher rates. However, a PCWS may also elect to pay these expenses from existing resources, which could include funds the utility has on hand, proceeds from revenue bonds issued by the utility, or possibly from the

issuance of general obligation bonds secured or guaranteed by property taxes. Use of a long-term financing method like a revenue or general obligation bond would allow a PCWS to spread the cost of lead service line replacement beyond the timeframe it takes to complete the replacements but would also increase total project cost due to interest payments on the bonds. Ratepayers would likely be responsible for these debt service costs in the form of higher water rates because interest is considered a non-operating expense of a utility. Use of a general obligation bond could also transfer some or all of the lead service line replacement costs from water system ratepayers to property tax payers who may or not be customers of the system.

Section: Environment, Agriculture, Energy, and Natural Resources

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).