

SENATE, No. 3398

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 4, 2021

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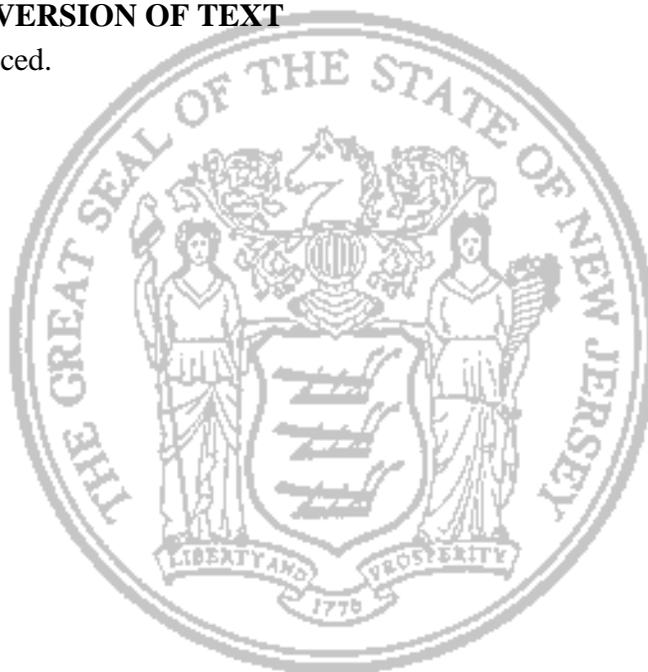
Senators Lagana, Pou, Ruiz and Turner

SYNOPSIS

Requires public water systems to inventory and replace lead service lines within 20 years and provides for recoupment of costs by investor-owned public water systems.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 4/26/2021)

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

3

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

6

7 1. The Legislature finds that the presence of lead in drinking
8 water represents a threat to the public health, especially the health
9 and development of New Jersey's children; that pipes containing
10 lead that connect water mains to homes and other buildings, often
11 called lead service lines, are a primary source of lead in drinking
12 water; and that, due in part to the age of New Jersey's housing,
13 there does not exist a full and complete inventory of all lead service
14 lines in the State.

15 The Legislature therefore declares that public water systems
16 should fully inventory all service lines and gradually replace all
17 lead services lines, portions of which may exist on private property;
18 and that, given the risk to public health and the resulting social
19 costs that lead exposure imposes upon society as a whole, it is in the
20 public interest that each public water system be obligated to replace
21 lead service lines, including those that exist on private property, and
22 be authorized to recoup the costs of lead service line replacements
23 from all subscribers of the public water system.

24

25 2. As used in this act:

26 "Board" means the Board of Public Utilities or any successor
27 agency.

28 "Gooseneck, pigtail, or connector" means the short section of
29 flexible piping, usually one to two feet long, which is used to
30 connect rigid sections of service line piping.

31 "Investor-owned public water system" means a public water
32 system that is a public utility, as defined in R.S.48:2-13, and which
33 is subject to the jurisdiction of the board pursuant to Title 48 of the
34 Revised Statutes.

35 "Lead service line" means a service line that is made of, or lined
36 with, materials containing lead. "Lead service line" shall include a
37 lead gooseneck, pigtail, or connector, regardless of the composition
38 of the rigid sections of service line piping to which they are
39 attached. "Lead service line" shall also include a service line
40 composed of galvanized steel.

41 "Partial replacement" means the act of replacing any service line
42 component without replacing the entire service line.

43 "Property owner side" means the portion of a service line owned
44 by a property owner.

45 "Public water system" means a system for the provision to the
46 public of water for human consumption through pipes or other
47 constructed conveyances, if the system has at least 15 service
48 connections or regularly serves an average of at least 25 individuals

1 daily at least 60 days out of the year. "Public water system" shall
2 include: (1) any collection, treatment, storage and distribution
3 facilities under control of the operator of the system and used
4 primarily in connection with the system; and (2) any collection or
5 pre-treatment storage facilities not under control of the operator
6 which are used primarily in connection with the system. "Public
7 water system" shall also include the operator of the system. "Public
8 water system" shall not include transient, non-community systems.

9 "Public water system side" means the portion of a service line
10 owned by a public water system.

11 "Service line" means any piping, tubing, and fittings connecting
12 a water main to a building that serves a customer of a public water
13 system. "Service line" shall include the property owner side and the
14 public water system side of a service line.

15

16 3. a. Each public water system in the State shall develop a
17 service line inventory in accordance with the requirements of this
18 section, in order to determine the existence or absence of a lead
19 service line at each service connection in its service area. The
20 service line inventory shall include information about service line
21 locations and the composition of service lines at each location. The
22 department may prescribe data management means and methods to
23 provide for the receipt of uniform submissions of the service line
24 inventory by public water systems.

25 b. No later than 30 days after the effective date of this act, a
26 public water system shall compile and submit to the department an
27 initial count of the number of lead service lines and the number of
28 service lines of unknown composition that are known to be present
29 in the service area of the public water system.

30 c. No later than six months after the effective date of this act, a
31 public water system shall submit to the department an initial service
32 line inventory. The inventory shall include:

33 (1) the locations of identified lead service lines;

34 (2) an indication of whether the identified lead service lines are
35 completely composed of lead or otherwise meet the definition of
36 lead service line;

37 (3) the locations of service lines suspected to be lead;

38 (4) for each identified and suspected lead service line, whether
39 the line is owned by the public water system, property owner, or
40 both;

41 (5) the locations and compositions of non-lead service lines; and

42 (6) a separate category identifying all service lines of unknown
43 composition.

44 The public water system shall use historical building records and
45 other available information, including data from the American
46 Water Works Association or other industry research groups, to
47 determine the likelihood of the presence of lead service lines in all
48 portions of its service area.

1 After the submission of the initial service line inventory, each
2 public water system in the State shall continue the inventory
3 process and utilize every reasonable method available to locate all
4 lead service lines within its service area. This process shall include,
5 but shall not be limited to, visual inspection during planned
6 maintenance, meter replacement, and main replacement projects,
7 and input that the public water system requests from its customers.

8 d. No later than one year after the effective date of this act, a
9 public water system shall submit to the department an updated
10 inventory of its service territory that meets the requirements of
11 subsection c. of this section. The updated inventory shall also
12 contain the following information:

13 (1) supporting information detailing the reasoning behind the
14 identification of each service line identified as being suspected of
15 containing lead; and

16 (2) for each service line identified as being of unknown
17 composition, a description detailing the steps undertaken to
18 determine if the line contains lead.

19 The public water system shall keep the department informed of
20 its progress pursuant to this subsection and shall continue to adhere
21 to the provisions of section 7 of this act. If a public water system
22 exhausts all other methods of identifying a service line, including
23 the use of new technologies that become available, the department
24 may require excavation as necessary, to identify the service line.

25 e. Beginning two years after the effective date of this act, a
26 public water system shall annually submit to the department:

27 (1) an updated service line inventory that meets the requirements
28 of subsections c. and d. of this section; and

29 (2) a certification that the public water system is in compliance
30 with the provisions of this act.

31 f. A public water system shall provide its most recent service
32 line inventory, upon request and at no cost, to appropriate State
33 officials or to the local government officials of a municipality
34 served by the public water system. A public water system that
35 serves more than 3,300 customers shall make its most recent service
36 line inventory available on its Internet website.

37

38 4. a. No later than 30 days after submitting an initial service
39 line inventory to the department pursuant to subsection c. of section
40 3 of this act, and periodically thereafter as the department may
41 require, a public water system shall send, to each property owner
42 and customer served by a lead service line or service line of
43 unknown composition, written notice of the composition of the
44 service line. The public water system shall determine if a landlord-
45 tenant relationship exists at the premises being notified. The public
46 water system shall determine the names and addresses of each
47 tenant, in order to provide the notice, by methods that shall include,
48 but not be limited to, mailings to landlords requesting a list of

1 tenants. The utility shall provide copies of the notice to each head
2 of household tenant. The notice shall be sent by certified mail, in a
3 separate mailing from the bill. The notice shall be in a form and
4 manner as determined by the department, and shall include, but not
5 be limited to: information about the sources of lead in drinking
6 water, including lead service lines and household plumbing; the
7 health effects of lead exposure; and steps customers can take to
8 reduce their exposure to lead in drinking water. In the case of a
9 multi-family dwelling, until the lead service line has been replaced
10 or identified as a non-lead service line, the landlord shall post the
11 notice in a conspicuous location in a common area of the dwelling.
12 The landlord shall also inform each new tenant of the existence of
13 the lead service line or service line of unknown composition and
14 provide each new tenant with a copy of the notice.

15 b. If a public water system serves a municipality in which the
16 primary language of 10 percent or more of the residents is a
17 language other than English, the public water system shall provide
18 the notice required pursuant to subsection a. of this section in both
19 English and the other language to the applicable property owners
20 and customers in that municipality.

21
22 5. a. No later than 12 months after the effective date of this
23 act, each public water system shall submit to the department an
24 initial plan for replacing all lead service lines within its service
25 area. The plan shall be updated annually and made consistent with
26 the annual updates to the public water system's service line
27 inventory required pursuant to section 3 of this act, until all lead
28 services lines within the public water system's service area have
29 been replaced.

30 b. Each lead service line replacement plan and annual update
31 thereto shall provide for the annual replacement of at least seven
32 percent of all lead service lines identified by the public water
33 system on the date it submits its initial plan to the department. In
34 addition, each plan and update thereto shall provide for the
35 replacement of all lead service lines within the service area of the
36 public water system no later than 20 years after the effective date of
37 this act, regardless of whether the lines are known or unknown on
38 the date the public water system submits its initial plan to the
39 department. The department may require additional information, as
40 it deems appropriate, to be included in each lead service line
41 replacement plan and annual update thereto.

42 c. A public water system shall not, except during emergencies
43 such as a water main or service line break, conduct a partial
44 replacement of a lead service line, and the public water system shall
45 make a good faith effort to replace the entire lead service line. A
46 partial replacement of a lead service line shall not count toward the
47 public water system's replacement requirements pursuant to
48 subsection b. of this section.

1 d. A public water system may apply for, and the department
2 may approve, a reasonable extension of any target or deadline set
3 forth in this section, provided that the public water system
4 demonstrates to the department that the extension is necessary to
5 meet a service reliability demand or public health need, not related
6 to lead abatement, within the system.

7 e. In the event of fiscal distress, a municipally owned public
8 water system may apply for and the department, in consultation
9 with Division of Local Government Services in the Department of
10 Community Affairs, may approve a reasonable extension of any
11 target or deadline set forth in this section.

12

13 6. a. An investor-owned public water system may recoup the
14 costs of lead service line replacements from its customers, subject
15 to the provisions of this section. A proposal to recoup the costs of
16 lead service line replacements shall be considered in the context of
17 the investor-owned public water system's next general rate case
18 proceeding, initiated after the effective date of this act, during
19 which the board shall consider the rate impacts of the proposed lead
20 service line replacement plan prior to approving the proposal. In
21 order to recoup the costs of lead service line replacements from its
22 customers, an investor-owned public water system shall submit the
23 proposal within a petition to the board that addresses the following:

24 (1) the estimated total cost to replace both the property owner
25 sides and public water system sides of all lead service lines within,
26 or connected to, the investor-owned public water system's service
27 area and an estimated range for the annual cost to be incurred by the
28 system under the system's current lead service line replacement
29 plan;

30 (2) a quantification of the shareholder contribution to be made in
31 order to meet the requirements of this act;

32 (3) the availability of grants or low interest loans and whether
33 the investor-owned public water system plans to use available
34 grants or low interest loans to help the system finance or reduce
35 lead service line replacement costs, including a detailed description
36 of any efforts made by the system to secure such financing;

37 (4) the investor-owned public water system's proposed rate
38 treatment of the replacement costs, including:

39 (a) any proposed deferred accounting treatment of the costs;

40 (b) the proposed rate base treatment of the costs;

41 (c) the proposed operations and maintenance expense treatment
42 of the costs; and

43 (d) the average monthly residential bill impact of the proposed
44 rate treatment of the costs;

45 (5) a description of how the replacement of lead service lines
46 will be accomplished in conjunction with other replacement projects
47 in the investor-owned public water system's service area;

1 (6) the estimated savings per lead service line achieved by the
2 investor-owned public water system replacing property owner sides
3 of lead service lines instead of the property owner; and

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

5 (a) communicating the system's plan to replace a lead service
6 line to a property owner and customer; and

7 (b) documenting a property owner's or customer's consent or lack
8 of consent to the replacement of a lead service line.

9 b. Before an investor-owned public water system may recoup
10 the costs of lead service line replacements from its customers
11 pursuant to subsection a. of this section, the board shall ensure that
12 the department has approved the investor-owned public water
13 system's plan for the replacement of the lead service lines required
14 pursuant to section 5 of this act.

15
16 7. No later than December 31 of each year, a public water
17 system shall submit to the department, in a form and manner to be
18 determined by the department, a report detailing the public water
19 system's progress in replacing lead service lines pursuant to this
20 act. A public water system that serves more than 3,300 customers
21 shall make its report available on its Internet website. If the
22 department determines, based on the information provided by the
23 public water system, that the public water system has completed the
24 replacement of all lead service lines within the public water
25 system's service area, the public water system shall no longer be
26 required to submit a report pursuant to this section.

27
28 8. a. The Department of Environmental Protection may adopt,
29 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
30 (C.52:14B-1 et seq.), any rules and regulations necessary to
31 implement the provisions of this act.

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

36
37 9. This act shall take effect immediately.

38
39
40 **STATEMENT**

41
42 This bill would require each public water system (PWS) in the
43 State to develop a service line inventory and a replacement plan for
44 lead service lines that provides for the replacement of all lead
45 service lines within 20 years, and would authorize an investor-
46 owned PWS to recoup the costs of lead service line replacements by
47 increasing the rates it charges to its customers.

1 Specifically, the bill would require each PWS to submit an initial
2 count of its lead service lines, and service lines of unknown
3 composition to the Department of Environmental Protection (DEP)
4 no later than 30 days after the bill's enactment. The bill would then
5 require each PWS to submit an initial service line inventory to the
6 DEP no later than six months after the bill's enactment. One year
7 after the date of enactment, the bill would require PWSs to submit a
8 more detailed service line inventory. Beginning two years after the
9 bill's enactment, the bill would require PWSs to develop and submit
10 to the DEP an updated service line inventory and a certification that
11 the PWS is in compliance with the provisions of the bill. The bill
12 would authorize the DEP to direct PWSs to excavate service lines,
13 when necessary, to determine whether or not they contain lead.

14 The bill would require a PWS, no later than 30 days after
15 submitting its initial service line inventory to the DEP, to send
16 written notice to each property owner and customer served by a lead
17 service line or service line of unknown composition. The bill
18 would also require landlords of multi-family dwellings that receive
19 this notice to post it in the dwelling and to inform new tenants of
20 the composition of the service line.

21 No later than 12 months after the bill's enactment, the bill would
22 require each PWS to submit to the DEP an initial plan for replacing
23 all lead service lines within its service area. The plan would be
24 required to provide for the annual replacement of at least seven
25 percent of all lead service lines known to the PWS on the date it
26 submits its initial plan to the DEP, and the replacement of all lead
27 service lines within the PWS's service area no later than 20 years
28 after the bill's enactment. The bill would require each PWS to
29 update its replacement plan annually and make it consistent with the
30 PWS's updated service line inventory.

31 The bill would authorize investor-owned PWSs to recoup the
32 costs of lead service line replacements by including a proposal for
33 recoupment to the Board of Public Utilities (BPU) in a general rate
34 case proceeding. The BPU would be required to consider the costs
35 to customers before approving the proposal. The investor-owned
36 PWS would be required to submit a petition to the BPU at its next
37 general rate case proceeding, which contains certain specific
38 information about the PWS's methods and costs, as enumerated in
39 section 6 of the bill.

40 The bill would require each PWS to submit a report to the DEP
41 detailing the PWS's progress in replacing lead service lines in
42 accordance with the provisions of the bill. A PWS that serves more
43 than 3,300 customers would be required to make its report available
44 on its Internet website. Finally, the bill would authorize the DEP
45 and the BPU to adopt rules and regulations to implement the bill's
46 provisions.