LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 1034
STATE OF NEW JERSEY
221st LEGISLATURE

DATED: AUGUST 21, 2024

SUMMARY

Synopsis: Requires disclosure of lead drinking water hazards to tenants of residential units; prohibits landlords from obstructing replacement of lead service lines; concerns testing of residential rental units for lead drinking water hazards.

Type of Impact: State cost and revenue increases; local government unit cost and revenue increases.

Agencies Affected: Department of Health; Department of Community Affairs; Department of Environmental Protection; certain local units.

Office of Legislative Services Estimate

Fiscal Impact	Annual
State Cost Increase	Indeterminate
Potential State Revenue Increase	Indeterminate
Local Cost Increase	Indeterminate
Local Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) determines that the bill will result in an indeterminate annual cost increase to local units that operate a public community water system associated with conducting tests of lead levels in drinking water as may be requested by residential customers.

- The OLS cannot predict the number of residential rental units that will be tested nor the percentage of initial tests that will result in exceeded lead action levels, and therefore, subsequent testing.

- To the extent that a public community water system operated by a local unit chooses, and is approved, to adjust its rate base collected from customers to offset costs associated with conducting drinking water testing pursuant to the bill, the public community water system will see an increase in revenues.

- The Department of Health, the Department of Environmental Protection, and the Department of Community Affairs have several administrative responsibilities pursuant to the bill which may result in increased costs to those agencies.

- The OLS notes that to the extent there are violations of the bill's provisions, the Department of Community Affairs will see increased revenues associated with collecting fines in the following amounts: $100 for a first violation, $500 for a second violation, and $1,000 for a third and subsequent violation.

BILL DESCRIPTION

The bill requires disclosure of lead drinking water hazards to tenants of residential units, prohibits landlords from obstructing the replacement of lead service lines, and requires testing of residential rental units for lead drinking water hazards at the request of customers.

The bill would require the Department of Health to develop a notice that provides consumers information concerning the health risks associated with lead in drinking water. The notice would be periodically updated by the Commissioner of Health and made available to the public by the Department of Health and the Department of Community Affairs. The Department of Community Affairs would be required to prepare a model "Lead In Drinking Water Disclosure" statement that may be used by landlords to provide notice to tenants as required by the bill. The model notice would be required to be made available to the public by the Department of Community Affairs and the Department of Health.

The bill directs a public community water system to, upon request by a residential customer, test the customer's drinking water for the presence of lead using a laboratory certified for that purpose. A community water system would be required to provide only one test each year upon request by a residential customer, unless a test shows that the lead action level was exceeded. If a test shows that the lead action level was exceeded, the public community water system would, upon request by a customer, test the customer's drinking water every 60 days for the presence of lead until two consecutive tests fall at or below the lead action level. The public community water system would provide results of every test authorized by the bill to the customer.

A public community water system would not be required to comply with the requirements of the bill to provide drinking water tests at the request of the customer for a residential unit that is located in a residential rental property that is constructed after 1986 or serviced by a lead-safe service line, or that is a seasonal rental unit.

A customer who requests a test for lead in drinking water would not be charged a fee by the public community water system for the test. A public community water system not regulated by the Board of Public Utilities would be authorized to include in the public community water system's rate base the reasonable costs of testing provided under the bill. A public community water system that is a public utility, and regulated by the Board of Public Utilities, would be permitted to petition the board to include in the public community water system's rates the reasonable costs of testing it provides to customers.

The bill provides that a person found in violation of a provision of the bill would be provided with a written notice of the violation by the Department of Community Affairs and given 15 days to cure the violation. If the person has not cured the violation after 15 days, the department would be authorized to impose a penalty of $100 for a first violation, $500 for a second violation, and $1,000 for a third and subsequent violation.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS determines that the bill will result in an indeterminate annual cost increase to local units that operate a public community water system associated with conducting tests of lead levels in drinking water as may be requested by residential customers.

While the bill does not exempt public community water systems from testing drinking water for lead in owner-occupied units that were constructed after 1986, it may be unlikely for these customers to request testing as the federal government banned the use of leaded pipe and solder in new plumbing systems in 1986. According to American Community Survey 1-Year Estimates, there are approximately 2,531,702 residential units in the State that were built before 1987. Assuming that these residential units are serviced by public community water systems, each of these units may be eligible for initial drinking water testing pursuant to the bill. According to the United States Environmental Protection Agency, testing drinking water for the presence of lead may cost between $20 and $100 per test. For purposes of illustration, if each of the 2,531,702 units are eligible and requested by customers to be tested for lead, public community water systems may experience an aggregate cost increase of up to $253,170,200 per year. However, the OLS is unable to estimate the number of residential rental units built before 1987 which are seasonal rental units, are serviced by a lead-safe service line, or are owned by customers, or resided in by tenants, who will not request a test. The OLS is also unable to predict the percentage of initial tests that will result in exceeded lead action levels, and therefore, subsequent testing.

To the extent that a public community water system operated by a local unit chooses, and is approved, to adjust its rate base collected from customers to offset costs associated with conducting drinking water testing pursuant to the bill, the public community water system will see an increase in revenues. Additionally, public community water systems may be operated by private companies or local units. The OLS is unable to estimate how many customers are served by public community water systems that are operated by local units and therefore the extent of potential fiscal impacts on local units as a result of the bill. However, the OLS notes that the State has 569 community water systems, which provide water for human consumption, and the Board of Public Utilities regulates approximately 30 private, investor-owned water utilities in the State, and asserts that this does not include municipal systems and municipal utilities authorities, which, combined, cover a larger portion of the State.

In addition, to the extent there are violations of the bill's provisions, including with respect to landlords' responsibilities to their tenants pursuant to the bill, the Department of Community Affairs will see increased revenues associated with collecting fines in the following amounts: $100 for a first violation, $500 for a second violation, and $1,000 for a third and subsequent violation.

The Department of Health, in consultation with the Department of Environmental Protection and the Department of Community Affairs, would be required to develop a notice that provides customers information concerning health risks associated with lead in drinking water, which notice the Department of Health would be required to update periodically and make available to the public in conjunction with the Department of Community Affairs. The Department of Community Affairs would also be required to prepare a model "Lead In Drinking Water Disclosure" statement for landlords to provide to tenants with information concerning certain lead in drinking water risks associated with the rental property, and make this information available to the public in

conjunction with the Department of Health. The bill also requires public community water systems to provide the results of every drinking water test conducted pursuant to the bill to the customer. These responsibilities may result in increased administrative costs to the Department of Community Affairs, the Department of Health, and the Department of Environmental Protection as well as to local units that operate a public community water system.

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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.).