SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 1034

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 7, 2024

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 1034.

As amended, this 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, within six months of the effective date of the bill, to develop a notice that provides consumers with information concerning the health risks associated with lead in drinking water and exposure minimization measures, which may include instructions for flushing water before drinking, using only cold tap water for drinking, installation and use of certified point-of-use water filters, and the availability of water testing. The notice would be periodically updated by the Commissioner of Health.

Within five days of developing or updating the educational materials, the bill directs the Department of Health to publish notice in the New Jersey Register that a factsheet or other educational materials have been updated or newly created, make the notice available on the department's website, and transmit the notice to the Commissioner of Community Affairs, who would also make the notice available on the department's website.

Within 90 days following publication of the notice, the bill directs a landlord to provide a "Lead In Drinking Water Disclosure" statement to each prospective or current residential tenant before entering into a lease or renewal agreement with the tenant. The disclosure would include:

(1) an acknowledgment that the rental property is serviced by a lead service line or service line of unknown composition, if the landlord received such notification from a public community water system;

(2) a statement containing the date that the rental property was constructed, and that housing built before 1986 may be serviced by a lead service line or contain interior lead plumbing;

(3) a copy of any formal notice received by the landlord within the previous three years indicating that a lead action level exceedance was detected within the water system service area in which the rental property is located, unless the notice of lead action level exceedance was received more than 12 months prior to lease signing or renewal and the exceedance was subsequently corrected;

(4) a copy of any citation for a violation of this bill that resulted in the issuance of a penalty against the landlord that was issued in the 12 months prior to lease signing or renewal; and

(5) a copy of, or instructions for accessing, the notice established by the Commissioner of Health, concerning the health risks of lead in drinking water.

A landlord would not be required to comply with these disclosure requirements upon a lease or renewal agreement for a residential rental unit that is: (1) located in a residential rental property constructed after 1986; (2) located in a residential rental property with a service line determined by a public community water system not to be a lead service line; or (3) a seasonal rental unit.

Within six months of the effective date of the bill, the Department of Community Affairs would be required, in consultation with the Department of Environmental Protection and the Department of Health, to prepare a model "Lead In Drinking Water Disclosure" statement that may be used by landlords to satisfy the requirements of the bill.

Within five days of developing or updating the model "Lead In Drinking Water Disclosure" statement, the bill directs the Department of Community Affairs to publish the notice in the New Jersey Register, make the notice available on the department’s website, and transmit the notice to the Department of Health, which would also make the notice available on its website. If a lease is oral, the landlord would be required to provide the "Lead in Drinking Water Disclosure" statement to the tenant, or prospective tenant, as a separate notice utilizing the model notice. If the lease or the renewal lease is in writing, the landlord would be required to provide the disclosure statement either as a separate notice utilizing the model notice, or include the statement in the written lease.

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 be required to, 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 be required to 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, contains a service line determined by a public community water system not to be a lead 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 would permit certain residential tenants to terminate a residential lease agreement without incurring any charge or penalty if the owner or operator obstructs the replacement of a lead service line by denying access. The bill requires the Commissioner of Environmental Protection to provide a person in violation a written notice of the violation, and authorizes the Commissioner of Environmental Protection to enforce the provisions of the bill and allows certain filings to be made within the DEP.

The bill provides that a person found in violation of any provision of the bill would be subject to a penalty of $100 for a first violation, $500 for a second violation, and $1,000 for a third and subsequent violation.

COMMITTEE AMENDMENTS:

These committee amendments make the following changes:

- Remove the term "lead-safe service line" from the bill, but retrain the exemptions from the requirements of the bill for a residential rental property with a service line determined by a public community water system not to be a lead service line;
- Clarify that a requirement for the Department of Health to publish a notice in the New Jersey Register only needs to indicated that educational information for consumers on the health risks associated with lead in drinking water have been updated or created;
- Require model "Lead In Drinking Water Disclosure" statement, prepared by the Department of Community Affairs, to be produced with the consultation of the Department of Environmental Protection and the Department of Health;

- Clarify that obstruction of lead service line replacement, specifically by denying access to the property owner-side of the lead service line, is prohibited by the bill;
- Permit the Commissioner of Environmental Protection, rather than the Commissioner of Community Affairs, to fulfill the enforcement responsibilities of the bill; and
- Provide that complaints for violations of the provisions of the bill may be initiated by an affected person against any other person allegedly in violation, including a public community water system.

FISCAL IMPACT:

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.

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 Environmental Protection 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 bill permits the Department of Environmental Protection to bring a civil action against a person found to be in violation of a provision of the bill in the Superior Court. This may result in an increase in costs to the State.