



TESTIMONY

Testimony on A5343 Assembly Special Committee on Infrastructure and Natural Resources

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Dear Chair Karabinchak and members of the Committee,

New Jersey Future is a nonprofit organization that believes New Jersey can be a great place to live with a prosperous, fair economy; thriving communities; and a healthy environment if smart decisions are made about what and where to build and the supporting infrastructure. That's why we promote policies for cost-effective, sustainable water systems in New Jersey. Everyone in New Jersey deserves a home with water that is free from lead, and the provisions in A5343, specifically developing an inventory of lead service lines and requiring their replacement, are a step toward making this a reality in New Jersey.

New Jersey Future largely supports the bill and the amendments introduced today, including the reduced timeframe for completing the lead service line replacements, the authorization for both investor-owned and government-owned utilities to recoup the cost of the replacements through rate increases, and the expansion of those who will receive notifications about the composition of their lead service lines to include non-paying customers.

However, we have significant concerns about allowing utilities to implement a customer cost share in which customers would pay a lump sum toward the replacement cost. The success of any lead service line replacement program hinges on wide customer participation, which reduces both the cost and time required to complete the replacements. The reason this bill is being considered is because we all agree that lead-contaminated drinking water is a serious public health crisis, one that disproportionately impacts children and low-income communities and communities of color. These pipes need to come out of the ground. As such, it is critical that as many barriers to participation in a replacement program are removed as possible, regardless of the way a utility may prefer to finance the replacements. Requiring customer cost shares can add 25% to the cost of the replacement program as lower participation rates necessitate a more scattered approach to replacement compared to the much more efficient block-by-block model that allows utilities to replace all the lead service lines on a given street at one time. New Jersey Future respectfully requests that the bill be amended to ban customer cost shares.

While eliminating the cost share will garner increased participation, utilities still experience issues accessing private property in order to complete the replacements, even in situations in which a customer has opted in to the program. State law (P.L.2019, c.291) enacted in Jan. 2020 authorizes localities to adopt a local ordinance for this purpose, but it would be far more efficient if this bill simply provided water utilities with blanket authority. For reasons relating to liability, this authority should be provided legislatively rather than through regulations. New Jersey Future recommends including a provision that requires property owners to sign a right of entry agreement with the water utility, which would grant the utility access to the property once the resident is provided advance notification of when the work will be done. We also recommend a second provision that would enable customers to opt out of the program, in which case they would forfeit their right to a no-cost replacement of the LSL and assume liability.

New Jersey Future, as part of the Jersey Water Works Lead in Drinking Water Task Force, supports a timeframe of 10 years to complete the lead service line replacements. Due to the fiscal state of some of our municipalities, and the fact that the communities with the greatest number of lead service lines tend to be lower-income communities, we support providing an option for utilities serving fiscally-distressed communities to receive up to a five-year extension to complete the replacements. While the amendment allows for government-owned utilities to receive additional extensions, we would like the bill to clarify that these extensions cannot be renewed indefinitely. Additionally, the New Jersey Department of Environmental Protection should be authorized to take enforcement actions on water systems for non-compliance, including failure to replace LSLs according to the utility's plan.

Regarding the inventories, New Jersey Future requests amending the bill to require that all utilities, regardless of size, make both their inventories and replacement schedules publicly available on their websites. These inventories are important tools for protecting public health and should be available to customers served by utilities of any size.

There are some issues that are not addressed in the legislation that could conceivably be accomplished through regulations but should not go unacknowledged. These include:

- Indemnify water systems: accuracy of LSL inventory and damage to private property
Since water systems are subject to potential lawsuits, indemnification protection should be extended to them for the accuracy of LSL inventory information, which could inadvertently affect real estate sales, and potential damage to private property from the removal of customer-owned LSLs.
- Warranty to water customers on LSL work
Water customers should receive a warranty from the water utility on the workmanship associated with the removal of the LSL. The terms of the warranty should be set by DEPreulations, but a one or two year warranty is recommended.
- Transparency: LSL Replacement Plans

Water systems should post their LSL replacement plans on their website so the public can be informed of plans and progress.

- **Transparency: LSL Inventories**
Water systems should include address-specific information on known LSLs and service lines of unknown composition in LSL inventories. This information helps people stay safe and holds the water systems accountable; the absence of such information complicates interpretation of the LSL inventory that water utilities must prepare and may render it unworkable. A legislative mandate would simplify the issue. Several cities across the country, including Denver, Washington DC, and Cincinnati, as well as Newark, have published address-specific LSL maps or look-up tables.
- **Public Hearing on Proposed Extensions to LSL Replacement Plan**
This amendment would require a public hearing if a water system applies to DEP for an extension of the target deadline for completing its LSL replacement work. Since the extension could create a potential loophole that might affect public health, residents in the service area should have an opportunity to comment when it is being considered.

Thank you for the opportunity to share our recommendations on this critical issue.