

A1970 (ACS)

INTRODUCED BILL: (Includes sponsor(s) statement)	Yes	
REPRINT(S):	Yes	AHU 6/24/24 ACS
TECHNICAL REVIEW:	No	
COMMITTEE STATEMENT:		
ASSEMBLY:	Yes	
SENATE:	No	

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT:	No
LEGISLATIVE FISCAL ESTIMATE:	Yes
VETO MESSAGE:	No
GOVERNOR'S PRESS RELEASE ON SIGNING:	Yes

FOLLOWING WERE PRINTED:

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REPORTS:	No
HEARINGS:	No
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CL/MM

§§1-4
C.58:12A-12.10
to 58:12A-12.13
§§5-8
C.26:1A-139
to 26:1A-142
§8
Note to §4

P.L. 2024, CHAPTER 66, *approved September 12, 2024*
Senate Committee Substitute (*First Reprint*)
for Senate, No. 2188

1 AN ACT concerning Legionnaires' disease and supplementing
2 P.L.1977, c.224 (C.58:12A-1 et seq.) and Title 26 of the Revised
3 Statutes.

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

7
8 1. As used in sections 1 through 4 of P.L. , c. (C.)
9 (pending before the Legislature as this bill):

10 "Disruption of the public community water system" means any
11 disruption that has the potential to lessen the quality of the water
12 delivered, including increasing the risk of exposure to pathogens
13 such as *Legionella* bacteria. "Disruption of the public community
14 water system" shall include, but not be limited to: (1) a change in
15 the water treatment process; (2) an unplanned event that results in
16 catastrophic issues that disrupt typical water system operations; (3)
17 a change in source of the drinking water; and (4) any other
18 conditions that the Department of Environmental Protection finds
19 may lead to a potential risk in the quality of water.

20 "Public community water system" means the same as the term is
21 defined in section 2 of P.L.2021, c.183 (C.58:12A-41).

22
23 2. a. Notwithstanding any other provision of law, or rule or
24 regulation adopted pursuant thereto, to the contrary, the owner or
25 operator of a public community water system, which has more than
26 100 service connections, and which is served fully or partially by
27 surface water or groundwater under the influence of surface water,
28 or any other public water system, as determined by the Department
29 of Environmental Protection for the protection of public health,
30 shall maintain:

31 (1) for systems utilizing chlorine as a disinfectant, a minimum
32 detectable disinfectant residual of at least 0.3 milligrams per liter of

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted June 24, 2024.

1 free chlorine in all active parts of the public community water
2 system at all times; and

3 (2) for systems utilizing chloramine as a disinfectant, a minimum
4 detectable disinfectant residual of at least 1.0 milligrams per liter of
5 monochloramine in all active parts of the public community water
6 system at all times.

7 b. The Department of Environmental Protection shall, within 12
8 months after the effective date of P.L. , c. (C.) (pending
9 before the Legislature as this bill), develop and publish on its
10 Internet website best management practices for public community
11 water systems to discourage the growth and potential distribution of
12 pathogens such as *Legionella* bacteria. The best management
13 practices shall include, but not be limited to, information regarding:

14 (1) identification of areas of aging infrastructure, dead ends, or
15 components prone to biofilm accumulation;

16 (2) types of disruptions in the water distribution system;

17 (3) flushing details and schedule;

18 (4) disinfectant residual maintenance;

19 (5) storage tank maintenance;

20 (6) identification of areas of low water use, stagnation, or low
21 pressure;

22 (7) monitoring and testing;

23 (8) water age management; and

24 (9) other measures the Department of Environmental Protection
25 deems necessary for the optimization of water systems.

26 c. No later than six months after the promulgation of rules
27 regulations by the Department of Environmental Protection
28 pursuant to section ¹**[3]** ⁴ of P.L. , c. (C.) (pending
29 before the Legislature as this bill), each public community water
30 system that is subject to the provisions of subsection a. of this
31 section shall develop and implement a distribution system
32 maintenance plan to comply with the provisions of 1 through 4 of
33 P.L. , c. (C.) (pending before the Legislature as this bill),
34 in accordance with the best management practices developed
35 pursuant to subsection b. of this section and any applicable rules
36 and regulations adopted by the department. The public community
37 water system shall annually submit to the department a statement
38 certifying that the public community water system has developed
39 and implemented a distribution system maintenance plan pursuant
40 to the provisions of this section.

41

42 3. a. The owner or operator of a public community water
43 system that is subject to the provisions of subsection a. of section 2
44 of P.L. , c. (C.) (pending before the Legislature as this
45 bill) shall provide a record of a disruption of the public community
46 water system to the Department of Environmental Protection via
47 document upload or form submission to a data management system
48 established by the Department of Environmental Protection

1 pursuant to subsection b. of this section, within 72 hours of the
2 occurrence of the disruption of the public community water system.

3 b. No later than 24 months after the effective date of P.L. ,
4 c. (C.) (pending before the Legislature as this bill), the
5 Department of Environmental Protection shall establish a data
6 management system for the receipt of records by a public
7 community water system of any disruption, and, on its Internet
8 website, a dashboard of publicly accessible and searchable records
9 of disruptions of the public community water system received by
10 the Department of Environmental Protection pursuant to subsection
11 a. of this section.

12 c. The requirements of subsection a. of this section shall not
13 become operative until the Department of Environmental Protection
14 has developed a data management system for the submission of
15 records of disruptions of the public community water system.

16
17 4. a. No later than 24 months after the effective date of P.L. ,
18 c. (C.) (pending before the Legislature as this bill), the
19 Department of Environmental Protection, in consultation with the
20 Department of Health, shall adopt rules and regulations pursuant to
21 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
22 seq.) to implement the provisions of P.L. , c. (C.)
23 (pending before the Legislature as this bill).

24 b. The rules and regulations adopted pursuant to this section
25 shall establish requirements for public community water systems
26 with more than 100 service connections to discourage and minimize
27 growth and potential distribution of pathogens such as *Legionella*
28 bacteria in the water system, and shall include, but not be limited
29 to:

30 (1) criteria to be used by public community water systems to
31 develop distribution system maintenance plans ¹, including, but not
32 limited to, frequency of required disinfectant residual monitoring¹ ;

33 (2) requirements for a public community water system to certify
34 its distribution system maintenance plan and provide the plan to the
35 department upon request;

36 (3) the criteria for what would constitute a failure to comply
37 with a distribution system maintenance plan;

38 (4) criteria for identifying disruptions of the public community
39 water system; and

40 (5) requirements for customer notifications during times of
41 increased risk of *Legionella* bacteria exposure, in accordance with
42 similar notification requirements in P.L.1977, c.224 (C.58:12A-1 et
43 seq.), including, but not limited to, a requirement to provide
44 information about the risks of *Legionella* bacteria and measures
45 consumers can take to reduce or eliminate exposure to *Legionella*
46 bacteria; and

47 (6) penalties, in accordance with the provisions of section 10 of
48 P.L.1977, c.224 (C.58:12A-10), for failure to maintain the

1 minimum detectable disinfectant residual required pursuant to
2 subsection a. of section 2 of P.L. , c. (C.) (pending before
3 the Legislature as this bill), failure to comply with a certified
4 distribution system maintenance plan, failure to comply with
5 notification requirements, or any other violations of the provisions
6 of P.L. , c. (C.) (pending before the Legislature as this
7 bill).

8

9 5. a. As used in this section:

10 "De-identified data" means information that does not identify an
11 individual and for which there is no reasonable basis to believe that
12 the information can be used to identify an individual, and which
13 meets the requirements for de-identification of protected health
14 information under the "Health Insurance Portability and
15 Accountability Act of 1996," Pub.L.104-191, and any regulations
16 adopted pursuant thereto by the Secretary of the United States
17 Department of Health and Human Services.

18 b. For each reported diagnosis of Legionnaires' disease in the
19 State, the Department of Health, or a local health officer pursuant to
20 subsection f. of this section, shall conduct an epidemiological
21 investigation to ascertain potential sources of infection consistent
22 with the provisions of this section and the procedures and
23 guidelines established pursuant to subsection c. of this section.

24 c. The Department of Health shall develop procedures and
25 guidelines regarding suspected outbreaks of Legionnaires' disease
26 and the case investigation of reported diagnoses of Legionnaires'
27 disease pursuant to subsection b. of this section, including, but not
28 limited to:

29 (1) documentation of any disruption of the public community
30 water system, as defined in section 1 of P.L. , c. (C.)
31 (pending before the Legislature as this bill), of the water system
32 serving the primary residence of the individual with a confirmed
33 case of Legionnaires' disease or other water exposure points
34 identified pursuant to paragraph (3) of this subsection;

35 (2) provisions for the investigation of potential sources of
36 exposure to *Legionella* bacteria from fixtures, water-using
37 equipment, or features at the individual's residence including water
38 exposures external to the residence such as irrigation, hoses, or
39 water-based equipment and devices;

40 (3) provisions for the investigation of potential sources of
41 exposure to *Legionella* bacteria from water exposure points in
42 locations the individual visited in the 14 days preceding infection, if
43 appropriate; and

44 (4) procedures for determining when sampling of water fixtures
45 identified as potential sources of exposure in paragraphs (2) and (3)
46 of this subsection shall be performed, and procedures for
47 performing such sampling.

1 d. As part of an investigation of a confirmed case of
2 Legionnaires' disease, the Department of Health or the local health
3 officer may require the owner or operator of a building suspected to
4 be a source of *Legionella* bacteria exposure to test and mitigate the
5 presence of *Legionella* bacteria consistent with the procedures and
6 guidelines established by the department. The owner or operator
7 shall report to the department the results of any environmental
8 testing performed as part of the investigation. For the purposes of
9 this subsection "building" shall not include any residential property
10 with four or fewer dwelling units.

11 e. The Department of Health or the local health officer may
12 require the owner or operator of a building suspected to be a source
13 of *Legionella* bacteria exposure to provide notice in a form and
14 manner specified by the department. If notice is required in a
15 municipality in which the primary language of 10 percent or more
16 of the residents is a language other than English, the owner or
17 operator shall provide the notice in both English and the other
18 language to potentially exposed individuals.

19 f. The Department of Health may delegate its responsibilities
20 and duties pursuant to this section as deemed appropriate for
21 conducting all or part of the case investigation required by this
22 section to a local health officer having jurisdiction over the locality
23 in which a patient diagnosed with Legionnaires' disease lives,
24 frequently visits, or is employed ¹, subject to the resources available
25 to the local health officer¹ .

26 g. The Department of Health shall establish on its Internet
27 website a dashboard accessible to the public and healthcare
28 providers that provides de-identified data related to all reported
29 cases of Legionnaires' disease, with the goal of providing near-real-
30 time incidence rates in affected communities. The Department of
31 Health shall include information concerning aggregated data of all
32 reported cases of Legionnaires' disease with the greatest degree of
33 specificity consistent with ensuring that no information that could
34 compromise protected health information, or patient identity, is
35 included in such reporting.

36
37 6. a. No later than 24 months after the effective date of P.L. ,
38 c. (C.) (pending before the Legislature as this bill), the
39 owner or operator of a building or facility that meets any of the
40 following criteria shall develop a water management program to
41 minimize the growth and transmission of *Legionella* bacteria in the
42 building's or facility's water system, consistent with the American
43 Society of Heating, Refrigeration, and Air Conditioning Engineers
44 (ASHRAE) Standard 188-2018 or subsequent versions thereof, or
45 comparable standards adopted by a nationally-recognized, accepted,
46 and appropriate organization:

1 (1) a general or specialty hospital that provides in-patient
2 services and is licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et
3 seq.);

4 (2) a nursing home, assisted living facility, comprehensive
5 personal care home, residential health care facility, or dementia care
6 home licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.);

7 (3) a building containing a whirlpool, spa, pool, open-circuit or
8 closed-circuit cooling tower or evaporative condenser that provides
9 cooling or refrigeration for a heating, ventilation, air conditioning,
10 or refrigeration system, ¹indoor¹ ornamental fountain, mister,
11 atomizer, air wash, humidifier, or other non-potable water system or
12 device that releases water aerosols in the building or on the property
13 upon which the building is located. A building with a device listed
14 in this paragraph shall implement a water management program for
15 the listed device and need not implement a water management
16 program for the entire building unless otherwise indicated by this
17 subsection;

18 (4) a federal, State, county, or privately owned or operated
19 correctional facility with one or more centralized potable hot water
20 systems;

21 (5) ¹a residential high-rise structure with six or more floors and
22 one or more centralized potable water-heater systems;

23 (6)¹ a building with one or more centralized potable water-heater
24 systems shared by ¹【50】 25¹ or more housing units for transient
25 use, including, not but limited to, a hotel or motel;

26 ¹【(6)】 (7)¹ a residential building with a centralized potable
27 water-heater system that is shared by 25 or more housing units,
28 which serves as subsidized housing designated for individuals who
29 are 62 years of age or older or who have a disability, or is
30 designated as senior housing and is subject to the provisions of
31 P.L.1986, c.103 (C.52:27D-330 et seq.);

32 ¹【(7)】 (8)¹ a residential, commercial, institutional, or industrial
33 building or facility, including a hotel or motel, not otherwise
34 required to implement a water management program, but which has
35 been determined by the Department of Health or a local health
36 officer to have been associated with an outbreak of Legionnaires'
37 disease. The Department of Health or local health officer shall
38 determine the period during which a water management program is
39 required pursuant to this paragraph in order to address the increased
40 risk of *Legionella* contamination of the building or facility.

41 b. (1) A water management program for a building or facility
42 that meets the criteria of paragraphs (1) or (2) of subsection a. of
43 this section, that has been determined by the Department of Health
44 or a local health authority to have been associated with an outbreak
45 of Legionnaires' disease, or for which periodic water sampling for
46 bacteria is recommended by the federal Centers for Disease Control
47 and Prevention shall include periodic water sampling and testing for

1 bacteria in accordance with the rules and regulations promulgated
2 by the Department of Health pursuant to section 8 of P.L. ,
3 c. (C.) (pending before the Legislature as this bill).

4 (2) A water management program for a building or facility that
5 does not meet the criteria described in paragraph (1) of this
6 subsection may include periodic water sampling and testing for
7 bacteria.

8 (3) All sampling and testing carried out pursuant to this
9 subsection shall include, but not be limited to, testing for the
10 presence of *Legionella Pneumophila*, and shall be conducted in a
11 manner consistent with:

12 (a) rules, regulations, and best practices developed by the
13 Department of Health; and

14 (b) the American Society of Heating, Refrigeration, and Air
15 Conditioning Engineers (ASHRAE) Standard 188-2018 or
16 subsequent versions thereof, or comparable standards adopted by a
17 nationally recognized, accepted, and appropriate organization.

18 (4) The owner or operator of a covered facility or building shall
19 follow ASHRAE Standard 188-2018 and guidelines established by
20 the federal Centers for Disease Control and Prevention in
21 interpreting and responding to positive test results. The Department
22 of Health shall establish procedures for the reporting of positive test
23 results for *Legionella* bacteria received during testing carried out
24 pursuant to this subsection.

25 c. When a person required to implement a water management
26 program pursuant to this section has complied with the
27 requirements of this section, the person shall post a written public
28 notice on the premises in a location easily accessible to building
29 occupants that such a program has been implemented.

30 d. No later than 12 months after the effective date of P.L. ,
31 c. (C.) (pending before the Legislature as this bill), the
32 Department of Health shall develop and make available on its
33 Internet website guidance documents for the development and
34 implementation of water management programs pursuant to this
35 section, including guidance documents for complying with record-
36 keeping requirements, and best practices for periodic water
37 sampling and testing.

38 e. The owner or operator of a building or facility required to
39 implement a water management program pursuant to this section
40 shall establish documentation concerning all procedures and shall
41 maintain all records related to these procedures and their
42 implementation and make them available upon request to an
43 employee of the Department of Community Affairs, the Department
44 of Environmental Protection, the Department of Health, or any
45 other department or agency with license or inspection authority for
46 the facility or building in order to confirm that a water management
47 program was developed. The Department of Community Affairs,
48 the Department of Environmental Protection, the Department of

1 Health, or any other department or agency with license or
2 inspection authority for the facility or building shall not be required
3 to evaluate or otherwise review a water management program
4 unless required for an investigation of a case of Legionnaires'
5 disease 'in accordance with procedures developed by the
6 Department of Health¹ pursuant to section 5 of P.L. ,
7 c. (C.) (pending before the Legislature as this bill).

8 f. (1) No later than 27 months after the effective date of P.L. ,
9 c. (C.) (pending before the Legislature as this bill), the
10 owner or operator of a building or facility that meets any of the
11 criteria set forth in paragraphs (1) through (7) of subsection a. of
12 this section shall implement the procedures outlined in their
13 personalized water management program. Newly constructed or
14 repurposed buildings or facilities shall confirm that the water
15 management program mitigates the potential for human exposure to
16 *Legionella* bacteria prior to commissioning.

17 (2) The owner or operator of a building or facility that meets
18 any of the criteria set forth in paragraphs (1) through (7) of
19 subsection a. of this section shall maintain on the building or
20 facility premises for at least five years: (i) the written water
21 management program; (ii) documentation and records concerning
22 all procedures conducted, including the results from any water
23 testing carried out pursuant to subsection b. of this section; and (iii)
24 all other relevant documentation on the implementation of the water
25 management program. Such records shall be made available to the
26 Department of Health immediately upon request.

27 g. (1) The owner or operator of a building or facility who fails
28 to implement or demonstrate compliance with a water management
29 program required pursuant to this section, fails to report a positive
30 *Legionella* water system test pursuant to the procedures set by the
31 Department of Health, fails to test for or mitigate the presence of
32 *Legionella* as required by the Department of Health or the local
33 health officer pursuant to subsection d. of section 5 of P.L. ,
34 c. (C.) (pending before the Legislature as this bill), or fails
35 to provide notice pursuant to subsection e. of section 5 of P.L. ,
36 c. (C.) (pending before the Legislature as this bill) shall be
37 subject to a civil penalty of not more than \$2,000 for a first
38 violation, and not more than \$5,000 for a second or subsequent
39 violation, except that the owner or operator shall be subject to a
40 civil penalty of not more than \$10,000 for any violation which
41 causes serious injury or death to any person. Penalties imposed
42 pursuant to this paragraph shall be collected by the State in a civil
43 action by a summary proceeding under the "Penalty Enforcement
44 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior
45 Court and the municipal court shall have jurisdiction over
46 proceedings for the enforcement of the penalties provided by this
47 paragraph.

1 (2) Whenever the Department of Health determines that any
2 person is in violation of a provision of this section or section 5 of
3 P.L. , c. (C.) (pending before the Legislature as this bill),
4 the department may assess a civil administrative penalty of not
5 more than \$2,000 for a first violation, and not more than \$5,000 for
6 a second or subsequent violation, except that the person shall be
7 subject to a civil administrative penalty of not more than \$10,000
8 for any violation which causes serious injury or death to any person.
9 In assessing a civil administrative penalty, the commissioner shall
10 consider the severity of the violation, the measures taken to prevent
11 further violations, and whether the penalty will act as an appropriate
12 deterrent. Prior to the assessment of a civil administrative penalty
13 under this paragraph, the person committing the violation shall be
14 notified by certified mail or personal service that the penalty is
15 being assessed. The notice shall identify the section of the statute,
16 rule, regulation, or order that was violated; recite the facts alleged
17 to constitute a violation; state the basis for the amount of the civil
18 administrative penalties to be assessed; and affirm the rights of the
19 alleged violator to a hearing. The ordered party shall have 35 days
20 from receipt of the notice within which to deliver to the
21 Commissioner of Health a written request for a hearing. After the
22 hearing and upon finding that a violation has occurred, the
23 Commissioner of Health may issue a final order after assessing the
24 amount of the fine specified in the notice. If no hearing is
25 requested, the notice shall become a final order after the expiration
26 of the 35-day period. Payment of the assessment is due when a
27 final order is issued or the notice becomes a final order.

28 (3) The Department of Community Affairs, the Department of
29 Environmental Protection, or the Department of Health, or any
30 other department or agency with license or inspection authority for
31 the facility or building, may institute a civil action for injunctive
32 relief in the Superior Court to enforce the provisions of this section
33 or section 5 of P.L. , c. (C.) (pending before the
34 Legislature as this bill) and to prohibit and prevent a violation of
35 these sections, and the court may proceed in the action in a
36 summary manner.

37 h. The provisions of this section shall not apply to a residential
38 property with four or fewer dwelling units.

39

40 7. a. The Department of Health, in consultation with the
41 Department of Environmental Protection, shall develop a public
42 awareness campaign and targeted consumer education program to
43 educate consumers, especially vulnerable populations, concerning
44 the environmental sources of *Legionella* bacteria, the movement of
45 *Legionella* bacteria through water distribution systems, the
46 notification requirements of P.L. , c. (C.) (pending before
47 the Legislature as this bill) and how the requirements impact
48 consumers, and the methods to control *Legionella* bacteria in a

1 person's home. The public awareness campaign and education
2 program shall include, but not be limited to, information on the
3 relationship between the risks of the proliferation of *Legionella*
4 bacteria and hot water, the temperature requirements for medical
5 devices, expansion tanks, hot tubs, whirlpools, spas, pools, air
6 conditioning systems, ornamental fountains, or other equipment or
7 devices that release water aerosols in a person's home or on a
8 person's property, and the related risks associated with the
9 inhalation by vulnerable populations of water droplets containing
10 *Legionella* bacteria.

11 b. No later than one year after the effective date of P.L. ,
12 c. (C.) (pending before the Legislature as this bill), and
13 annually thereafter, the Department of Health, in consultation with
14 the Department of Environmental Protection, shall submit a report
15 to the Governor, and, pursuant to section 2 of P.L.1991, c.164
16 (C.52:14-19.1), to the Legislature, which shall include:

17 (1) the number of cases of Legionnaires' disease in the State
18 reported in each of the previous 10 years;

19 (2) the number of reported water sampling results in public
20 community water systems in the past year received by the
21 Department of Environmental Protection that indicate the presence
22 of *Legionella* bacteria;

23 (3) the number and type of violations of the provisions of
24 P.L. , c. (C.) (pending before the Legislature as this bill)
25 for which penalties were assessed;

26 (4) recommendations as to whether the minimum detectable
27 disinfectant targets established pursuant to subsection a. of section
28 2 of P.L. , c. (C.) (pending before the Legislature as this
29 bill) should be increased in order to minimize the growth and
30 transmission of *Legionella* bacteria; and

31 (5) any recommendations for legislative action as may be
32 necessary to further control *Legionella* bacteria in the public water
33 supply and affected buildings.

34

35 8. No later than 24 months after the effective date of P.L. ,
36 c. (C.) (pending before the Legislature as this bill), the
37 Department of Health, in consultation with the Department of
38 Environmental Protection, shall adopt rules and regulations
39 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
40 (C.52:14B-1 et seq.) to implement the provisions of P.L. ,
41 c. (C.) (pending before the Legislature as this bill). The
42 rules and regulations shall be consistent with the American Society
43 of Heating, Refrigeration, and Air Conditioning Engineers
44 (ASHRAE) Standard 188-2018, or subsequent versions thereof, or
45 comparable standards adopted by a nationally recognized, accepted,
46 and appropriate organization.

1 9. This act shall take effect immediately.

2

3

4

5

6 Requires DEP, DOH, owners or operators of certain public
7 community water systems, and owners or operators of certain
8 buildings or facilities to take certain actions to prevent and control
9 cases of Legionnaires' disease.

CHAPTER 66
CORRECTED COPY

AN ACT concerning Legionnaires' disease and supplementing P.L.1977, c.224 (C.58:12A-1 et seq.) and Title 26 of the Revised Statutes.

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

C.58:12A-12.10 Definitions.

1. As used in sections 1 through 4 of P.L.2024, c.66 (C.58:12A-12.10 through 58:12A-12.13):

"Disruption of the public community water system" means any disruption that has the potential to lessen the quality of the water delivered, including increasing the risk of exposure to pathogens such as *Legionella* bacteria. "Disruption of the public community water system" shall include, but not be limited to: (1) a change in the water treatment process; (2) an unplanned event that results in catastrophic issues that disrupt typical water system operations; (3) a change in source of the drinking water; and (4) any other conditions that the Department of Environmental Protection finds may lead to a potential risk in the quality of water.

"Public community water system" means the same as the term is defined in section 2 of P.L.2021, c.183 (C.58:12A-41).

C.58:12A-12.11 Minimum detectable disinfectant residuals, public water systems; developing, publishing best management practices.

2. a. Notwithstanding any other provision of law, or rule or regulation adopted pursuant thereto, to the contrary, the owner or operator of a public community water system, which has more than 100 service connections and which is served fully or partially by surface water or groundwater under the influence of surface water or any other public water system as determined by the Department of Environmental Protection for the protection of public health, shall maintain:

(1) for systems utilizing chlorine as a disinfectant, a minimum detectable disinfectant residual of at least 0.3 milligrams per liter of free chlorine in all active parts of the public community water system at all times; and

(2) for systems utilizing chloramine as a disinfectant, a minimum detectable disinfectant residual of at least 1.0 milligrams per liter of monochloramine in all active parts of the public community water system at all times.

b. The Department of Environmental Protection shall, within 12 months after the effective date of P.L.2024, c.66 (C.58:12A-12.10 et al.), develop and publish on its Internet website best management practices for public community water systems to discourage the growth and potential distribution of pathogens such as *Legionella* bacteria. The best management practices shall include, but not be limited to, information regarding:

(1) identification of areas of aging infrastructure, dead ends, or components prone to biofilm accumulation;

(2) types of disruptions in the water distribution system;

(3) flushing details and schedule;

(4) disinfectant residual maintenance;

(5) storage tank maintenance;

(6) identification of areas of low water use, stagnation, or low pressure;

(7) monitoring and testing;

(8) water age management; and

(9) other measures the Department of Environmental Protection deems necessary for the optimization of water systems.

c. No later than six months after the promulgation of rules regulations by the Department of Environmental Protection pursuant to section 4 of P.L.2024, c.66 (C.58:12A-12.13), each public community water system that is subject to the provisions of subsection a. of this section shall develop and implement a distribution system maintenance plan to comply with the provisions of 1 through 4 of P.L.2024, c.66 (C.58:12A-12.10 through 58:12A-12.13), in accordance with the best management practices developed pursuant to subsection b. of this section and any applicable rules and regulations adopted by the department. The public community water system shall annually submit to the department a statement certifying that the public community water system has developed and implemented a distribution system maintenance plan pursuant to the provisions of this section.

C.58:12A-12.12 Public community water system disruption, reporting, data management system, records receipts.

3. a. The owner or operator of a public community water system that is subject to the provisions of subsection a. of section 2 of P.L.2024, c.66 (C.58:12A-12.11) shall provide a record of a disruption of the public community water system to the Department of Environmental Protection via document upload or form submission to a data management system established by the Department of Environmental Protection pursuant to subsection b. of this section, within 72 hours of the occurrence of the disruption of the public community water system.

b. No later than 24 months after the effective date of P.L.2024, c.66 (C.58:12A-12.10 et al.), the Department of Environmental Protection shall establish a data management system for the receipt of records by a public community water system of any disruption, and, on its Internet website, a dashboard of publicly accessible and searchable records of disruptions of the public community water system received by the Department of Environmental Protection pursuant to subsection a. of this section.

c. The requirements of subsection a. of this section shall not become operative until the Department of Environmental Protection has developed a data management system for the submission of records of disruptions of the public community water system.

C.58:12A-12.13 Public community water systems with over 100 service connections, requirements, protect against *Legionella* bacteria.

4. a. No later than 24 months after the effective date of P.L.2024, c.66 (C.58:12A-12.10 et al.), the Department of Environmental Protection, in consultation with the Department of Health, shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to implement the provisions of P.L.2024, c.66 (C.58:12A-12.10 et al.).

b. The rules and regulations adopted pursuant to this section shall establish requirements for public community water systems with more than 100 service connections to discourage and minimize growth and potential distribution of pathogens such as *Legionella* bacteria in the water system, and shall include, but not be limited to:

(1) criteria to be used by public community water systems to develop distribution system maintenance plans, including, but not limited to, frequency of required disinfectant residual monitoring;

(2) requirements for a public community water system to certify its distribution system maintenance plan and provide the plan to the department upon request;

(3) the criteria for what would constitute a failure to comply with a distribution system maintenance plan;

- (4) criteria for identifying disruptions of the public community water system; and
- (5) requirements for customer notifications during times of increased risk of *Legionella* bacteria exposure, in accordance with similar notification requirements in P.L.1977, c.224 (C.58:12A-1 et seq.), including, but not limited to, a requirement to provide information about the risks of *Legionella* bacteria and measures consumers can take to reduce or eliminate exposure to *Legionella* bacteria; and
- (6) penalties, in accordance with the provisions of section 10 of P.L.1977, c.224 (C.58:12A-10), for failure to maintain the minimum detectable disinfectant residual required pursuant to subsection a. of section 2 of P.L.2024, c.66 (C.58:12A-12.11), failure to comply with a certified distribution system maintenance plan, failure to comply with notification requirements, or any other violations of the provisions of P.L.2024, c.66 (C.58:12A-12.10 et al.).

C.26:1A-139 Definitions.

5. a. As used in this section:

"De-identified data" means information that does not identify an individual and for which there is no reasonable basis to believe that the information can be used to identify an individual, and which meets the requirements for de-identification of protected health information under the "Health Insurance Portability and Accountability Act of 1996," Pub.L.104-191, and any regulations adopted pursuant thereto by the Secretary of the United States Department of Health and Human Services.

b. For each reported diagnosis of Legionnaires' disease in the State, the Department of Health, or a local health officer pursuant to subsection f. of this section, shall conduct an epidemiological investigation to ascertain potential sources of infection consistent with the provisions of this section and the procedures and guidelines established pursuant to subsection c. of this section.

c. The Department of Health shall develop procedures and guidelines regarding suspected outbreaks of Legionnaires' disease and the case investigation of reported diagnoses of Legionnaires' disease pursuant to subsection b. of this section, including, but not limited to:

(1) documentation of any disruption of the public community water system, as defined in section 1 of P.L.2024, c.66 (C.58:12A-12.10), of the water system serving the primary residence of the individual with a confirmed case of Legionnaires' disease or other water exposure points identified pursuant to paragraph (3) of this subsection;

(2) provisions for the investigation of potential sources of exposure to *Legionella* bacteria from fixtures, water-using equipment, or features at the individual's residence including water exposures external to the residence such as irrigation, hoses, or water-based equipment and devices;

(3) provisions for the investigation of potential sources of exposure to *Legionella* bacteria from water exposure points in locations the individual visited in the 14 days preceding infection, if appropriate; and

(4) procedures for determining when sampling of water fixtures identified as potential sources of exposure in paragraphs (2) and (3) of this subsection shall be performed and procedures for performing such sampling.

d. As part of an investigation of a confirmed case of Legionnaires' disease, the Department of Health or the local health officer may require the owner or operator of a building suspected to be a source of *Legionella* bacteria exposure to test and mitigate the presence of *Legionella* bacteria consistent with the procedures and guidelines established by the department. The owner or operator shall report to the department the results of any environmental testing performed as part of the investigation. For the purposes of this subsection "building" shall not include any residential property with four or fewer dwelling units.

e. The Department of Health or the local health officer may require the owner or operator of a building suspected to be a source of *Legionella* bacteria exposure to provide notice in a form and manner specified by the department. If notice is required in a municipality in which the primary language of 10 percent or more of the residents is a language other than English, the owner or operator shall provide the notice in both English and the other language to potentially exposed individuals.

f. The Department of Health may delegate its responsibilities and duties pursuant to this section as deemed appropriate for conducting all or part of the case investigation required by this section to a local health officer having jurisdiction over the locality in which a patient diagnosed with Legionnaires' disease lives, frequently visits, or is employed, subject to the resources available to the local health officer.

g. The Department of Health shall establish on its Internet website a dashboard accessible to the public and healthcare providers that provides de-identified data related to all reported cases of Legionnaires' disease with the goal of providing near-real-time incidence rates in affected communities. The Department of Health shall include information concerning aggregated data of all reported cases of Legionnaires' disease with the greatest degree of specificity consistent with ensuring that no information that could compromise protected health information, or patient identity, is included in such reporting.

C.26:1A-140 Water management program development required of certain buildings, facilities.

6. a. No later than 24 months after the effective date of P.L.2024, c.66 (C.58:12A-12.10 et al.), the owner or operator of a building or facility that meets any of the following criteria shall develop a water management program to minimize the growth and transmission of *Legionella* bacteria in the building's or facility's water system, consistent with the American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE) Standard 188-2018 or subsequent versions thereof, or comparable standards adopted by a nationally-recognized, accepted, and appropriate organization:

(1) a general or specialty hospital that provides in-patient services and is licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.);

(2) a nursing home, assisted living facility, comprehensive personal care home, residential health care facility, or dementia care home licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.);

(3) a building containing a whirlpool, spa, pool, open-circuit or closed-circuit cooling tower or evaporative condenser that provides cooling or refrigeration for a heating, ventilation, air conditioning, or refrigeration system, indoor ornamental fountain, mister, atomizer, air wash, humidifier, or other non-potable water system or device that releases water aerosols in the building or on the property upon which the building is located. A building with a device listed in this paragraph shall implement a water management program for the listed device and need not implement a water management program for the entire building unless otherwise indicated by this subsection;

(4) a federal, State, county, or privately owned or operated correctional facility with one or more centralized potable hot water systems;

(5) a residential high-rise structure with six or more floors and one or more centralized potable water-heater systems;

(6) a building with one or more centralized potable water-heater systems shared by 25 or more housing units for transient use, including, not but limited to, a hotel or motel;

(7) a residential building with a centralized potable water-heater system that is shared by 25 or more housing units, which serves as subsidized housing designated for individuals who are 62 years of age or older or who have a disability or is designated as senior housing and is subject to the provisions of P.L.1986, c.103 (C.52:27D-330 et seq.);

(8) a residential, commercial, institutional, or industrial building or facility, including a hotel or motel, not otherwise required to implement a water management program, but which has been determined by the Department of Health or a local health officer to have been associated with an outbreak of Legionnaires' disease. The Department of Health or local health officer shall determine the period during which a water management program is required pursuant to this paragraph in order to address the increased risk of *Legionella* contamination of the building or facility.

b. (1) A water management program for a building or facility that meets the criteria of paragraphs (1) or (2) of subsection a. of this section that has been determined by the Department of Health or a local health authority to have been associated with an outbreak of Legionnaires' disease or for which periodic water sampling for bacteria is recommended by the federal Centers for Disease Control and Prevention shall include periodic water sampling and testing for bacteria in accordance with the rules and regulations promulgated by the Department of Health pursuant to section 8 of P.L.2024, c.66 (C.26:1A-142).

(2) A water management program for a building or facility that does not meet the criteria described in paragraph (1) of this subsection may include periodic water sampling and testing for bacteria.

(3) All sampling and testing carried out pursuant to this subsection shall include, but not be limited to, testing for the presence of *Legionella pneumophila* and shall be conducted in a manner consistent with:

(a) rules, regulations, and best practices developed by the Department of Health; and

(b) the American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE) Standard 188-2018 or subsequent versions thereof or comparable standards adopted by a nationally recognized, accepted, and appropriate organization.

(4) The owner or operator of a covered facility or building shall follow ASHRAE Standard 188-2018 and guidelines established by the federal Centers for Disease Control and Prevention in interpreting and responding to positive test results. The Department of Health shall establish procedures for the reporting of positive test results for *Legionella* bacteria received during testing carried out pursuant to this subsection.

c. When a person required to implement a water management program pursuant to this section has complied with the requirements of this section, the person shall post a written public notice on the premises in a location easily accessible to building occupants that such a program has been implemented.

d. No later than 12 months after the effective date of P.L.2024, c.66 (C.58:12A-12.10 et al.), the Department of Health shall develop and make available on its Internet website guidance documents for the development and implementation of water management programs pursuant to this section, including guidance documents for complying with record-keeping requirements, and best practices for periodic water sampling and testing.

e. The owner or operator of a building or facility required to implement a water management program pursuant to this section shall establish documentation concerning all procedures and shall maintain all records related to these procedures and their implementation and make them available upon request to an employee of the Department of Community Affairs, the Department of Environmental Protection, the Department of Health, or any other department or agency with license or inspection authority for the facility or building in order

to confirm that a water management program was developed. The Department of Community Affairs, the Department of Environmental Protection, the Department of Health, or any other department or agency with license or inspection authority for the facility or building shall not be required to evaluate or otherwise review a water management program unless required for an investigation of a case of Legionnaires' disease in accordance with procedures developed by the Department of Health pursuant to section 5 of P.L.2024, c.66 (C.26:1A-139).

f. (1) No later than 27 months after the effective date of P.L.2024, c.66 (C.58:12A-12.10 et al.), the owner or operator of a building or facility that meets any of the criteria set forth in paragraphs (1) through (8) of subsection a. of this section shall implement the procedures outlined in their personalized water management program. Newly constructed or repurposed buildings or facilities shall confirm that the water management program mitigates the potential for human exposure to *Legionella* bacteria prior to commissioning.

(2) The owner or operator of a building or facility that meets any of the criteria set forth in paragraphs (1) through (8) of subsection a. of this section shall maintain on the building or facility premises for at least five years: (i) the written water management program; (ii) documentation and records concerning all procedures conducted, including the results from any water testing carried out pursuant to subsection b. of this section; and (iii) all other relevant documentation on the implementation of the water management program. Such records shall be made available to the Department of Health immediately upon request.

g. (1) The owner or operator of a building or facility who fails to implement or demonstrate compliance with a water management program required pursuant to this section, fails to report a positive *Legionella* water system test pursuant to the procedures set by the Department of Health, fails to test for or mitigate the presence of *Legionella* as required by the Department of Health or the local health officer pursuant to subsection d. of section 5 of P.L.2024, c.66 (C.26:1A-139), or fails to provide notice pursuant to subsection e. of section 5 of P.L.2024, c.66 (C.26:1A-139) shall be subject to a civil penalty of not more than \$2,000 for a first violation, and not more than \$5,000 for a second or subsequent violation, except that the owner or operator shall be subject to a civil penalty of not more than \$10,000 for any violation which causes serious injury or death to any person. Penalties imposed pursuant to this paragraph shall be collected by the State in a civil action by a summary proceeding under the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court and the municipal court shall have jurisdiction over proceedings for the enforcement of the penalties provided by this paragraph.

(2) Whenever the Department of Health determines that any person is in violation of a provision of this section or section 5 of P.L.2024, c.66 (C.26:1A-139), the department may assess a civil administrative penalty of not more than \$2,000 for a first violation, and not more than \$5,000 for a second or subsequent violation, except that the person shall be subject to a civil administrative penalty of not more than \$10,000 for any violation which causes serious injury or death to any person. In assessing a civil administrative penalty, the commissioner shall consider the severity of the violation, the measures taken to prevent further violations, and whether the penalty will act as an appropriate deterrent. Prior to the assessment of a civil administrative penalty under this paragraph, the person committing the violation shall be notified by certified mail or personal service that the penalty is being assessed. The notice shall identify the section of the statute, rule, regulation, or order that was violated; recite the facts alleged to constitute a violation; state the basis for the amount of the civil administrative penalties to be assessed; and affirm the rights of the alleged violator to a hearing. The ordered party shall have 35 days from receipt of the notice within which to deliver to the Commissioner of Health a written request for a hearing. After the hearing and upon finding that a violation

has occurred, the Commissioner of Health may issue a final order after assessing the amount of the fine specified in the notice. If no hearing is requested, the notice shall become a final order after the expiration of the 35-day period. Payment of the assessment is due when a final order is issued or the notice becomes a final order.

(3) The Department of Community Affairs, the Department of Environmental Protection, the Department of Health, or any other department or agency with license or inspection authority for the facility or building may institute a civil action for injunctive relief in the Superior Court to enforce the provisions of this section or section 5 of P.L.2024, c.66 (C.26:1A-139) and to prohibit and prevent a violation of these sections, and the court may proceed in the action in a summary manner.

h. The provisions of this section shall not apply to a residential property with four or fewer dwelling units.

C.26:1A-141 Public awareness campaign, targeted consumer education program, *Legionella* bacteria; report to Governor, Legislature.

7. a. The Department of Health, in consultation with the Department of Environmental Protection, shall develop a public awareness campaign and targeted consumer education program to educate consumers, especially vulnerable populations, concerning the environmental sources of *Legionella* bacteria, the movement of *Legionella* bacteria through water distribution systems, the notification requirements of P.L.2024, c.66 (C.58:12A-12.10 et al.) and how the requirements impact consumers, and the methods to control *Legionella* bacteria in a person's home. The public awareness campaign and education program shall include, but not be limited to, information on the relationship between the risks of the proliferation of *Legionella* bacteria and hot water, the temperature requirements for medical devices, expansion tanks, hot tubs, whirlpools, spas, pools, air conditioning systems, ornamental fountains, or other equipment or devices that release water aerosols in a person's home or on a person's property, and the related risks associated with the inhalation by vulnerable populations of water droplets containing *Legionella* bacteria.

b. No later than one year after the effective date of P.L.2024, c.66 (C.58:12A-12.10 et al.), and annually thereafter, the Department of Health, in consultation with the Department of Environmental Protection, shall submit a report to the Governor, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature, which shall include:

(1) the number of cases of Legionnaires' disease in the State reported in each of the previous 10 years;

(2) the number of reported water sampling results in public community water systems in the past year received by the Department of Environmental Protection that indicate the presence of *Legionella* bacteria;

(3) the number and type of violations of the provisions of P.L.2024, c.66 (C.58:12A-12.10 et al.) for which penalties were assessed;

(4) recommendations as to whether the minimum detectable disinfectant targets established pursuant to subsection a. of section 2 of P.L.2024, c.66 (C.58:12A-12.11) should be increased in order to minimize the growth and transmission of *Legionella* bacteria; and

(5) any recommendations for legislative action as may be necessary to further control *Legionella* bacteria in the public water supply and affected buildings.

C.26:1A-142 Rules, regulations.

8. No later than 24 months after the effective date of P.L.2024, c.66 (C.58:12A-12.10 et al.), the Department of Health, in consultation with the Department of Environmental

Protection, shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to implement the provisions of P.L.2024, c.66 (C.58:12A-12.10 et al.). The rules and regulations shall be consistent with the American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE) Standard 188-2018, or subsequent versions thereof, or comparable standards adopted by a nationally recognized, accepted, and appropriate organization.

9. This act shall take effect immediately.

Approved September 12, 2024.

SENATE, No. 2188

STATE OF NEW JERSEY
221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Senator M. TERESA RUIZ

District 29 (Essex and Hudson)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

SYNOPSIS

Requires DEP, DOH, owners or operators of certain public water systems, and owners or operators of certain buildings to take certain actions to prevent and control cases of Legionnaires' disease.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning Legionnaires' disease and supplementing
2 P.L.1977, c.224 (C.58:12A-1 et seq.) and Title 26 of the Revised
3 Statutes.

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

7
8 1. a. Notwithstanding any other provision of law, or rule or
9 regulation adopted pursuant thereto, to the contrary, the owner or
10 operator of a public water system with 100 or more service
11 connections shall:

12 (1) maintain a minimum detectable disinfectant residual of free
13 chlorine of at least 0.3 milligrams per liter in all active parts of the
14 public water system at all times for systems utilizing chlorine as a
15 disinfectant, or maintain a minimum detectable disinfectant residual
16 of at least 1.0 milligrams per liter of monochloramine in all active
17 parts of the public water system at all times for systems utilizing
18 chloramine as a disinfectant; and

19 (2) conduct disinfectant residual testing at frequent and regular
20 intervals to determine the amount and type of detectable
21 disinfectant residual existing at different points in the public water
22 system.

23 b. (1) If the owner or operator of the public water system
24 repeatedly fails to meet the minimum detectable disinfectant
25 residual targets established pursuant to paragraph (1) of subsection
26 a. of this section and the violations are reported to the Department
27 of Environmental Protection, the public water system shall conduct
28 an internal investigation of the violations. If, after the public water
29 system conducts an investigation, subsequent failures to meet the
30 targets are reported, the Department of Environmental Protection
31 shall conduct an investigation of the subsequent violations or, at its
32 discretion, authorize a third-party entity to conduct the
33 investigation.

34 (2) The Department of Environmental Protection shall develop
35 procedures and guidelines regarding the investigation of an owner
36 or operator of a public water system conducted pursuant to
37 paragraph (1) of this subsection, including but not limited, to:

38 (a) the definition of what constitutes a repeated failure to meet
39 the minimum detectable disinfectant residual targets;

40 (b) the requirements for reporting violations of the minimum
41 detectable disinfectant residual targets;

42 (c) when to initiate an initial internal investigation of violations
43 of minimum detectable disinfectant residual targets and subsequent
44 investigations;

45 (d) the establishment of penalties for a violation of minimum
46 detectable disinfectant residual targets, if the department determines
47 that a violation has occurred;

1 (e) the development of a notice to inform consumers if a public
2 water system fails to maintain the minimum detectable disinfectant
3 residual targets established pursuant to paragraph (1) of subsection
4 a. of this section; and

5 (f) the criteria used by the department to select appropriate third
6 party entities to conduct investigations of additional violations of
7 minimum detectable disinfectant residual targets.

8 c. The Department of Environmental Protection, in consultation
9 with the Department of Health, may adopt rules and regulations
10 pursuant to the “Administrative Procedure Act,” P.L.1968, c.410
11 (C.52:14B-1 et seq.), if determined to be appropriate, to require
12 additional disinfectant requirements or testing requirements of
13 public water systems, or to increase the minimum detectable
14 disinfectant residual, in order to minimize the growth and
15 transmission of *Legionella* bacteria, require nitrification action
16 plans, or establish requirements for the monitoring of public water
17 systems during construction activities that may impact the public
18 water system. The Department of Environmental Protection shall
19 not reduce the minimum detectable disinfectant residual targets
20 established pursuant to paragraph (1) of subsection a. of this
21 section.

22 d. The Department of Environmental Protection shall submit an
23 annual report to the Governor and to the Legislature, pursuant to
24 section 2 of P.L.1991, c.164 (C.52:14-19.1), containing its
25 recommendations as to whether the minimum detectable
26 disinfectant residual targets established pursuant to paragraph (1) of
27 subsection a. of this section should be increased in order to
28 minimize the growth and transmission of *Legionella* bacteria.

29

30 2. a. The owner or operator of a public water system with 100 or
31 more service connections shall provide a timely written notice, in a
32 form and manner as determined by the Department of Environmental
33 Protection pursuant to subsection c. of this section, to all residential,
34 commercial, and institutional customers and residents served by the
35 public water system and located in an affected area of disruptions in
36 the water distribution system that could result in increased levels of
37 *Legionella* bacteria being present in the public water system.

38 The notice shall include, but need not be limited to:

39 (1) notification that planned construction, maintenance, repair, or
40 replacement of a part of the system may affect *Legionella* bacteria in
41 the water distribution system and temporarily increase the level of
42 *Legionella* bacteria in the public water system;

43 (2) the estimated length of time that the level of *Legionella*
44 bacteria may remain elevated, as determined by the department;

45 (3) general information on the possible sources of *Legionella*
46 bacteria in the public water system, and the health effects of
47 Legionnaires’ disease and related illnesses to at-risk populations; and

1 (4) measures consumers can take to reduce or eliminate exposure
2 to *Legionella* bacteria, including, but not limited to, ensuring hot water
3 heaters are working properly and maintaining a temperature of at least
4 130 degrees Fahrenheit at the water heater outlet, flushing water lines,
5 including the hot water heater drain and external hose
6 connections, during and after completion of construction work,
7 removing and cleaning faucet aerator screens and showerheads, and
8 installing a water filter or water treatment device certified to remove
9 *Legionella* bacteria.

10 b. (1) The owner or operator of a public water system with 100
11 or more service connections shall provide a written record of a
12 disruption in the water distribution system to the Department of
13 Environmental Protection within 24 hours of the occurrence of the
14 disruption in the water distribution system.

15 (2) The Department of Environmental Protection shall establish on
16 its Internet website a publicly accessible database of the records of a
17 disruption in the water distribution system received by the department
18 pursuant to paragraph (1) of this subsection.

19 c. No later than 120 days after the effective date of
20 P.L. , c. (C.) (pending before the Legislature as this bill), the
21 Department of Environmental Protection, in consultation with the
22 Department of Health and the Department of Community Affairs, shall
23 publish a public notice in the New Jersey Register and on its Internet
24 website specifying the form and manner of:

25 (1) the notice required pursuant to subsection a. of this section, the
26 circumstances under which the owner or operator of a public water
27 system with 100 or more service connections is required to provide the
28 notice pursuant to subsection a. of this section, including when a
29 notice is to be provided if the disruption in the water distribution
30 system is related to *Legionella* bacteria in ground water and when the
31 disruption is related to *Legionella* bacteria in surface water, and the
32 specific information to be included in the notice; and

33 (2) the record of a disruption in the water distribution system
34 required pursuant to subsection b. of this section and the specific
35 information to be included in the record.

36 d. If a public water system with 100 or more service connections
37 serves a municipality in which the primary language of 10 percent or
38 more of the residents is a language other than English, the water
39 purveyor shall provide the notice required pursuant to subsection a. of
40 this section in both English and the other language to the residents.

41 e. The owner or operator of a public water system with 100 or
42 more service connections shall not be required to provide the notice
43 required pursuant to subsection a. or b. of this section until the
44 department has published the public notice required pursuant to
45 subsection c. of this section.

46 f. As used in this section, “disruption in the water distribution
47 system” means any disruption to normal water transmission, including,
48 but not limited to: a change in the water treatment process, including

1 temporary changes from a chloramine residual to a free chlorine
2 residual or vice versa; any planned or unplanned event that reduces
3 water delivery pressure below 20 pounds per square inch; a lead
4 service line replacement; a new construction tie-in; a source water
5 change; water treatment plant maintenance or changes; changes in
6 directional water flow; flooding; replacement of valves, hydrants, or
7 meters; pumping failures; pipeline or water main breaks; system
8 repairs; or emergency conditions.

9
10 3. a. For every reported diagnosis of Legionnaires' disease, the
11 Department of Health shall:

12 (1) conduct an investigation into the reported case; and

13 (2) advise the individual diagnosed with Legionnaires' disease
14 about the availability of testing by the Department of Health of the
15 fixtures and water-using equipment in the individual's residence,
16 locations frequently visited, and places of employment in the 45
17 days immediately prior to the individual's diagnosis. In a manner
18 consistent with the consent provided by the individual diagnosed
19 with Legionnaires' disease or the owner of the property, the
20 Department of Health shall sample and test the fixtures and water-
21 using equipment for the presence of *Legionella* bacteria. Each test
22 shall be conducted by a laboratory certified for this purpose by the
23 Department of Health, and in accordance with the sampling and
24 testing methods established and provided by the department.

25 b. The Department of Health shall develop procedures and
26 guidelines regarding the investigation of every reported diagnosis of
27 Legionnaires' disease pursuant to paragraph (1) of subsection a. of
28 this section, including, but not limited to:

29 (1) documentation of any disruption in the water distribution
30 system as defined in subsection f. of section 2 of
31 P.L. , c. (C.) (pending before the Legislature as this bill),
32 serving the primary residence or water exposure points frequented
33 by the infected individual in the 45 days preceding infection, that
34 may have caused the release of *Legionella* bacteria into the home or
35 other water exposure point frequented by the infected individual
36 during that period;

37 (2) investigation of potential sources of exposure to *Legionella*
38 bacteria from fixtures, water-using equipment, or features at the
39 individual's residence including water exposures external to the
40 residence such as irrigation, hoses, or water-based equipment and
41 devices; and

42 (3) investigation of potential sources of exposure to *Legionella*
43 bacteria from other identified water exposure points such as visits to
44 buildings, water features, car washes, irrigation systems, exposure
45 to pressure washing, car windshield fluids, public fountains or
46 toilets, or other aspects of daily travel and activities.

47 c. The Department of Health may delegate its responsibilities
48 and duties pursuant to this section as deemed appropriate for

1 administering the testing and investigatory provisions of this section
2 to a local health officer having jurisdiction over the locality in
3 which a patient diagnosed with Legionnaires' disease lives,
4 frequently visits, or is employed.

5 d. The Department of Health shall establish on its Internet
6 website a registry accessible to the public of de-identified data
7 related to each case of Legionnaires' disease reported to the
8 department.

9 As used in this subsection, "de-identified data" means
10 information that does not identify an individual and for which there
11 is no reasonable basis to believe that the information can be used to
12 identify an individual, and which meets the requirements for de-
13 identification of protected health information under the "Health
14 Insurance Portability and Accountability Act of 1996," Pub.L.104-
15 191, and any regulations adopted pursuant thereto by the Secretary
16 of the United States Department of Health and Human Services.
17 However, the Commissioner of Health shall make every effort to
18 provide information on the approximate location of a case of
19 Legionnaires' disease to the nearest city block or general
20 neighborhood description.

21

22 4. a. No later than one year after the effective date of
23 P.L. , c. (C.) (pending before the Legislature as this bill),
24 the owner or operator of a building that meets any of the criteria set
25 forth in paragraphs (1) through (5) of this subsection shall
26 implement a water management program to minimize the growth
27 and transmission of *Legionella* bacteria in the building's water
28 system, consistent with the American Society of Heating,
29 Refrigeration, and Air Conditioning Engineers (ASHRAE) Standard
30 188-2018 or comparable standards adopted by a nationally-
31 recognized, accepted, and appropriate organization:

32 (1) a health care facility licensed pursuant to P.L.1971, c.136
33 (C.26:2H-1 et seq.) where patient stays exceed 24 hours;

34 (2) a building containing one or more areas for the purpose of
35 housing or treating occupants receiving treatment for burns,
36 chemotherapy, solid organ transplantation, or bone marrow
37 transplantation;

38 (3) a building containing one or more areas for the purpose of
39 housing or treating occupants that are immunocompromised, at-risk,
40 on medications that weaken the immune system, or have renal
41 disease, diabetes, or chronic lung disease;

42 (4) a building containing a whirlpool; spa; pool; open- or
43 closed-circuit cooling tower or evaporative condenser that provides
44 cooling or refrigeration for a heating, ventilation, air conditioning,
45 or refrigeration system; ornamental fountain; mister; atomizer; air
46 wash; humidifier; or other non-potable water system or device that
47 releases water aerosols in the building or on the property upon
48 which the building is located; and

- 1 (5) a building that is more than 10 stories high, including any
2 level that is below grade, with a centralized potable water-heater
3 system.
- 4 b. The owner or operator of a facility or building required to
5 implement a water management program pursuant to this section
6 shall make the water management program available upon request
7 to an employee of the Department of Community Affairs, the
8 Department of Environmental Protection, the Department of Health,
9 or any other department or agency with license or inspection
10 authority for the facility or building in order to confirm that a water
11 management program was developed. The Department of
12 Community Affairs, the Department of Environmental Protection,
13 the Department of Health, or any other department or agency with
14 license or inspection authority for the facility or building shall not
15 be required to evaluate or otherwise review a water management
16 program unless required for an investigation of a case of
17 Legionnaires' disease pursuant to section 3 of P.L. , c. (C.)
18 (pending before the Legislature as this bill) .
- 19 c. When testing for *Legionella* bacteria consistent with a
20 building's water management program pursuant to subsection a. of
21 this section, the testing shall include, but not be limited to,
22 *Legionella Pneumophila*, and be conducted:
- 23 (1) in a manner consistent with consistent with the American
24 Society of Heating, Refrigeration, and Air Conditioning Engineers
25 (ASHRAE) Standard 188-2018 or comparable standards adopted by
26 a nationally recognized, accepted, and appropriate organization; and
27 (2) by individuals whose qualifications include:
- 28 (a) certification in accordance with ASSE Series 12000-2018,
29 Professional Qualifications Standards for Infection Control Risk
30 Assessment for all Building Systems, or comparable standards
31 adopted by a nationally recognized, accepted, and appropriate
32 organization; or
- 33 (b) the completion of continuing education or a training course
34 of no less than four hours concerning testing, handling, and safety
35 precautions related to *Legionella* bacteria offered in the State by a
36 vocational or community college, non-profit organization,
37 professional association, trade association, trade or labor union,
38 corporation with demonstrated experience in disinfection and
39 pesticide control, or similar organization.
- 40 d. (1) An owner or operator of a facility or building who fails
41 to implement a water management program or fails to demonstrate
42 compliance with a water management program required pursuant to
43 this section shall be subject to a penalty of not more than \$2,000 for
44 a first violation, and not more than \$5,000 for a second or
45 subsequent violation, except that the owner or operator shall be
46 subject to a penalty of not more than \$10,000 for any violation
47 which causes serious injury or death to any person, to be collected
48 by the State in a civil action by a summary proceeding under the

1 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10
2 et seq.). The Superior Court and the municipal court shall have
3 jurisdiction over proceedings for the enforcement of the penalty
4 provided by this section.

5 (2) The Department of Community Affairs, the Department of
6 Environmental Protection, or the Department of Health may
7 institute a civil action for injunctive relief in the Superior Court to
8 enforce the provisions of this section and to prohibit and prevent a
9 violation of this section, and the court may proceed in the action in
10 a summary manner.

11 e. The provisions of this section shall not apply to a residential
12 property with four or less dwelling units.

13

14 5. No later than 180 days after the effective date of
15 P.L. , c. (C.) (pending before the Legislature as this bill), the
16 Department of Health, in consultation with the Department of
17 Community Affairs, Department of Environmental Protection, and a
18 public stakeholder group that shall be comprised of no more than
19 five public members, including one representative of a public health
20 organization dedicated to eradicating Legionnaires' disease and one
21 representative of an organization representing water purveyors,
22 shall adopt rules and regulations pursuant to the "Administrative
23 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as necessary
24 to implement the provisions of P.L. , c. (C.) (pending
25 before the Legislature as this bill).

26 The rules and regulations adopted pursuant to this section shall
27 be consistent with the American Society of Heating, Refrigeration, and
28 Air Conditioning Engineers (ASHRAE) Standard 188-2018 or
29 comparable standards adopted by a nationally recognized, accepted,
30 and appropriate organization.

31

32 6. No later than one year after the effective date of
33 P.L. c. (C.) (pending before the Legislature as this bill), and
34 annually thereafter, the Department of Health, in conjunction with
35 the Department of Environmental Protection and the Department of
36 Community Affairs, shall submit a report to the Governor, and,
37 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
38 Legislature, which shall include:

39 a. the number of cases of Legionnaires' disease in the State
40 reported in each of the previous 10 years;

41 b. the number of reported test results received by the
42 Department of Community Affairs, the Department of
43 Environmental Protection, or the Department of Health which
44 indicate the presence of *Legionella* bacteria;

45 c. the number and type of violations of P.L. , c. (C.)
46 (pending before the Legislature as this bill) for which penalties
47 were assessed; and

1 d. recommendations for legislative action as may be necessary
2 to further control *Legionella* bacteria in the public water supply and
3 affected buildings.
4

5 7. The Department of Health shall develop a public awareness
6 campaign and targeted consumer education program to educate
7 consumers, especially vulnerable populations, on the environmental
8 sources of *Legionella* bacteria, the movement of *Legionella* bacteria
9 through water distribution systems, the notification requirements of
10 P.L. , c. (C.) (pending before the Legislature as this bill)
11 and how the requirements impact consumers, and the methods to
12 control *Legionella* bacteria in a person's home. The public
13 awareness campaign and education program shall include, but not
14 be limited to, information on the relationship between the risks of
15 the proliferation of *Legionella* bacteria and hot water and the
16 temperature requirements for medical devices, expansion tanks, hot
17 tubs, whirlpools, spas, pools, air conditioning, ornamental
18 fountains, or other equipment or device that releases water aerosols
19 in a person's home or on the person's property and the related risks
20 associated with the inhalation by vulnerable populations of water
21 droplets containing *Legionella* bacteria.
22

23 8. This act shall take effect immediately.
24
25

26 STATEMENT
27

28 This bill requires the Department of Environmental Protection
29 (DEP), the Department of Health (DOH), owners or operators of
30 public water systems, and the owners or operators of certain types of
31 buildings to take specified actions to help inform citizens of the State
32 about, and prevent and control cases of, Legionnaires' disease.

33 The bill requires the owner or operator of a public water system
34 with 100 or more service connections to (1) maintain a minimum
35 detectable disinfectant residual of free chlorine of at least 0.3
36 milligrams per liter in all active parts of the public water system at all
37 times for systems utilizing chlorine as a disinfectant, or maintain a
38 minimum detectable disinfectant residual of at least 1.0 milligrams per
39 liter of monochloramine in all active parts of the public water system
40 at all times for systems utilizing chloramine as a disinfectant, and (2)
41 conduct disinfectant residual testing at frequent and regular intervals to
42 determine the amount and type of detectable disinfectant residual
43 existing at different points in the public water system. Under the bill,
44 the DEP is authorized to adopt rules and regulations to require
45 additional disinfectant requirements or testing requirements of public
46 water systems, or to increase the minimum detectable disinfectant
47 residual, in order to minimize the growth and transmission of
48 *Legionella* bacteria, or to require nitrification action plans.

1 The bill requires the owner or operator of a public water system
2 with 100 or more service connections to provide written notice to its
3 residential, commercial, and institutional customers and to residents
4 located in an affected area of disruptions in the water distribution
5 system that could result in increased levels of *Legionella* bacteria
6 being present in the public water system. The bill also requires the
7 owner or operator of a public water system with 100 or more service
8 connections to provide a written record of a reported disruption in the
9 water distribution system to the DEP within 24 hours of the occurrence
10 of the disruption. The bill requires the DEP to establish on its Internet
11 website a publicly accessible database of the records of a disruption in
12 the water distribution system submitted to the DEP pursuant to the bill.
13 The bill requires the DEP to publish a public notice in the New Jersey
14 Register and on its Internet website specifying the form and manner of
15 the notice and records required by the bill and the specific information
16 to be included in the notice and records.

17 The bill requires the DOH to conduct an investigation into every
18 reported diagnosis of Legionnaires' disease and require the DOH to
19 advise an individual diagnosed with Legionnaires' disease about the
20 availability of testing by the DOH of the fixtures and water-using
21 equipment in the individual's residence, locations frequently visited,
22 and places of employment in the 45 days immediately prior to the
23 individual's diagnosis. The bill requires the DOH to develop
24 procedures and guidelines regarding investigations of reported cases of
25 Legionnaires' disease. The bill authorizes the DOH to delegate certain
26 responsibilities and duties for administering the testing and
27 investigatory provisions of section 3 of the bill to a local health officer
28 having jurisdiction over the locality in which a patient diagnosed with
29 Legionnaires' disease lives, frequently visits, or is employed. The bill
30 also requires the DOH to establish on its Internet website a registry
31 accessible to the public of de-identified data related to each case of
32 Legionnaires' disease reported to the DOH. "De-identified data" is
33 defined in the bill as information that does not identify an individual
34 and for which there is no reasonable basis to believe that the
35 information can be used to identify an individual, and which meets the
36 requirements for de-identification of protected health information
37 under the federal "Health Insurance Portability and Accountability Act
38 of 1996," Pub.L.104-191.

39 Section 4 of the bill requires the owner or operator of certain types
40 of buildings to implement a water management program to minimize
41 the growth and transmission of *Legionella* bacteria in the building
42 water system. This requirement applies to:

43 (1) certain health care facilities where patient stays exceed 24
44 hours;

45 (2) buildings containing one or more areas for the purpose of
46 housing or treating occupants receiving treatment for burns,
47 chemotherapy, solid organ transplantation, or bone marrow
48 transplantation;

1 (3) buildings containing one or more areas for the purpose of
2 housing or treating occupants that are immunocompromised, at-risk,
3 on medications that weaken the immune system, or have renal disease,
4 diabetes, or chronic lung disease;

5 (4) buildings containing a whirlpool, spa, pool, open- or closed-
6 circuit cooling tower or evaporative condenser that provides cooling or
7 refrigeration for a heating, ventilation, air conditioning, or
8 refrigeration system, ornamental fountain, mister, atomizer, air wash,
9 humidifier, or other non-potable water system or device that releases
10 water aerosols in the building or on the property upon which the
11 building is located; and

12 (5) buildings that are more than 10 stories high, including any
13 level that is below grade, with a centralized potable water-heater
14 system.

15 The bill requires that testing conducted as part of a building's
16 water management program be conducted in a manner consistent with
17 the American Society of Heating, Refrigeration, and Air Conditioning
18 Engineers (ASHRAE) Standard 188-2018 or comparable standards
19 adopted by a nationally recognized, accepted, and appropriate
20 organization, and specifies the qualifications of individuals who may
21 conduct the required testing.

22 The bill establishes penalties for the owner or operator of a facility
23 or building who fails to implement a water management program or
24 fails to demonstrate compliance with a water management program. A
25 violator would be subject to a penalty of not more than \$2,000 for a
26 first violation, and not more than \$5,000 for a second or subsequent
27 violation, except that an owner or operator would be subject to a
28 penalty of not more than \$10,000 for any violation which causes
29 serious injury or death to any person.

30 The bill requires the DOH, in consultation with the DEP, the DCA,
31 and a public stakeholder group, to adopt rules and regulations as
32 necessary to implement the provisions of the bill. The bill requires
33 that the rules and regulations be consistent with the ASHRAE
34 Standard 188-2018 or comparable standards adopted by a nationally
35 recognized, accepted, and appropriate organization.

36 The bill requires the DOH, in conjunction with the DEP and the
37 DCA, to prepare an annual report including information on reported
38 cases of Legionnaires' disease reported in each of the previous 10
39 years, test results indicating the presence of Legionella bacteria, and
40 recommendations for such legislative action as may be necessary to
41 further control *Legionella* bacteria in the public water supply and
42 affected buildings.

43 Lastly, the bill requires the DOH to develop a public awareness
44 campaign and targeted consumer education program to educate

1 consumers, especially vulnerable populations, on the environmental
2 sources of *Legionella* bacteria, the movement of *Legionella* bacteria
3 through water distribution systems, the notification requirements
4 required by the bill and how the requirements impact consumers, and
5 on methods to control *Legionella* bacteria in a person's home.

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2188

STATE OF NEW JERSEY
221st LEGISLATURE

ADOPTED MAY 9, 2024

Sponsored by:

Senator M. TERESA RUIZ

District 29 (Essex and Hudson)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Co-Sponsored by:

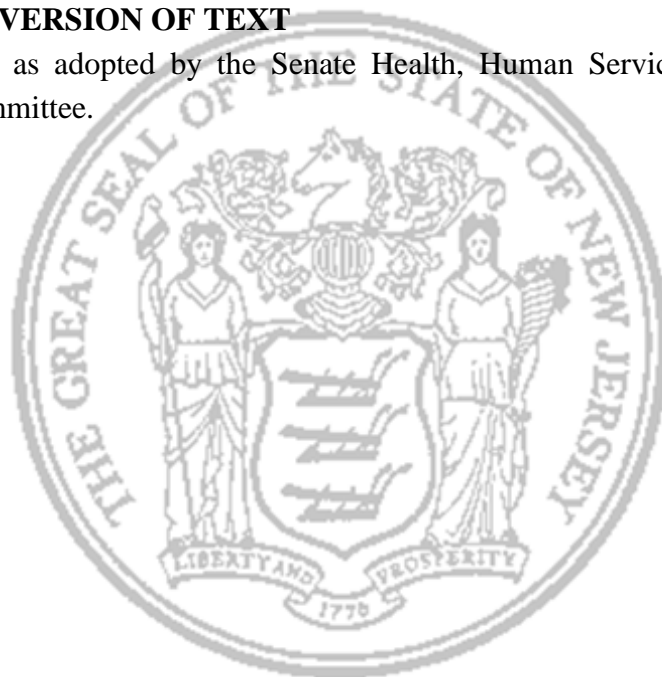
Senator McKnight

SYNOPSIS

Requires DEP, DOH, owners or operators of certain public community water systems, and owners or operators of certain buildings or facilities to take certain actions to prevent and control cases of Legionnaires' disease.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Health, Human Services and Senior Citizens Committee.



(Sponsorship Updated As Of: 5/9/2024)

1 **AN ACT** concerning Legionnaires' disease and supplementing
2 P.L.1977, c.224 (C.58:12A-1 et seq.) and Title 26 of the Revised
3 Statutes.

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

7
8 1. As used in sections 1 through 4 of P.L. , c. (C.)
9 (pending before the Legislature as this bill):

10 "Disruption of the public community water system" means any
11 disruption that has the potential to lessen the quality of the water
12 delivered, including increasing the risk of exposure to pathogens
13 such as *Legionella* bacteria. "Disruption of the public community
14 water system" shall include, but not be limited to: (1) a change in
15 the water treatment process; (2) an unplanned event that results in
16 catastrophic issues that disrupt typical water system operations; (3)
17 a change in source of the drinking water; and (4) any other
18 conditions that the Department of Environmental Protection finds
19 may lead to a potential risk in the quality of water.

20 "Public community water system" means the same as the term is
21 defined in section 2 of P.L.2021, c.183 (C.58:12A-41).

22
23 2. a. Notwithstanding any other provision of law, or rule or
24 regulation adopted pursuant thereto, to the contrary, the owner or
25 operator of a public community water system, which has more than
26 100 service connections, and which is served fully or partially by
27 surface water or groundwater under the influence of surface water,
28 or any other public water system, as determined by the Department
29 of Environmental Protection for the protection of public health,
30 shall maintain:

31 (1) for systems utilizing chlorine as a disinfectant, a minimum
32 detectable disinfectant residual of at least 0.3 milligrams per liter of
33 free chlorine in all active parts of the public community water
34 system at all times; and

35 (2) for systems utilizing chloramine as a disinfectant, a minimum
36 detectable disinfectant residual of at least 1.0 milligrams per liter of
37 monochloramine in all active parts of the public community water
38 system at all times.

39 b. The Department of Environmental Protection shall, within 12
40 months after the effective date of P.L. , c. (C.) (pending
41 before the Legislature as this bill), develop and publish on its
42 Internet website best management practices for public community
43 water systems to discourage the growth and potential distribution of
44 pathogens such as *Legionella* bacteria. The best management
45 practices shall include, but not be limited to, information regarding:

46 (1) identification of areas of aging infrastructure, dead ends, or
47 components prone to biofilm accumulation;

48 (2) types of disruptions in the water distribution system;

1 (3) flushing details and schedule;
2 (4) disinfectant residual maintenance;
3 (5) storage tank maintenance;
4 (6) identification of areas of low water use, stagnation, or low
5 pressure;
6 (7) monitoring and testing;
7 (8) water age management; and
8 (9) other measures the Department of Environmental Protection
9 deems necessary for the optimization of water systems.

10 c. No later than six months after the promulgation of rules
11 regulations by the Department of Environmental Protection
12 pursuant to section 3 of P.L. , c. (C.) (pending before the
13 Legislature as this bill), each public community water system that is
14 subject to the provisions of subsection a. of this section shall
15 develop and implement a distribution system maintenance plan to
16 comply with the provisions of 1 through 4 of P.L. , c. (C.)
17 (pending before the Legislature as this bill), in accordance with the
18 best management practices developed pursuant to subsection b. of
19 this section and any applicable rules and regulations adopted by the
20 department. The public community water system shall annually
21 submit to the department a statement certifying that the public
22 community water system has developed and implemented a
23 distribution system maintenance plan pursuant to the provisions of
24 this section.
25

26 3. a. The owner or operator of a public community water
27 system that is subject to the provisions of subsection a. of section 2
28 of P.L. , c. (C.) (pending before the Legislature as this
29 bill) shall provide a record of a disruption of the public community
30 water system to the Department of Environmental Protection via
31 document upload or form submission to a data management system
32 established by the Department of Environmental Protection
33 pursuant to subsection b. of this section, within 72 hours of the
34 occurrence of the disruption of the public community water system.

35 b. No later than 24 months after the effective date of P.L. ,
36 c. (C.) (pending before the Legislature as this bill), the
37 Department of Environmental Protection shall establish a data
38 management system for the receipt of records by a public
39 community water system of any disruption, and, on its Internet
40 website, a dashboard of publicly accessible and searchable records
41 of disruptions of the public community water system received by
42 the Department of Environmental Protection pursuant to subsection
43 a. of this section.

44 c. The requirements of subsection a. of this section shall not
45 become operative until the Department of Environmental Protection
46 has developed a data management system for the submission of
47 records of disruptions of the public community water system.

1 4. a. No later than 24 months after the effective date of P.L. ,
2 c. (C.) (pending before the Legislature as this bill), the
3 Department of Environmental Protection, in consultation with the
4 Department of Health, shall adopt rules and regulations pursuant to
5 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
6 seq.) to implement the provisions of P.L. , c. (C.)
7 (pending before the Legislature as this bill).

8 b. The rules and regulations adopted pursuant to this section
9 shall establish requirements for public community water systems
10 with more than 100 service connections to discourage and minimize
11 growth and potential distribution of pathogens such as *Legionella*
12 bacteria in the water system, and shall include, but not be limited
13 to:

14 (1) criteria to be used by public community water systems to
15 develop distribution system maintenance plans;

16 (2) requirements for a public community water system to certify
17 its distribution system maintenance plan and provide the plan to the
18 department upon request;

19 (3) the criteria for what would constitute a failure to comply
20 with a distribution system maintenance plan;

21 (4) criteria for identifying disruptions of the public community
22 water system; and

23 (5) requirements for customer notifications during times of
24 increased risk of *Legionella* bacteria exposure, in accordance with
25 similar notification requirements in P.L.1977, c.224 (C.58:12A-1 et
26 seq.), including, but not limited to, a requirement to provide
27 information about the risks of *Legionella* bacteria and measures
28 consumers can take to reduce or eliminate exposure to *Legionella*
29 bacteria; and

30 (6) penalties, in accordance with the provisions of section 10 of
31 P.L.1977, c.224 (C.58:12A-10), for failure to maintain the
32 minimum detectable disinfectant residual required pursuant to
33 subsection a. of section 2 of P.L. , c. (C.) (pending before
34 the Legislature as this bill), failure to comply with a certified
35 distribution system maintenance plan, failure to comply with
36 notification requirements, or any other violations of the provisions
37 of P.L. , c. (C.) (pending before the Legislature as this
38 bill).

39

40 5. a. As used in this section:

41 "De-identified data" means information that does not identify an
42 individual and for which there is no reasonable basis to believe that
43 the information can be used to identify an individual, and which
44 meets the requirements for de-identification of protected health
45 information under the "Health Insurance Portability and
46 Accountability Act of 1996," Pub.L.104-191, and any regulations
47 adopted pursuant thereto by the Secretary of the United States
48 Department of Health and Human Services.

1 b. For each reported diagnosis of Legionnaires' disease in the
2 State, the Department of Health, or a local health officer pursuant to
3 subsection f. of this section, shall conduct an epidemiological
4 investigation to ascertain potential sources of infection consistent
5 with the provisions of this section and the procedures and
6 guidelines established pursuant to subsection c. of this section.

7 c. The Department of Health shall develop procedures and
8 guidelines regarding suspected outbreaks of Legionnaires' disease
9 and the case investigation of reported diagnoses of Legionnaires'
10 disease pursuant to subsection b. of this section, including, but not
11 limited to:

12 (1) documentation of any disruption of the public community
13 water system, as defined in section 1 of P.L. , c. (C.)
14 (pending before the Legislature as this bill), of the water system
15 serving the primary residence of the individual with a confirmed
16 case of Legionnaires' disease or other water exposure points
17 identified pursuant to paragraph (3) of this subsection;

18 (2) provisions for the investigation of potential sources of
19 exposure to *Legionella* bacteria from fixtures, water-using
20 equipment, or features at the individual's residence including water
21 exposures external to the residence such as irrigation, hoses, or
22 water-based equipment and devices;

23 (3) provisions for the investigation of potential sources of
24 exposure to *Legionella* bacteria from water exposure points in
25 locations the individual visited in the 14 days preceding infection, if
26 appropriate; and

27 (4) procedures for determining when sampling of water fixtures
28 identified as potential sources of exposure in paragraphs (2) and (3)
29 of this subsection shall be performed, and procedures for
30 performing such sampling.

31 d. As part of an investigation of a confirmed case of
32 Legionnaires' disease, the Department of Health or the local health
33 officer may require the owner or operator of a building suspected to
34 be a source of *Legionella* bacteria exposure to test and mitigate the
35 presence of *Legionella* bacteria consistent with the procedures and
36 guidelines established by the department. The owner or operator
37 shall report to the department the results of any environmental
38 testing performed as part of the investigation. For the purposes of
39 this subsection "building" shall not include any residential property
40 with four or fewer dwelling units.

41 e. The Department of Health or the local health officer may
42 require the owner or operator of a building suspected to be a source
43 of *Legionella* bacteria exposure to provide notice in a form and
44 manner specified by the department. If notice is required in a
45 municipality in which the primary language of 10 percent or more
46 of the residents is a language other than English, the owner or
47 operator shall provide the notice in both English and the other
48 language to potentially exposed individuals.

1 f. The Department of Health may delegate its responsibilities
2 and duties pursuant to this section as deemed appropriate for
3 conducting all or part of the case investigation required by this
4 section to a local health officer having jurisdiction over the locality
5 in which a patient diagnosed with Legionnaires' disease lives,
6 frequently visits, or is employed.

7 g. The Department of Health shall establish on its Internet
8 website a dashboard accessible to the public and healthcare
9 providers that provides de-identified data related to all reported
10 cases of Legionnaires' disease, with the goal of providing near-real-
11 time incidence rates in affected communities. The Department of
12 Health shall include information concerning aggregated data of all
13 reported cases of Legionnaires' disease with the greatest degree of
14 specificity consistent with ensuring that no information that could
15 compromise protected health information, or patient identity, is
16 included in such reporting.

17
18 6. a. No later than 24 months after the effective date of P.L. ,
19 c. (C.) (pending before the Legislature as this bill), the
20 owner or operator of a building or facility that meets any of the
21 following criteria shall develop a water management program to
22 minimize the growth and transmission of *Legionella* bacteria in the
23 building's or facility's water system, consistent with the American
24 Society of Heating, Refrigeration, and Air Conditioning Engineers
25 (ASHRAE) Standard 188-2018 or subsequent versions thereof, or
26 comparable standards adopted by a nationally-recognized, accepted,
27 and appropriate organization:

28 (1) a general or specialty hospital that provides in-patient
29 services and is licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et
30 seq.);

31 (2) a nursing home, assisted living facility, comprehensive
32 personal care home, residential health care facility, or dementia care
33 home licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.);

34 (3) a building containing a whirlpool, spa, pool, open-circuit or
35 closed-circuit cooling tower or evaporative condenser that provides
36 cooling or refrigeration for a heating, ventilation, air conditioning,
37 or refrigeration system, ornamental fountain, mister, atomizer, air
38 wash, humidifier, or other non-potable water system or device that
39 releases water aerosols in the building or on the property upon
40 which the building is located. A building with a device listed in
41 this paragraph shall implement a water management program for the
42 listed device and need not implement a water management program
43 for the entire building unless otherwise indicated by this subsection;

44 (4) a federal, State, county, or privately owned or operated
45 correctional facility with one or more centralized potable hot water
46 systems;

- 1 (5) a building with one or more centralized potable water-heater
2 systems shared by 50 or more housing units for transient use,
3 including, not but limited to, a hotel or motel;
- 4 (6) a residential building with a centralized potable water-heater
5 system that is shared by 25 or more housing units, which serves as
6 subsidized housing designated for individuals who are 62 years of
7 age or older or who have a disability, or is designated as senior
8 housing and is subject to the provisions of P.L.1986, c.103
9 (C.52:27D-330 et seq.);
- 10 (7) a residential, commercial, institutional, or industrial building
11 or facility, including a hotel or motel, not otherwise required to
12 implement a water management program, but which has been
13 determined by the Department of Health or a local health officer to
14 have been associated with an outbreak of Legionnaires' disease.
15 The Department of Health or local health officer shall determine the
16 period during which a water management program is required
17 pursuant to this paragraph in order to address the increased risk of
18 *Legionella* contamination of the building or facility.
- 19 b. (1) A water management program for a building or facility
20 that meets the criteria of paragraphs (1) or (2) of subsection a. of
21 this section, that has been determined by the Department of Health
22 or a local health authority to have been associated with an outbreak
23 of Legionnaires' disease, or for which periodic water sampling for
24 bacteria is recommended by the federal Centers for Disease Control
25 and Prevention shall include periodic water sampling and testing for
26 bacteria in accordance with the rules and regulations promulgated
27 by the Department of Health pursuant to section 8 of P.L. ,
28 c. (C.) (pending before the Legislature as this bill).
- 29 (2) A water management program for a building or facility that
30 does not meet the criteria described in paragraph (1) of this
31 subsection may include periodic water sampling and testing for
32 bacteria.
- 33 (3) All sampling and testing carried out pursuant to this
34 subsection shall include, but not be limited to, testing for the
35 presence of *Legionella Pneumophila*, and shall be conducted in a
36 manner consistent with:
- 37 (a) rules, regulations, and best practices developed by the
38 Department of Health; and
- 39 (b) the American Society of Heating, Refrigeration, and Air
40 Conditioning Engineers (ASHRAE) Standard 188-2018 or
41 subsequent versions thereof, or comparable standards adopted by a
42 nationally recognized, accepted, and appropriate organization.
- 43 (4) The owner or operator of a covered facility or building shall
44 follow ASHRAE Standard 188-2018 and guidelines established by
45 the federal Centers for Disease Control and Prevention in
46 interpreting and responding to positive test results. The Department
47 of Health shall establish procedures for the reporting of positive test

1 results for *Legionella* bacteria received during testing carried out
2 pursuant to this subsection.

3 c. When a person required to implement a water management
4 program pursuant to this section has complied with the
5 requirements of this section, the person shall post a written public
6 notice on the premises in a location easily accessible to building
7 occupants that such a program has been implemented.

8 d. No later than 12 months after the effective date of P.L. ,
9 c. (C.) (pending before the Legislature as this bill), the
10 Department of Health shall develop and make available on its
11 Internet website guidance documents for the development and
12 implementation of water management programs pursuant to this
13 section, including guidance documents for complying with record-
14 keeping requirements, and best practices for periodic water
15 sampling and testing.

16 e. The owner or operator of a building or facility required to
17 implement a water management program pursuant to this section
18 shall establish documentation concerning all procedures and shall
19 maintain all records related to these procedures and their
20 implementation and make them available upon request to an
21 employee of the Department of Community Affairs, the Department
22 of Environmental Protection, the Department of Health, or any
23 other department or agency with license or inspection authority for
24 the facility or building in order to confirm that a water management
25 program was developed. The Department of Community Affairs,
26 the Department of Environmental Protection, the Department of
27 Health, or any other department or agency with license or
28 inspection authority for the facility or building shall not be required
29 to evaluate or otherwise review a water management program
30 unless required for an investigation of a case of Legionnaires'
31 disease pursuant to section 5 of P.L. , c. (C.) (pending
32 before the Legislature as this bill).

33 f. (1) No later than 27 months after the effective date of P.L. ,
34 c. (C.) (pending before the Legislature as this bill), the
35 owner or operator of a building or facility that meets any of the
36 criteria set forth in paragraphs (1) through (7) of subsection a. of
37 this section shall implement the procedures outlined in their
38 personalized water management program. Newly constructed or
39 repurposed buildings or facilities shall confirm that the water
40 management program mitigates the potential for human exposure to
41 *Legionella* bacteria prior to commissioning.

42 (2) The owner or operator of a building or facility that meets
43 any of the criteria set forth in paragraphs (1) through (7) of
44 subsection a. of this section shall maintain on the building or
45 facility premises for at least five years: (i) the written water
46 management program; (ii) documentation and records concerning
47 all procedures conducted, including the results from any water
48 testing carried out pursuant to subsection b. of this section; and (iii)

1 all other relevant documentation on the implementation of the water
2 management program. Such records shall be made available to the
3 Department of Health immediately upon request.

4 g. (1) The owner or operator of a building or facility who fails
5 to implement or demonstrate compliance with a water management
6 program required pursuant to this section, fails to report a positive
7 *Legionella* water system test pursuant to the procedures set by the
8 Department of Health, fails to test for or mitigate the presence of
9 *Legionella* as required by the Department of Health or the local
10 health officer pursuant to subsection d. of section 5 of P.L. ,
11 c. (C.) (pending before the Legislature as this bill), or fails
12 to provide notice pursuant to subsection e. of section 5 of P.L. ,
13 c. (C.) (pending before the Legislature as this bill) shall be
14 subject to a civil penalty of not more than \$2,000 for a first
15 violation, and not more than \$5,000 for a second or subsequent
16 violation, except that the owner or operator shall be subject to a
17 civil penalty of not more than \$10,000 for any violation which
18 causes serious injury or death to any person. Penalties imposed
19 pursuant to this paragraph shall be collected by the State in a civil
20 action by a summary proceeding under the "Penalty Enforcement
21 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior
22 Court and the municipal court shall have jurisdiction over
23 proceedings for the enforcement of the penalties provided by this
24 paragraph.

25 (2) Whenever the Department of Health determines that any
26 person is in violation of a provision of this section or section 5 of
27 P.L. , c. (C.) (pending before the Legislature as this bill),
28 the department may assess a civil administrative penalty of not
29 more than \$2,000 for a first violation, and not more than \$5,000 for
30 a second or subsequent violation, except that the person shall be
31 subject to a civil administrative penalty of not more than \$10,000
32 for any violation which causes serious injury or death to any person.
33 In assessing a civil administrative penalty, the commissioner shall
34 consider the severity of the violation, the measures taken to prevent
35 further violations, and whether the penalty will act as an appropriate
36 deterrent. Prior to the assessment of a civil administrative penalty
37 under this paragraph, the person committing the violation shall be
38 notified by certified mail or personal service that the penalty is
39 being assessed. The notice shall identify the section of the statute,
40 rule, regulation, or order that was violated; recite the facts alleged
41 to constitute a violation; state the basis for the amount of the civil
42 administrative penalties to be assessed; and affirm the rights of the
43 alleged violator to a hearing. The ordered party shall have 35 days
44 from receipt of the notice within which to deliver to the
45 Commissioner of Health a written request for a hearing. After the
46 hearing and upon finding that a violation has occurred, the
47 Commissioner of Health may issue a final order after assessing the
48 amount of the fine specified in the notice. If no hearing is

1 requested, the notice shall become a final order after the expiration
2 of the 35-day period. Payment of the assessment is due when a
3 final order is issued or the notice becomes a final order.

4 (3) The Department of Community Affairs, the Department of
5 Environmental Protection, or the Department of Health, or any
6 other department or agency with license or inspection authority for
7 the facility or building, may institute a civil action for injunctive
8 relief in the Superior Court to enforce the provisions of this section
9 or section 5 of P.L. , c. (C.) (pending before the
10 Legislature as this bill) and to prohibit and prevent a violation of
11 these sections, and the court may proceed in the action in a
12 summary manner.

13 h. The provisions of this section shall not apply to a residential
14 property with four or fewer dwelling units.

15
16 7. a. The Department of Health, in consultation with the
17 Department of Environmental Protection, shall develop a public
18 awareness campaign and targeted consumer education program to
19 educate consumers, especially vulnerable populations, concerning
20 the environmental sources of *Legionella* bacteria, the movement of
21 *Legionella* bacteria through water distribution systems, the
22 notification requirements of P.L. , c. (C.) (pending before
23 the Legislature as this bill) and how the requirements impact
24 consumers, and the methods to control *Legionella* bacteria in a
25 person's home. The public awareness campaign and education
26 program shall include, but not be limited to, information on the
27 relationship between the risks of the proliferation of *Legionella*
28 bacteria and hot water, the temperature requirements for medical
29 devices, expansion tanks, hot tubs, whirlpools, spas, pools, air
30 conditioning systems, ornamental fountains, or other equipment or
31 devices that release water aerosols in a person's home or on a
32 person's property, and the related risks associated with the
33 inhalation by vulnerable populations of water droplets containing
34 *Legionella* bacteria.

35 b. No later than one year after the effective date of P.L. ,
36 c. (C.) (pending before the Legislature as this bill), and
37 annually thereafter, the Department of Health, in consultation with
38 the Department of Environmental Protection, shall submit a report
39 to the Governor, and, pursuant to section 2 of P.L.1991, c.164
40 (C.52:14-19.1), to the Legislature, which shall include:

41 (1) the number of cases of Legionnaires' disease in the State
42 reported in each of the previous 10 years;

43 (2) the number of reported water sampling results in public
44 community water systems in the past year received by the
45 Department of Environmental Protection that indicate the presence
46 of *Legionella* bacteria;

1 (3) the number and type of violations of the provisions of
2 P.L. , c. (C.) (pending before the Legislature as this bill)
3 for which penalties were assessed;

4 (4) recommendations as to whether the minimum detectable
5 disinfectant targets established pursuant to subsection a. of section
6 2 of P.L. , c. (C.) (pending before the Legislature as this
7 bill) should be increased in order to minimize the growth and
8 transmission of *Legionella* bacteria; and

9 (5) any recommendations for legislative action as may be
10 necessary to further control *Legionella* bacteria in the public water
11 supply and affected buildings.

12

13 8. No later than 24 months after the effective date of P.L. ,
14 c. (C.) (pending before the Legislature as this bill), the
15 Department of Health, in consultation with the Department of
16 Environmental Protection, shall adopt rules and regulations
17 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
18 (C.52:14B-1 et seq.) to implement the provisions of P.L. ,
19 c. (C.) (pending before the Legislature as this bill). The
20 rules and regulations shall be consistent with the American Society
21 of Heating, Refrigeration, and Air Conditioning Engineers
22 (ASHRAE) Standard 188-2018, or subsequent versions thereof, or
23 comparable standards adopted by a nationally recognized, accepted,
24 and appropriate organization.

25

26 9. This act shall take effect immediately.

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2188

STATE OF NEW JERSEY
221st LEGISLATURE

ADOPTED MAY 9, 2024

Sponsored by:

Senator M. TERESA RUIZ

District 29 (Essex and Hudson)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Assemblywoman SHANIQUE SPEIGHT

District 29 (Essex and Hudson)

Assemblyman ROBERT J. KARABINCHAK

District 18 (Middlesex)

Assemblyman ANTHONY S. VERRELLI

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

**Senators McKnight, Burgess, Assemblywomen Haider, Hall and McCann
Stamato**

SYNOPSIS

Requires DEP, DOH, owners or operators of certain public community water systems, and owners or operators of certain buildings or facilities to take certain actions to prevent and control cases of Legionnaires' disease.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on June 24, 2024, with amendments.

(Sponsorship Updated As Of: 6/28/2024)

1 **AN ACT** concerning Legionnaires' disease and supplementing
2 P.L.1977, c.224 (C.58:12A-1 et seq.) and Title 26 of the Revised
3 Statutes.

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

7
8 1. As used in sections 1 through 4 of P.L. , c. (C.)
9 (pending before the Legislature as this bill):

10 "Disruption of the public community water system" means any
11 disruption that has the potential to lessen the quality of the water
12 delivered, including increasing the risk of exposure to pathogens
13 such as *Legionella* bacteria. "Disruption of the public community
14 water system" shall include, but not be limited to: (1) a change in
15 the water treatment process; (2) an unplanned event that results in
16 catastrophic issues that disrupt typical water system operations; (3)
17 a change in source of the drinking water; and (4) any other
18 conditions that the Department of Environmental Protection finds
19 may lead to a potential risk in the quality of water.

20 "Public community water system" means the same as the term is
21 defined in section 2 of P.L.2021, c.183 (C.58:12A-41).

22
23 2. a. Notwithstanding any other provision of law, or rule or
24 regulation adopted pursuant thereto, to the contrary, the owner or
25 operator of a public community water system, which has more than
26 100 service connections, and which is served fully or partially by
27 surface water or groundwater under the influence of surface water,
28 or any other public water system, as determined by the Department
29 of Environmental Protection for the protection of public health,
30 shall maintain:

31 (1) for systems utilizing chlorine as a disinfectant, a minimum
32 detectable disinfectant residual of at least 0.3 milligrams per liter of
33 free chlorine in all active parts of the public community water
34 system at all times; and

35 (2) for systems utilizing chloramine as a disinfectant, a minimum
36 detectable disinfectant residual of at least 1.0 milligrams per liter of
37 monochloramine in all active parts of the public community water
38 system at all times.

39 b. The Department of Environmental Protection shall, within 12
40 months after the effective date of P.L. , c. (C.) (pending
41 before the Legislature as this bill), develop and publish on its
42 Internet website best management practices for public community
43 water systems to discourage the growth and potential distribution of
44 pathogens such as *Legionella* bacteria. The best management
45 practices shall include, but not be limited to, information regarding:

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined **thus** is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted June 24, 2024.

- 1 (1) identification of areas of aging infrastructure, dead ends, or
- 2 components prone to biofilm accumulation;
- 3 (2) types of disruptions in the water distribution system;
- 4 (3) flushing details and schedule;
- 5 (4) disinfectant residual maintenance;
- 6 (5) storage tank maintenance;
- 7 (6) identification of areas of low water use, stagnation, or low
- 8 pressure;
- 9 (7) monitoring and testing;
- 10 (8) water age management; and
- 11 (9) other measures the Department of Environmental Protection
- 12 deems necessary for the optimization of water systems.

13 c. No later than six months after the promulgation of rules
14 regulations by the Department of Environmental Protection
15 pursuant to section ¹**[3]** ⁴ of P.L. , c. (C.) (pending
16 before the Legislature as this bill), each public community water
17 system that is subject to the provisions of subsection a. of this
18 section shall develop and implement a distribution system
19 maintenance plan to comply with the provisions of 1 through 4 of
20 P.L. , c. (C.) (pending before the Legislature as this bill),
21 in accordance with the best management practices developed
22 pursuant to subsection b. of this section and any applicable rules
23 and regulations adopted by the department. The public community
24 water system shall annually submit to the department a statement
25 certifying that the public community water system has developed
26 and implemented a distribution system maintenance plan pursuant
27 to the provisions of this section.

28
29 3. a. The owner or operator of a public community water
30 system that is subject to the provisions of subsection a. of section 2
31 of P.L. , c. (C.) (pending before the Legislature as this
32 bill) shall provide a record of a disruption of the public community
33 water system to the Department of Environmental Protection via
34 document upload or form submission to a data management system
35 established by the Department of Environmental Protection
36 pursuant to subsection b. of this section, within 72 hours of the
37 occurrence of the disruption of the public community water system.

38 b. No later than 24 months after the effective date of P.L. ,
39 c. (C.) (pending before the Legislature as this bill), the
40 Department of Environmental Protection shall establish a data
41 management system for the receipt of records by a public
42 community water system of any disruption, and, on its Internet
43 website, a dashboard of publicly accessible and searchable records
44 of disruptions of the public community water system received by
45 the Department of Environmental Protection pursuant to subsection
46 a. of this section.

47 c. The requirements of subsection a. of this section shall not
48 become operative until the Department of Environmental Protection

1 has developed a data management system for the submission of
2 records of disruptions of the public community water system.

3

4 4. a. No later than 24 months after the effective date of P.L. ,
5 c. (C.) (pending before the Legislature as this bill), the
6 Department of Environmental Protection, in consultation with the
7 Department of Health, shall adopt rules and regulations pursuant to
8 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
9 seq.) to implement the provisions of P.L. , c. (C.)
10 (pending before the Legislature as this bill).

11 b. The rules and regulations adopted pursuant to this section
12 shall establish requirements for public community water systems
13 with more than 100 service connections to discourage and minimize
14 growth and potential distribution of pathogens such as *Legionella*
15 bacteria in the water system, and shall include, but not be limited
16 to:

17 (1) criteria to be used by public community water systems to
18 develop distribution system maintenance plans ¹, including, but not
19 limited to, frequency of required disinfectant residual monitoring¹ ;

20 (2) requirements for a public community water system to certify
21 its distribution system maintenance plan and provide the plan to the
22 department upon request;

23 (3) the criteria for what would constitute a failure to comply
24 with a distribution system maintenance plan;

25 (4) criteria for identifying disruptions of the public community
26 water system; and

27 (5) requirements for customer notifications during times of
28 increased risk of *Legionella* bacteria exposure, in accordance with
29 similar notification requirements in P.L.1977, c.224 (C.58:12A-1 et
30 seq.), including, but not limited to, a requirement to provide
31 information about the risks of *Legionella* bacteria and measures
32 consumers can take to reduce or eliminate exposure to *Legionella*
33 bacteria; and

34 (6) penalties, in accordance with the provisions of section 10 of
35 P.L.1977, c.224 (C.58:12A-10), for failure to maintain the
36 minimum detectable disinfectant residual required pursuant to
37 subsection a. of section 2 of P.L. , c. (C.) (pending before
38 the Legislature as this bill), failure to comply with a certified
39 distribution system maintenance plan, failure to comply with
40 notification requirements, or any other violations of the provisions
41 of P.L. , c. (C.) (pending before the Legislature as this
42 bill).

43

44 5. a. As used in this section:

45 "De-identified data" means information that does not identify an
46 individual and for which there is no reasonable basis to believe that
47 the information can be used to identify an individual, and which
48 meets the requirements for de-identification of protected health

1 information under the "Health Insurance Portability and
2 Accountability Act of 1996," Pub.L.104-191, and any regulations
3 adopted pursuant thereto by the Secretary of the United States
4 Department of Health and Human Services.

5 b. For each reported diagnosis of Legionnaires' disease in the
6 State, the Department of Health, or a local health officer pursuant to
7 subsection f. of this section, shall conduct an epidemiological
8 investigation to ascertain potential sources of infection consistent
9 with the provisions of this section and the procedures and
10 guidelines established pursuant to subsection c. of this section.

11 c. The Department of Health shall develop procedures and
12 guidelines regarding suspected outbreaks of Legionnaires' disease
13 and the case investigation of reported diagnoses of Legionnaires'
14 disease pursuant to subsection b. of this section, including, but not
15 limited to:

16 (1) documentation of any disruption of the public community
17 water system, as defined in section 1 of P.L. , c. (C.)
18 (pending before the Legislature as this bill), of the water system
19 serving the primary residence of the individual with a confirmed
20 case of Legionnaires' disease or other water exposure points
21 identified pursuant to paragraph (3) of this subsection;

22 (2) provisions for the investigation of potential sources of
23 exposure to *Legionella* bacteria from fixtures, water-using
24 equipment, or features at the individual's residence including water
25 exposures external to the residence such as irrigation, hoses, or
26 water-based equipment and devices;

27 (3) provisions for the investigation of potential sources of
28 exposure to *Legionella* bacteria from water exposure points in
29 locations the individual visited in the 14 days preceding infection, if
30 appropriate; and

31 (4) procedures for determining when sampling of water fixtures
32 identified as potential sources of exposure in paragraphs (2) and (3)
33 of this subsection shall be performed, and procedures for
34 performing such sampling.

35 d. As part of an investigation of a confirmed case of
36 Legionnaires' disease, the Department of Health or the local health
37 officer may require the owner or operator of a building suspected to
38 be a source of *Legionella* bacteria exposure to test and mitigate the
39 presence of *Legionella* bacteria consistent with the procedures and
40 guidelines established by the department. The owner or operator
41 shall report to the department the results of any environmental
42 testing performed as part of the investigation. For the purposes of
43 this subsection "building" shall not include any residential property
44 with four or fewer dwelling units.

45 e. The Department of Health or the local health officer may
46 require the owner or operator of a building suspected to be a source
47 of *Legionella* bacteria exposure to provide notice in a form and
48 manner specified by the department. If notice is required in a

1 municipality in which the primary language of 10 percent or more
2 of the residents is a language other than English, the owner or
3 operator shall provide the notice in both English and the other
4 language to potentially exposed individuals.

5 f. The Department of Health may delegate its responsibilities
6 and duties pursuant to this section as deemed appropriate for
7 conducting all or part of the case investigation required by this
8 section to a local health officer having jurisdiction over the locality
9 in which a patient diagnosed with Legionnaires' disease lives,
10 frequently visits, or is employed ¹, subject to the resources available
11 to the local health officer¹.

12 g. The Department of Health shall establish on its Internet
13 website a dashboard accessible to the public and healthcare
14 providers that provides de-identified data related to all reported
15 cases of Legionnaires' disease, with the goal of providing near-real-
16 time incidence rates in affected communities. The Department of
17 Health shall include information concerning aggregated data of all
18 reported cases of Legionnaires' disease with the greatest degree of
19 specificity consistent with ensuring that no information that could
20 compromise protected health information, or patient identity, is
21 included in such reporting.

22
23 6. a. No later than 24 months after the effective date of P.L. ,
24 c. (C.) (pending before the Legislature as this bill), the
25 owner or operator of a building or facility that meets any of the
26 following criteria shall develop a water management program to
27 minimize the growth and transmission of *Legionella* bacteria in the
28 building's or facility's water system, consistent with the American
29 Society of Heating, Refrigeration, and Air Conditioning Engineers
30 (ASHRAE) Standard 188-2018 or subsequent versions thereof, or
31 comparable standards adopted by a nationally-recognized, accepted,
32 and appropriate organization:

33 (1) a general or specialty hospital that provides in-patient
34 services and is licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et
35 seq.);

36 (2) a nursing home, assisted living facility, comprehensive
37 personal care home, residential health care facility, or dementia care
38 home licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.);

39 (3) a building containing a whirlpool, spa, pool, open-circuit or
40 closed-circuit cooling tower or evaporative condenser that provides
41 cooling or refrigeration for a heating, ventilation, air conditioning,
42 or refrigeration system, ¹indoor¹ ornamental fountain, mister,
43 atomizer, air wash, humidifier, or other non-potable water system or
44 device that releases water aerosols in the building or on the property
45 upon which the building is located. A building with a device listed
46 in this paragraph shall implement a water management program for
47 the listed device and need not implement a water management

1 program for the entire building unless otherwise indicated by this
2 subsection;

3 (4) a federal, State, county, or privately owned or operated
4 correctional facility with one or more centralized potable hot water
5 systems;

6 (5) ¹a residential high-rise structure with six or more floors and
7 one or more centralized potable water-heater systems;

8 (6)¹ a building with one or more centralized potable water-heater
9 systems shared by ¹~~50~~ 25¹ or more housing units for transient
10 use, including, not but limited to, a hotel or motel;

11 ¹~~[(6)]~~ (7)¹ a residential building with a centralized potable
12 water-heater system that is shared by 25 or more housing units,
13 which serves as subsidized housing designated for individuals who
14 are 62 years of age or older or who have a disability, or is
15 designated as senior housing and is subject to the provisions of
16 P.L.1986, c.103 (C.52:27D-330 et seq.);

17 ¹~~[(7)]~~ (8)¹ a residential, commercial, institutional, or industrial
18 building or facility, including a hotel or motel, not otherwise
19 required to implement a water management program, but which has
20 been determined by the Department of Health or a local health
21 officer to have been associated with an outbreak of Legionnaires'
22 disease. The Department of Health or local health officer shall
23 determine the period during which a water management program is
24 required pursuant to this paragraph in order to address the increased
25 risk of *Legionella* contamination of the building or facility.

26 b. (1) A water management program for a building or facility
27 that meets the criteria of paragraphs (1) or (2) of subsection a. of
28 this section, that has been determined by the Department of Health
29 or a local health authority to have been associated with an outbreak
30 of Legionnaires' disease, or for which periodic water sampling for
31 bacteria is recommended by the federal Centers for Disease Control
32 and Prevention shall include periodic water sampling and testing for
33 bacteria in accordance with the rules and regulations promulgated
34 by the Department of Health pursuant to section 8 of P.L. ,
35 c. (C.) (pending before the Legislature as this bill).

36 (2) A water management program for a building or facility that
37 does not meet the criteria described in paragraph (1) of this
38 subsection may include periodic water sampling and testing for
39 bacteria.

40 (3) All sampling and testing carried out pursuant to this
41 subsection shall include, but not be limited to, testing for the
42 presence of *Legionella Pneumophila*, and shall be conducted in a
43 manner consistent with:

44 (a) rules, regulations, and best practices developed by the
45 Department of Health; and

46 (b) the American Society of Heating, Refrigeration, and Air
47 Conditioning Engineers (ASHRAE) Standard 188-2018 or

1 subsequent versions thereof, or comparable standards adopted by a
2 nationally recognized, accepted, and appropriate organization.

3 (4) The owner or operator of a covered facility or building shall
4 follow ASHRAE Standard 188-2018 and guidelines established by
5 the federal Centers for Disease Control and Prevention in
6 interpreting and responding to positive test results. The Department
7 of Health shall establish procedures for the reporting of positive test
8 results for *Legionella* bacteria received during testing carried out
9 pursuant to this subsection.

10 c. When a person required to implement a water management
11 program pursuant to this section has complied with the
12 requirements of this section, the person shall post a written public
13 notice on the premises in a location easily accessible to building
14 occupants that such a program has been implemented.

15 d. No later than 12 months after the effective date of P.L. ,
16 c. (C.) (pending before the Legislature as this bill), the
17 Department of Health shall develop and make available on its
18 Internet website guidance documents for the development and
19 implementation of water management programs pursuant to this
20 section, including guidance documents for complying with record-
21 keeping requirements, and best practices for periodic water
22 sampling and testing.

23 e. The owner or operator of a building or facility required to
24 implement a water management program pursuant to this section
25 shall establish documentation concerning all procedures and shall
26 maintain all records related to these procedures and their
27 implementation and make them available upon request to an
28 employee of the Department of Community Affairs, the Department
29 of Environmental Protection, the Department of Health, or any
30 other department or agency with license or inspection authority for
31 the facility or building in order to confirm that a water management
32 program was developed. The Department of Community Affairs,
33 the Department of Environmental Protection, the Department of
34 Health, or any other department or agency with license or
35 inspection authority for the facility or building shall not be required
36 to evaluate or otherwise review a water management program
37 unless required for an investigation of a case of Legionnaires'
38 disease 'in accordance with procedures developed by the
39 Department of Health' pursuant to section 5 of P.L. ,
40 c. (C.) (pending before the Legislature as this bill).

41 f. (1) No later than 27 months after the effective date of P.L. ,
42 c. (C.) (pending before the Legislature as this bill), the
43 owner or operator of a building or facility that meets any of the
44 criteria set forth in paragraphs (1) through (7) of subsection a. of
45 this section shall implement the procedures outlined in their
46 personalized water management program. Newly constructed or
47 repurposed buildings or facilities shall confirm that the water

1 management program mitigates the potential for human exposure to
2 *Legionella* bacteria prior to commissioning.

3 (2) The owner or operator of a building or facility that meets
4 any of the criteria set forth in paragraphs (1) through (7) of
5 subsection a. of this section shall maintain on the building or
6 facility premises for at least five years: (i) the written water
7 management program; (ii) documentation and records concerning
8 all procedures conducted, including the results from any water
9 testing carried out pursuant to subsection b. of this section; and (iii)
10 all other relevant documentation on the implementation of the water
11 management program. Such records shall be made available to the
12 Department of Health immediately upon request.

13 g. (1) The owner or operator of a building or facility who fails
14 to implement or demonstrate compliance with a water management
15 program required pursuant to this section, fails to report a positive
16 *Legionella* water system test pursuant to the procedures set by the
17 Department of Health, fails to test for or mitigate the presence of
18 *Legionella* as required by the Department of Health or the local
19 health officer pursuant to subsection d. of section 5 of P.L. ,
20 c. (C.) (pending before the Legislature as this bill), or fails
21 to provide notice pursuant to subsection e. of section 5 of P.L. ,
22 c. (C.) (pending before the Legislature as this bill) shall be
23 subject to a civil penalty of not more than \$2,000 for a first
24 violation, and not more than \$5,000 for a second or subsequent
25 violation, except that the owner or operator shall be subject to a
26 civil penalty of not more than \$10,000 for any violation which
27 causes serious injury or death to any person. Penalties imposed
28 pursuant to this paragraph shall be collected by the State in a civil
29 action by a summary proceeding under the "Penalty Enforcement
30 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior
31 Court and the municipal court shall have jurisdiction over
32 proceedings for the enforcement of the penalties provided by this
33 paragraph.

34 (2) Whenever the Department of Health determines that any
35 person is in violation of a provision of this section or section 5 of
36 P.L. , c. (C.) (pending before the Legislature as this bill),
37 the department may assess a civil administrative penalty of not
38 more than \$2,000 for a first violation, and not more than \$5,000 for
39 a second or subsequent violation, except that the person shall be
40 subject to a civil administrative penalty of not more than \$10,000
41 for any violation which causes serious injury or death to any person.
42 In assessing a civil administrative penalty, the commissioner shall
43 consider the severity of the violation, the measures taken to prevent
44 further violations, and whether the penalty will act as an appropriate
45 deterrent. Prior to the assessment of a civil administrative penalty
46 under this paragraph, the person committing the violation shall be
47 notified by certified mail or personal service that the penalty is
48 being assessed. The notice shall identify the section of the statute,

1 rule, regulation, or order that was violated; recite the facts alleged
2 to constitute a violation; state the basis for the amount of the civil
3 administrative penalties to be assessed; and affirm the rights of the
4 alleged violator to a hearing. The ordered party shall have 35 days
5 from receipt of the notice within which to deliver to the
6 Commissioner of Health a written request for a hearing. After the
7 hearing and upon finding that a violation has occurred, the
8 Commissioner of Health may issue a final order after assessing the
9 amount of the fine specified in the notice. If no hearing is
10 requested, the notice shall become a final order after the expiration
11 of the 35-day period. Payment of the assessment is due when a
12 final order is issued or the notice becomes a final order.

13 (3) The Department of Community Affairs, the Department of
14 Environmental Protection, or the Department of Health, or any
15 other department or agency with license or inspection authority for
16 the facility or building, may institute a civil action for injunctive
17 relief in the Superior Court to enforce the provisions of this section
18 or section 5 of P.L. , c. (C.) (pending before the
19 Legislature as this bill) and to prohibit and prevent a violation of
20 these sections, and the court may proceed in the action in a
21 summary manner.

22 h. The provisions of this section shall not apply to a residential
23 property with four or fewer dwelling units.
24

25 7. a. The Department of Health, in consultation with the
26 Department of Environmental Protection, shall develop a public
27 awareness campaign and targeted consumer education program to
28 educate consumers, especially vulnerable populations, concerning
29 the environmental sources of *Legionella* bacteria, the movement of
30 *Legionella* bacteria through water distribution systems, the
31 notification requirements of P.L. , c. (C.) (pending before
32 the Legislature as this bill) and how the requirements impact
33 consumers, and the methods to control *Legionella* bacteria in a
34 person's home. The public awareness campaign and education
35 program shall include, but not be limited to, information on the
36 relationship between the risks of the proliferation of *Legionella*
37 bacteria and hot water, the temperature requirements for medical
38 devices, expansion tanks, hot tubs, whirlpools, spas, pools, air
39 conditioning systems, ornamental fountains, or other equipment or
40 devices that release water aerosols in a person's home or on a
41 person's property, and the related risks associated with the
42 inhalation by vulnerable populations of water droplets containing
43 *Legionella* bacteria.

44 b. No later than one year after the effective date of P.L. ,
45 c. (C.) (pending before the Legislature as this bill), and
46 annually thereafter, the Department of Health, in consultation with
47 the Department of Environmental Protection, shall submit a report

1 to the Governor, and, pursuant to section 2 of P.L.1991, c.164
2 (C.52:14-19.1), to the Legislature, which shall include:

3 (1) the number of cases of Legionnaires' disease in the State
4 reported in each of the previous 10 years;

5 (2) the number of reported water sampling results in public
6 community water systems in the past year received by the
7 Department of Environmental Protection that indicate the presence
8 of *Legionella* bacteria;

9 (3) the number and type of violations of the provisions of
10 P.L. , c. (C.) (pending before the Legislature as this bill)
11 for which penalties were assessed;

12 (4) recommendations as to whether the minimum detectable
13 disinfectant targets established pursuant to subsection a. of section
14 2 of P.L. , c. (C.) (pending before the Legislature as this
15 bill) should be increased in order to minimize the growth and
16 transmission of *Legionella* bacteria; and

17 (5) any recommendations for legislative action as may be
18 necessary to further control *Legionella* bacteria in the public water
19 supply and affected buildings.

20

21 8. No later than 24 months after the effective date of P.L. ,
22 c. (C.) (pending before the Legislature as this bill), the
23 Department of Health, in consultation with the Department of
24 Environmental Protection, shall adopt rules and regulations
25 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
26 (C.52:14B-1 et seq.) to implement the provisions of P.L. ,
27 c. (C.) (pending before the Legislature as this bill). The
28 rules and regulations shall be consistent with the American Society
29 of Heating, Refrigeration, and Air Conditioning Engineers
30 (ASHRAE) Standard 188-2018, or subsequent versions thereof, or
31 comparable standards adopted by a nationally recognized, accepted,
32 and appropriate organization.

33

34 9. This act shall take effect immediately.

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2188

STATE OF NEW JERSEY

DATED: MAY 9, 2024

The Senate Health, Human Services and Senior Citizens Committee reports favorably a Senate Committee Substitute for Senate Bill No. 2188.

This bill requires the Department of Environmental Protection (DEP), the Department of Health (DOH), owners or operators of public water systems, and the owners or operators of certain types of buildings or facilities to take specified actions to help inform citizens of the State about, and prevent and control cases of, Legionnaires' disease.

Specifically, the bill requires the owners or operators of public community water systems, which have more than 100 service connections, and which are served fully or partially by surface water or groundwater under the influence of surface water, and any other public water systems designated by the DEP, to maintain a certain minimum detectable disinfectant residual of free chlorine or monochloramine, as applicable. The bill would require the DEP to develop a set of best management practices to aid public community water systems in complying with the bill's provisions. The bill would also require each public community water system that is subject to the bill's provisions to develop and implement a distribution system maintenance plan for complying with the bill's provisions.

In the event of a disruption to a community water system (e.g. a change in water treatment process or a change in the drinking water's source), a public community water system that is subject to the bill's provisions would be required to provide a record of the disruption to the DEP within 72 hours. Under the bill, the DEP would be required to establish a data management system for the submission of records of disruption by a public community water system, and a portal through which records of disruptions may be accessed by the public.

The bill would direct the DEP to establish penalties, in accordance with the applicable provisions of the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), for failure to maintain the minimum detectable disinfectant residual, failure to comply with a certified distribution system maintenance plan, failure to comply with

notification requirements, and any other violation of the bill's provisions.

In addition, the bill would require the DOH, or a local health officer designated by the DOH, to perform an epidemiological investigation for each reported diagnosis of Legionnaires' disease in the State. The bill would require the DOH to develop guidelines concerning the investigations, and would authorize the DOH to take certain actions during an investigation, including requiring water testing in buildings suspected to be the source of the Legionnaires' case. The bill would also require the DOH to establish a dashboard accessible to the public and healthcare providers that provides de-identified data related to all reported cases of Legionnaires' disease.

The bill would require owners or operators of certain buildings or facilities that meet criteria enumerated in subsection a. of section 5 of the bill – including hospitals, certain health care facilities, correctional facilities, and certain senior housing facilities – to develop, with 24 months of the bill's enactment, a water management program to minimize the growth of *Legionella* bacteria in the facility's water system. The bill would require each water management program to be consistent with the American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE) Standard 188-2018 or subsequent versions thereof, or comparable standards adopted by a nationally-recognized, accepted, and appropriate organization. The bill would also require water management programs for certain buildings and facilities, including health care facilities licensed pursuant to the "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.), to include periodic sampling and testing for the presence of bacteria. The bill would require the water management program to be implemented within 27 months of the bill's enactment. The owner or operator of a covered facility who fails to implement a water management program would be subject to a civil or civil administrative penalty of not more than \$2,000 for a first violation, and not more than \$5,000 for a second or subsequent violation, except that an owner or operator would be subject to a penalty of not more than \$10,000 for any violation which causes serious injury or death to any person.

Finally, the bill would require the DOH to develop a public awareness campaign related to Legionnaires' disease, and to submit an annual report to the Governor and the Legislature on the status of Legionnaires' disease transmission in the State and the DEP's and DOH's progress in implementing the bill's provisions.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 2188**

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 24, 2024

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 2188 (SCS).

As amended and reported, this bill requires the Department of Environmental Protection (DEP), the Department of Health (DOH), owners or operators of public water systems, and the owners or operators of certain types of buildings or facilities to take specified actions to help inform citizens of the State about, and prevent and control cases of, Legionnaires' disease.

Specifically, the bill requires the owners or operators of public community water systems, which have more than 100 service connections, and which are served fully or partially by surface water or groundwater under the influence of surface water, and any other public water systems designated by the DEP, to maintain a certain minimum detectable disinfectant residual of free chlorine or monochloramine, as applicable. The bill would require the DEP to develop a set of best management practices to aid public community water systems in complying with the bill's provisions. The bill would also require each public community water system that is subject to the bill's provisions to develop and implement a distribution system maintenance plan for complying with the bill's provisions.

In the event of a disruption to a community water system (e.g. a change in water treatment process or a change in the drinking water's source), a public community water system that is subject to the bill's provisions would be required to provide a record of the disruption to the DEP within 72 hours. Under the bill, the DEP would be required to establish a data management system for the submission of records of disruption by a public community water system, and a portal through which records of disruptions may be accessed by the public.

The bill would direct the DEP to establish penalties, in accordance with the applicable provisions of the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), for failure to maintain the minimum detectable disinfectant residual, failure to comply with a certified distribution system maintenance plan, failure to comply with

notification requirements, and any other violation of the bill's provisions.

In addition, the bill would require the DOH, or a local health officer designated by the DOH, to perform an epidemiological investigation for each reported diagnosis of Legionnaires' disease in the State. The bill would require the DOH to develop guidelines concerning the investigations, and would authorize the DOH to take certain actions during an investigation, including requiring water testing in buildings suspected to be the source of the Legionnaires' case. The bill would also require the DOH to establish a dashboard accessible to the public and healthcare providers that provides de-identified data related to all reported cases of Legionnaires' disease.

The bill would require owners or operators of certain buildings or facilities that meet criteria enumerated in subsection a. of section 6 of the bill – including hospitals, certain health care facilities, correctional facilities, certain transient housing, certain residential housing, and certain senior housing facilities – to develop, with 24 months of the bill's enactment, a water management program to minimize the growth of Legionella bacteria in the facility's water system. The bill would require each water management program to be consistent with the American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE) Standard 188-2018 or subsequent versions thereof, or comparable standards adopted by a nationally-recognized, accepted, and appropriate organization. The bill would also require water management programs for certain buildings and facilities, including health care facilities licensed pursuant to the "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.), to include periodic sampling and testing for the presence of bacteria. The bill would require the water management program to be implemented within 27 months of the bill's enactment. The owner or operator of a covered facility who fails to implement a water management program would be subject to a civil or civil administrative penalty of not more than \$2,000 for a first violation, and not more than \$5,000 for a second or subsequent violation, except that an owner or operator would be subject to a penalty of not more than \$10,000 for any violation which causes serious injury or death to any person.

Finally, the bill would require the DOH to develop a public awareness campaign related to Legionnaires' disease, and to submit an annual report to the Governor and the Legislature on the status of Legionnaires' disease transmission in the State and the DEP's and DOH's progress in implementing the bill's provisions.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) require the DEP to include in its criteria for public community water systems' distribution maintenance plans, the frequency of required disinfection residual monitoring;

(2) specify that the Department of Health may consider, when it delegates its responsibilities to a local health officer pursuant to section 5 of the bill, the resources available to the local health officer;

(3) add residential high-rise structures with six or more floors with one or more centralized potable water-heater systems to those buildings that are required to adopt a water management program pursuant to section 6 of the bill;

(4) provide that a water management program, prepared pursuant to section 6 of the bill for a building that provides housing for transient use with one or more centralized potable water-heater systems, is required for buildings with 25 units rather than 50 units; and

(5) make clarifying and technical amendments.

FISCAL IMPACT:

The Office of Legislative Services (OLS) determines that this bill would result in an annual expenditure increase by certain public water systems that are operated by local government units. Current Department of Environmental Protection rules require public water systems to maintain free chlorine levels that are comparable to those required by the bill. In addition, some public water systems may already implement testing regimens that would satisfy the bill's provisions. For those that do not, however, the OLS understands that such testing would cost up to tens of thousands of dollars per system annually, depending on the size of the system.

The bill would also result in annual expenditure increases by the Department of Health and local health departments, since it requires the department or the local health officer to investigate any reported diagnosis of Legionnaires' disease, and to perform other tasks associated with the outbreak. The OLS notes that New Jersey experiences around 350 cases of Legionnaires' disease each year on the high end of the range. According to information from the department, departmental expenditure increases under the bill could be about \$6 million per year to investigate cases of Legionnaires' disease. Depending on how the investigative responsibilities are delegated, some of these costs would be borne by the affected local government entity rather than the State.

The OLS also determines that this bill would result in an annual expenditure increase by the State, and by local government units and school districts that own or operate buildings that would be required to implement water management programs under the bill. The OLS understands that implementing a water management program that meets the standards required by the bill could cost in the range of \$2,000 to \$10,000 or more, depending on the size and complexity of the building. In addition, each program could cost several thousand dollars annually for water monitoring and testing.

Finally, the State and municipalities may accrue an indeterminate amount of annual revenue from penalties and court costs paid by building owners or operators that violate the provisions of the bill.

LEGISLATIVE FISCAL ESTIMATE
 [First Reprint]
 SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2188
STATE OF NEW JERSEY
221st LEGISLATURE

DATED: JUNE 28, 2024

SUMMARY

- Synopsis:** Requires DEP, DOH, owners or operators of certain public water systems, and owners or operators of certain buildings to take certain actions to prevent and control cases of Legionnaires' disease.
- Type of Impact:** Annual State and local expenditure and revenue increases.
- Agencies Affected:** Department of Health, Department of Environmental Protection, certain local government units, public institutions of higher education, school districts.

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
Public Institutions of Higher Education Expenditure Increase	Indeterminate

- The Office of Legislative Services (OLS) determines that this bill would result in an annual expenditure increase by the State, local government units, school districts, and public institutions of higher education associated with their various responsibilities under the bill, such as to implement water management programs in buildings, implement distribution system maintenance plans and maintain disinfectant levels in public community water systems, and to investigate cases of reported Legionnaires' disease.
- According to information from the Department of Health, annual departmental expenditures under the bill could be approximately \$6 million annually to investigate cases of Legionnaires'

disease. Depending on how certain investigative responsibilities are delegated, some of these costs could be borne by the affected local government entity rather than the State.

- With respect to buildings covered by the bill, which may be owned by the State, local governments, school districts, or public institutions of higher education, the OLS understands that a water management program that meets the standards required by the bill could cost in the range of \$2,000 to \$10,000 or more, depending on the size and complexity of the building. In addition, certain programs could cost several thousand dollars or more annually for water monitoring and testing.
- The State and municipalities may accrue an indeterminate amount of annual revenue from penalties and court costs paid by building owners or operators that violate the provisions of the bill.

BILL DESCRIPTION

This bill would require the Department of Environmental Protection, the Department of Health, owners or operators of certain public water systems, and the owners or operators of certain types of buildings to take specified actions to help inform citizens of the State about, and prevent and control cases of, Legionnaires' disease.

The bill requires the owners or operators of public community water systems, which have more than 100 service connections, and which are served fully or partially by surface water or groundwater under the influence of surface water, and any other public water systems designated by the Department of Environmental Protection, to maintain a certain minimum detectable disinfectant residual of free chlorine or monochloramine. The bill would require the department to develop a set of best management practices to aid public community water systems in complying with the bill. The bill would also require each public community water system that is subject to the bill's provisions to develop and implement a distribution system maintenance plan for complying with the bill's provisions.

In the event of a disruption to a community water system (e.g. a change in water treatment process or a change in the drinking water's source), a public community water system that is subject to the bill's provisions would be required to provide a record of the disruption to the department within 72 hours. Under the bill, the department would be required to establish a data management system for the submission of records of disruption by a public community water system, and a portal through which records of disruptions may be accessed by the public.

In addition, the bill would require the Department of Health, or a local health officer designated by the department, to perform an epidemiological investigation for each reported diagnosis of Legionnaires' disease in the State. The bill would require the department to develop guidelines concerning the investigations, and would authorize the department to take certain actions during an investigation, including requiring water testing in buildings suspected to be the source of the Legionnaires' case. The bill would also require the department to establish a dashboard accessible to the public and healthcare providers that provides data related to all reported cases of Legionnaires' disease.

The bill would also require the owner or operator of certain types of buildings to implement a water management program to minimize the growth and transmission of *Legionella* bacteria in the building's water system. The owner or operator of a covered facility who fails to implement a water management program would be subject to a civil or civil administrative penalty of not more

than \$2,000 for a first violation, and not more than \$5,000 for a second or subsequent violation, except that an owner or operator would be subject to a penalty of not more than \$10,000 for any violation which causes serious injury or death to any person.

Finally, the bill would require the Department of Health to develop a public awareness campaign related to Legionnaires' disease, and to submit an annual report to the Governor and the Legislature on the status of Legionnaires' disease transmission in the State and the progress of the departments in implementing the bill's provisions.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The OLS has not received a fiscal note from the Executive for this bill. However, the Department of Health provided informal information to the OLS that the bill would increase departmental spending by approximately \$5.8 million per year to perform investigations of reported cases of Legionnaires' disease, including repeat visits by department employees and water sampling and testing.

OFFICE OF LEGISLATIVE SERVICES

The OLS determines that the bill would result in an annual expenditure increase by the State and by local government units that operate public community water systems that are covered by the bill, in order to satisfy the bill's requirement that public community water systems implement a distribution system maintenance plan and maintain a certain level of disinfectant in their water supply. Current Department of Environmental Protection rules require public water systems to maintain free chlorine levels that are comparable to those required by the bill. In addition, some public water systems may already implement maintenance plans that would satisfy the bill's provisions. For those that do not, however, the OLS understands that such testing would cost up to tens of thousands of dollars per system annually, depending on the size of the system. The bill would also lead to discrete expenditure increases by certain public water systems that experience disruptions that are likely to increase the growth of *Legionella* bacteria, since the bill requires such public water systems to provide written notice to its customers about the disruption. The OLS cannot quantify these expenditure increases because it lacks data about the number of public water systems that would be required to expend funds to come into compliance with the bill, and how many systems will experience disruptions that will require the dissemination of written notices.

The OLS also determines that this bill would result in an annual expenditure increase by the State, local government units, school districts, and public institutions of higher education that own or operate certain buildings to prepare water management programs under the bill. The OLS cannot quantify this expenditure increase because it lacks data about how many buildings covered by the bill are owned or operated by the State, a local government unit, a school district, or a public institution of higher education and, of these, how many have already implemented water management programs that would satisfy the bill's requirements. However, many large office buildings, schools, and public institutions of higher education have cooling towers and would thus be covered by the bill. The OLS understands that implementing a water management program that meets the standards required by the bill could cost in the range of \$2,000 to \$10,000 or more, depending on the size and complexity of the building. In addition, certain programs are required to include periodic sampling and testing for the presence of bacteria, which could cost several thousand dollars annually.

The bill would also result in an annual expenditure increase by the Department of Health or local health officers, since it requires the department or the local health officer to conduct an investigation into any reported diagnosis of Legionnaires' disease, and to perform other tasks associated with the outbreak. The OLS notes that New Jersey experiences around 350 cases of Legionnaires' disease each year on the high end of the range. According to information from the department, annual departmental expenditure increases under the bill could be about \$6 million to investigate cases of Legionnaires' disease. Depending on how the investigative responsibilities are delegated, some of these costs could be borne by the affected local government entity rather than the State. The bill also would result in one-time expenditure increases by the Department of Environmental Protection and the Department of Health, in order to accomplish the administrative tasks required by the bill, including establishing notice requirements for public water systems, and adopting rules and regulations to implement the bill. In addition, the Department of Health will face costs in the administration of the public awareness campaign and consumer education program campaign required pursuant to this bill. However, the OLS is unable to determine a precise cost estimate since the cost of public awareness campaigns and education programs can vary widely depending on many factors, including the types of media or educational material used.

Finally, the OLS notes that the State may accrue annual revenue from penalties paid by public community water systems and building owners or operators that violate the provisions of the bill.

Section: Environment, Agriculture, Energy, and Natural Resources

*Analyst: Anna Heckler
Assistant Fiscal Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

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.).

ASSEMBLY, No. 1970

STATE OF NEW JERSEY

221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Assemblywoman SHANIQUE SPEIGHT

District 29 (Essex and Hudson)

Assemblyman ROBERT J. KARABINCHAK

District 18 (Middlesex)

Assemblyman ANTHONY S. VERRELLI

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

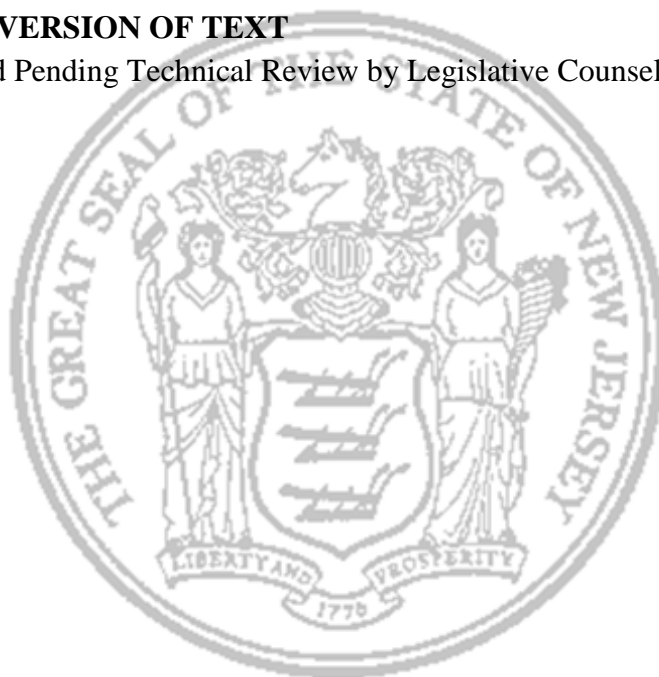
Assemblywomen Haider and Hall

SYNOPSIS

Requires DEP, DOH, owners or operators of public water systems, and owners or operators of certain buildings to take certain actions to prevent and control cases of Legionnaires' disease.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 5/10/2024)

1 AN ACT concerning Legionnaires' disease and supplementing
2 P.L.1977, c.224 (C.58:12A-1 et seq.) and Title 26 of the Revised
3 Statutes.

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

7
8 1. a. Notwithstanding any other provision of law, or rule or
9 regulation adopted pursuant thereto, to the contrary, the owner or
10 operator of a public water system shall:

11 (1) maintain a minimum detectable disinfectant residual of free
12 chlorine of at least 0.3 milligrams per liter in all active parts of the
13 public water system at all times; and

14 (2) conduct disinfectant residual testing at frequent and regular
15 intervals to determine the amount and type of detectable
16 disinfectant residual existing at different points in the public water
17 system.

18 b. (1) If the owner or operator of a public water system
19 repeatedly fails to meet the minimum detectable disinfectant
20 residual of chlorine targets established pursuant to paragraph (1) of
21 subsection a. of this section and the violations are reported to the
22 Department of Environmental Protection, the public water system
23 shall conduct an internal investigation of the violations. If, after the
24 public water system conducts an investigation, subsequent failures
25 to meet the targets are reported, the Department of Environmental
26 Protection shall conduct an investigation of the subsequent
27 violations or, at its discretion, authorize a third-party entity to
28 conduct the investigation.

29 (2) The Department of Environmental Protection shall develop
30 procedures and guidelines regarding the investigation of an owner
31 or operator of a public water system conducted pursuant to
32 paragraph (1) of this subsection, including but not limited, to:

33 (a) the definition of what constitutes a repeated failure to meet
34 the minimum detectable disinfectant residual of chlorine targets;

35 (b) the requirements for reporting violations of the chlorine
36 targets;

37 (c) when to initiate an initial internal investigation of violations
38 of chlorine targets and subsequent investigations;

39 (d) the establishment of penalties for a violation of chlorine
40 targets, if the department determines that a violation has occurred;

41 (e) the development of a notice to inform consumers if a public
42 water system fails to maintain the minimum detectable disinfectant
43 residual of chlorine targets established pursuant to paragraph (1) of
44 subsection a. of this section; and

45 (f) the criteria used by the department to select appropriate third
46 party entities to conduct investigations of additional violations of
47 chlorine targets.

1 c. The Department of Environmental Protection, in consultation
2 with the Department of Health, may adopt rules and regulations
3 pursuant to the “Administrative Procedure Act,” P.L.1968, c.410
4 (C.52:14B-1 et seq.), if determined to be appropriate, to require
5 additional disinfectant requirements or testing requirements of
6 public water systems, or to increase the minimum detectable
7 disinfectant residual, in order to minimize the growth and
8 transmission of *Legionella* bacteria, and requirements for the
9 monitoring of public water systems during construction activities
10 that may impact the public water system. The Department of
11 Environmental Protection shall not reduce the minimum detectable
12 disinfectant residual of chlorine targets established pursuant to
13 paragraph (1) of subsection a. of this section.

14 d. The Department of Environmental Protection shall submit an
15 annual report to the Governor and to the Legislature, pursuant to
16 section 2 of P.L.1991, c.164 (C.52:14-19.1), containing its
17 recommendations as to whether the minimum detectable
18 disinfectant residual of chlorine targets established pursuant to
19 paragraph (1) of subsection a. of this section should be increased in
20 order to minimize the growth and transmission of *Legionella*
21 bacteria.

22

23 2. a. The owner or operator of a public water system shall
24 provide a timely written notice, in a form and manner as determined
25 by the Department of Environmental Protection pursuant to
26 subsection c. of this section, to all residential, commercial, and
27 institutional customers and residents served by the public water
28 system and located in an affected area of disruptions in the water
29 distribution system that could result in increased levels of
30 *Legionella* bacteria being present in the public water system.

31 The notice shall include, but need not be limited to:

32 (1) notification that planned construction, maintenance, repair,
33 or replacement of a part of the system may affect *Legionella*
34 bacteria in the water distribution system and temporarily increase
35 the level of *Legionella* bacteria in the public water system;

36 (2) the estimated length of time that the level of *Legionella*
37 bacteria may remain elevated, as determined by the department;

38 (3) general information on the possible sources of *Legionella*
39 bacteria in the public water system, and the health effects of
40 Legionnaires’ disease and related illnesses to at-risk populations;
41 and

42 (4) measures consumers can take to reduce or eliminate exposure
43 to *Legionella* bacteria, including, but not limited to, ensuring hot water
44 heaters are working properly and maintaining a temperature of at least
45 130 degrees Fahrenheit at the water heater outlet, flushing water lines,
46 including the hot water heater drain and external hose connections,
47 during and after completion of construction work, removing and
48 cleaning faucet aerator screens and showerheads, and installing a

1 water filter or water treatment device certified to remove *Legionella*
2 bacteria.

3 b. (1) The owner or operator of a public water system shall
4 provide a written record of a disruption in the water distribution
5 system to the Department of Environmental Protection within 24
6 hours of the occurrence of the disruption in the water distribution
7 system.

8 (2) The Department of Environmental Protection shall establish
9 on its Internet website a publicly accessible database of the records
10 of a disruption in the water distribution system received by the
11 department pursuant to paragraph (1) of this subsection.

12 c. No later than 120 days after the effective date of
13 P.L. , c. (C.) (pending before the Legislature as this bill),
14 the Department of Environmental Protection, in consultation with
15 the Department of Health and the Department of Community
16 Affairs, shall publish a public notice in the New Jersey Register and
17 on its Internet website specifying the form and manner of:

18 (1) the notice required pursuant to subsection a. of this section,
19 the circumstances under which the owner or operator of a public water
20 system is required to provide the notice pursuant to subsection a. of
21 this section, including when a notice is to be provided if the disruption
22 in the water distribution system is related to *Legionella* bacteria in
23 ground water and when the disruption is related to *Legionella* bacteria
24 in surface water, and the specific information to be included in the
25 notice; and

26 (2) the record of a disruption in the water distribution system
27 required pursuant to subsection b. of this section and the specific
28 information to be included in the record.

29 d. If a public water system serves a municipality in which the
30 primary language of 10 percent or more of the residents is a
31 language other than English, the water purveyor shall provide the
32 notice required pursuant to subsection a. of this section in both
33 English and the other language to the residents.

34 e. The owner or operator of a public water system shall not be
35 required to provide the notice required pursuant to subsection a. or
36 b. of this section until the department has published the public
37 notice required pursuant to subsection c. of this section.

38 f. As used in this section, “disruption in the water distribution
39 system” means any disruption to normal water transmission,
40 including, but not limited to: a change in the water treatment
41 process, including temporary changes from a chloramine residual to
42 a free chlorine residual or vice versa; any planned or unplanned
43 event that reduces water delivery pressure below 20 pounds per
44 square inch; a lead service line replacement; a new construction tie-
45 in; a source water change; water treatment plant maintenance or
46 changes; changes in directional water flow; flooding; replacement
47 of valves, hydrants, or meters; pumping failures; pipeline or water
48 main breaks; system repairs; or emergency conditions.

- 1 3. a. For every reported diagnosis of Legionnaires' disease, the
2 Department of Health shall:
- 3 (1) conduct an investigation into the reported case; and
4 (2) advise the individual diagnosed with Legionnaires' disease
5 about the availability of testing by the Department of Health of the
6 fixtures and water-using equipment in the individual's residence,
7 locations frequently visited, and places of employment in the 45
8 days immediately prior to the individual's diagnosis. In a manner
9 consistent with the consent provided by the individual diagnosed
10 with Legionnaires' disease or the owner of the property, the
11 Department of Health shall sample and test the fixtures and water-
12 using equipment for the presence of *Legionella* bacteria. Each test
13 shall be conducted by a laboratory certified for this purpose by the
14 Department of Health, and in accordance with the sampling and
15 testing methods established and provided by the department.
- 16 b. The Department of Health shall develop procedures and
17 guidelines regarding the investigation of every reported diagnosis of
18 Legionnaires' disease pursuant to paragraph (1) of subsection a. of
19 this section, including, but not limited to:
- 20 (1) documentation of any disruption in the water distribution
21 system as defined in subsection f. of section 2 of P.L. ,
22 c. (C.) (pending before the Legislature as this bill), serving
23 the primary residence or water exposure points frequented by the
24 infected individual in the 45 days preceding infection, that may
25 have caused the release of *Legionella* bacteria into the home or
26 other water exposure point frequented by the infected individual
27 during that period;
- 28 (2) investigation of potential sources of exposure to *Legionella*
29 bacteria from fixtures, water-using equipment, or features at the
30 individual's residence including water exposures external to the
31 residence such as irrigation, hoses, or water-based equipment and
32 devices; and
- 33 (3) investigation of potential sources of exposure to *Legionella*
34 bacteria from other identified water exposure points such as visits to
35 buildings, water features, car washes, irrigation systems, exposure
36 to pressure washing, car windshield fluids, public fountains or
37 toilets, or other aspects of daily travel and activities.
- 38 c. The Department of Health may delegate its responsibilities
39 and duties pursuant to this section as deemed appropriate for
40 administering the testing and investigatory provisions of this section
41 to a local health officer having jurisdiction over the locality in
42 which a patient diagnosed with Legionnaires' disease lives,
43 frequently visits, or is employed.
- 44 d. The Department of Health shall establish on its Internet
45 website a registry accessible to the public of de-identified data
46 related to each case of Legionnaires' disease reported to the
47 department.

1 As used in this subsection, “de-identified data” means
2 information that does not identify an individual and for which there
3 is no reasonable basis to believe that the information can be used to
4 identify an individual, and which meets the requirements for de-
5 identification of protected health information under the "Health
6 Insurance Portability and Accountability Act of 1996,"
7 Pub.L.104-191, and any regulations adopted pursuant thereto by the
8 Secretary of the United States Department of Health and Human
9 Services. However, the Commissioner of Health shall make every
10 effort to provide information on the approximate location of a case
11 of Legionnaires’ disease to the nearest city block or general
12 neighborhood description.

13

14 4. a. No later than one year after the effective date of
15 P.L. , c. (C.) (pending before the Legislature as this bill),
16 the owner or operator of a building that meets any of the criteria set
17 forth in paragraphs (1) through (5) of this subsection shall
18 implement a water management program to minimize the growth
19 and transmission of *Legionella* bacteria in the building’s water
20 system, consistent with the American Society of Heating,
21 Refrigeration, and Air Conditioning Engineers (ASHRAE) Standard
22 188-2018 or comparable standards adopted by a nationally-
23 recognized, accepted, and appropriate organization:

24 (1) a health care facility licensed pursuant to P.L.1971, c.136
25 (C.26:2H-1 et seq.) where patient stays exceed 24 hours;

26 (2) a building containing one or more areas for the purpose of
27 housing or treating occupants receiving treatment for burns,
28 chemotherapy, solid organ transplantation, or bone marrow
29 transplantation;

30 (3) a building containing one or more areas for the purpose of
31 housing or treating occupants that are immunocompromised, at-risk,
32 on medications that weaken the immune system, or have renal
33 disease, diabetes, or chronic lung disease;

34 (4) a building containing a whirlpool; spa; pool; open- or
35 closed-circuit cooling tower or evaporative condenser that provides
36 cooling or refrigeration for a heating, ventilation, air conditioning,
37 or refrigeration system; ornamental fountain; mister; atomizer; air
38 wash; humidifier; or other non-potable water system or device that
39 releases water aerosols in the building or on the property upon
40 which the building is located; and

41 (5) a building that is more than 10 stories high, including any
42 level that is below grade, with a centralized potable water-heater
43 system.

44 b. The owner or operator of a facility or building required to
45 implement a water management program pursuant to this section
46 shall make the water management program available upon request
47 to an employee of the Department of Community Affairs, the
48 Department of Environmental Protection, the Department of Health,

1 or any other department or agency with license or inspection
2 authority for the facility or building.

3 c. When testing for *Legionella* bacteria consistent with a
4 building's water management program pursuant to subsection a. of
5 this section, the testing shall include, but not be limited to,
6 *Legionella Pneumophila*, and be conducted:

7 (1) in a manner consistent with consistent with the American
8 Society of Heating, Refrigeration, and Air Conditioning Engineers
9 (ASHRAE) Standard 188-2018 or comparable standards adopted by
10 a nationally recognized, accepted, and appropriate organization; and

11 (2) by individuals whose qualifications include:

12 (a) certification in accordance with ASSE Series 12000-2018,
13 Professional Qualifications Standards for Infection Control Risk
14 Assessment for all Building Systems, or comparable standards
15 adopted by a nationally recognized, accepted, and appropriate
16 organization; or

17 (b) the completion of continuing education or a training course
18 of no less than four hours concerning testing, handling, and safety
19 precautions related to *Legionella* bacteria offered in the State by a
20 vocational or community college, non-profit organization,
21 professional association, trade association, trade or labor union, or
22 similar organization.

23 d. (1) An owner or operator of a facility or building who fails to
24 implement a water management program or fails to demonstrate
25 compliance with a water management program required pursuant to
26 this section shall be subject to a penalty of not more than \$2,000 for
27 a first violation, and not more than \$5,000 for a second or
28 subsequent violation, except that the owner or operator shall be
29 subject to a penalty of not more than \$10,000 for any violation
30 which causes serious injury or death to any person, to be collected
31 by the State in a civil action by a summary proceeding under the
32 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10
33 et seq.). The Superior Court and the municipal court shall have
34 jurisdiction over proceedings for the enforcement of the penalty
35 provided by this section.

36 (2) The Department of Community Affairs, the Department of
37 Environmental Protection, or the Department of Health may
38 institute a civil action for injunctive relief in the Superior Court to
39 enforce the provisions of this section and to prohibit and prevent a
40 violation of this section, and the court may proceed in the action in
41 a summary manner.

42 e. The provisions of this section shall not apply to a residential
43 property with four or less dwelling units.

44
45 5. No later than 180 days after the effective date of P.L. ,
46 c. (C.) (pending before the Legislature as this bill), the
47 Department of Health, in consultation with the Department of
48 Community Affairs, Department of Environmental Protection, and a

1 public stakeholder group that shall be comprised of no more than
2 five public members, including one representative of a public health
3 organization dedicated to eradicating Legionnaires' disease and one
4 representative of an organization representing water purveyors,
5 shall adopt rules and regulations pursuant to the "Administrative
6 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as necessary
7 to implement the provisions of P.L. , c. (C.) (pending
8 before the Legislature as this bill).

9 The rules and regulations adopted pursuant to this section shall
10 be consistent with the American Society of Heating, Refrigeration, and
11 Air Conditioning Engineers (ASHRAE) Standard 188-2018 or
12 comparable standards adopted by a nationally recognized, accepted,
13 and appropriate organization.

14

15 6. No later than one year after the effective date of
16 P.L. c. (C.) (pending before the Legislature as this bill), and
17 annually thereafter, the Department of Health, in conjunction with
18 the Department of Environmental Protection and the Department of
19 Community Affairs, shall submit a report to the Governor, and,
20 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
21 Legislature, which shall include:

22 a. the number of cases of Legionnaires' disease in the State
23 reported in each of the previous 10 years;

24 b. the number of reported test results received by the
25 Department of Community Affairs, the Department of
26 Environmental Protection, or the Department of Health which
27 indicate the presence of *Legionella* bacteria;

28 c. the number and type of violations of P.L. , c. (C.)
29 (pending before the Legislature as this bill) for which penalties
30 were assessed; and

31 d. recommendations for legislative action as may be necessary
32 to further control *Legionella* bacteria in the public water supply and
33 affected buildings.

34

35 7. The Department of Health shall develop a public awareness
36 campaign and targeted consumer education program to educate
37 consumers, especially vulnerable populations, on the environmental
38 sources of *Legionella* bacteria, the movement of *Legionella* bacteria
39 through water distribution systems, the notification requirements of
40 P.L. , c. (C.) (pending before the Legislature as this bill)
41 and how the requirements impact consumers, and the methods to
42 control *Legionella* bacteria in a person's home. The public
43 awareness campaign and education program shall include, but not
44 be limited to, information on the relationship between the risks of
45 the proliferation of *Legionella* bacteria and hot water and the
46 temperature requirements for medical devices, expansion tanks, hot
47 tubs, whirlpools, spas, pools, air conditioning, ornamental
48 fountains, or other equipment or device that releases water aerosols

1 in a person's home or on the person's property and the related risks
2 associated with the inhalation by vulnerable populations of water
3 droplets containing *Legionella* bacteria.

4

5 8. This act shall take effect immediately.

6

7

8

STATEMENT

9

10 This bill would require the Department of Environmental
11 Protection (DEP), the Department of Health (DOH), owners or
12 operators of public water systems, and the owners or operators of
13 certain types of buildings to take specified actions to help inform
14 citizens of the State about, and prevent and control cases of,
15 Legionnaires' disease.

16 The bill would require the owner or operator of a public water
17 system to maintain a minimum detectable disinfectant residual of free
18 chlorine of at least 0.3 milligrams per liter in all active parts of the
19 public water system at all times and to conduct disinfectant residual
20 testing at frequent and regular intervals to determine the amount and
21 type of detectable disinfectant residual existing at different points in
22 the public water system. The DEP would be authorized to adopt rules
23 and regulations to require additional disinfectant requirements or
24 testing requirements of public water systems, or to increase the
25 minimum detectable disinfectant residual, in order to minimize the
26 growth and transmission of *Legionella* bacteria.

27 The bill would require the owner or operator of a public water
28 system to provide written notice to its residential, commercial, and
29 institutional customers and to residents located in an affected area of
30 disruptions in the water distribution system that could result in
31 increased levels of *Legionella* bacteria being present in the public
32 water system. The bill would also require the owner or operator of a
33 public water system to provide a written record of a reported
34 disruption in the water distribution system to the DEP within 24 hours
35 of the occurrence of the disruption. The bill would require the DEP to
36 establish on its Internet website a publicly accessible database of the
37 records of a disruption in the water distribution system submitted to
38 the DEP pursuant to the bill. The bill would require the DEP to
39 publish a public notice in the New Jersey Register and on its Internet
40 website specifying the form and manner of the notice and records
41 required by the bill and the specific information to be included in the
42 notice and records.

43 The bill would require the DOH to conduct an investigation into
44 every reported diagnosis of Legionnaires' disease and require the
45 DOH to advise an individual diagnosed with Legionnaires' disease
46 about the availability of testing by the DOH of the fixtures and water-
47 using equipment in the individual's residence, locations frequently
48 visited, and places of employment in the 45 days immediately prior to

1 the individual's diagnosis. The bill would require the DOH to develop
2 procedures and guidelines regarding investigations of reported cases of
3 Legionnaires' disease. The bill would authorize the DOH to delegate
4 certain responsibilities and duties for administering the testing and
5 investigatory provisions of section 3 of the bill to a local health officer
6 having jurisdiction over the locality in which a patient diagnosed with
7 Legionnaires' disease lives, frequently visits, or is employed. The bill
8 would also require the DOH to establish on its Internet website a
9 registry accessible to the public of de-identified data related to each
10 case of Legionnaires' disease reported to the DOH. "De-identified
11 data" is defined in the bill as information that does not identify an
12 individual and for which there is no reasonable basis to believe that the
13 information can be used to identify an individual, and which meets the
14 requirements for de-identification of protected health information
15 under the federal "Health Insurance Portability and Accountability Act
16 of 1996," Pub.L.104-191, and any regulations adopted pursuant.

17 Section 4 of the bill would require the owner or operator of certain
18 types of buildings to implement a water management program to
19 minimize the growth and transmission of *Legionella* bacteria in the
20 building water system. This requirement would apply to:

21 (1) certain health care facilities where patient stays exceed 24
22 hours;

23 (2) buildings containing one or more areas for the purpose of
24 housing or treating occupants receiving treatment for burns,
25 chemotherapy, solid organ transplantation, or bone marrow
26 transplantation;

27 (3) buildings containing one or more areas for the purpose of
28 housing or treating occupants that are immunocompromised, at-risk,
29 on medications that weaken the immune system, or have renal disease,
30 diabetes, or chronic lung disease;

31 (4) buildings containing a whirlpool, spa, pool, open- or closed-
32 circuit cooling tower or evaporative condenser that provides cooling or
33 refrigeration for a heating, ventilation, air conditioning, or
34 refrigeration system, ornamental fountain, mister, atomizer, air wash,
35 humidifier, or other non-potable water system or device that releases
36 water aerosols in the building or on the property upon which the
37 building is located; and

38 (5) buildings that are more than 10 stories high, including any
39 level that is below grade, with a centralized potable water-heater
40 system.

41 The bill requires that testing conducted as part of a building's
42 water management program is to be conducted in a manner consistent
43 with consistent with the American Society of Heating, Refrigeration,
44 and Air Conditioning Engineers (ASHRAE) Standard 188-2018 or
45 comparable standards adopted by a nationally recognized, accepted,
46 and appropriate organization, and specifies the qualifications of
47 individuals who may conduct the required testing.

1 The bill provides for penalties for the owner or operator of a
2 facility or building who fails to implement a water management
3 program or fails to demonstrate compliance with a water management
4 program. A violator would be subject to a penalty of not more than
5 \$2,000 for a first violation, and not more than \$5,000 for a second or
6 subsequent violation, except that an owner or operator would be
7 subject to a penalty of not more than \$10,000 for any violation which
8 causes serious injury or death to any person.

9 The bill would require the DOH, in consultation with the DEP, the
10 DCA, and a public stakeholder group, to adopt rules and regulations as
11 necessary to implement the provisions of the bill. The bill requires
12 that the rules and regulations be consistent with the ASHRAE
13 Standard 188-2018 or comparable standards adopted by a nationally
14 recognized, accepted, and appropriate organization.

15 The bill would require the DOH, in conjunction with the DEP and
16 the DCA, to prepare an annual report including information on
17 reported cases of Legionnaires' disease reported in each of the
18 previous 10 years, test results indicating the presence of *Legionella*
19 bacteria, and recommendations for such legislative action as may be
20 necessary to further control *Legionella* bacteria in the public water
21 supply and affected buildings.

22 Lastly, the bill would require the DOH to develop a public
23 awareness campaign and targeted consumer education program to
24 educate consumers, especially vulnerable populations, on the
25 environmental sources of *Legionella* bacteria, the movement of
26 *Legionella* bacteria through water distribution systems, the notification
27 requirements required by the bill and how the requirements impact
28 consumers, and on methods to control *Legionella* bacteria in a
29 person's home.

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1970

STATE OF NEW JERSEY
221st LEGISLATURE

ADOPTED JUNE 24, 2024

Sponsored by:

Assemblywoman SHANIQUE SPEIGHT

District 29 (Essex and Hudson)

Assemblyman ROBERT J. KARABINCHAK

District 18 (Middlesex)

Assemblyman ANTHONY S. VERRELLI

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

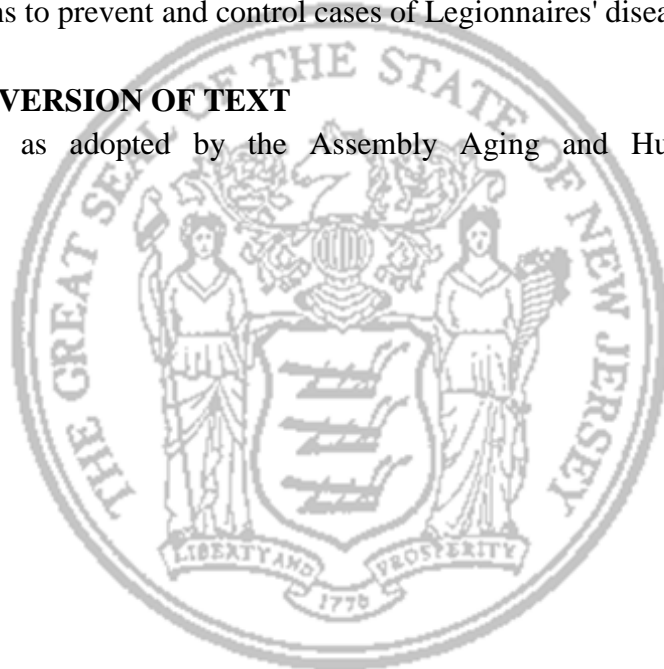
Assemblywomen Haider, Hall and McCann Stamato

SYNOPSIS

Requires DEP, DOH, owners or operators of certain public community water systems, and owners or operators of certain buildings or facilities to take certain actions to prevent and control cases of Legionnaires' disease.

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Aging and Human Services Committee.



(Sponsorship Updated As Of: 6/25/2024)

1 AN ACT concerning Legionnaires' disease and supplementing
2 P.L.1977, c.224 (C.58:12A-1 et seq.) and Title 26 of the Revised
3 Statutes.

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

7
8 1. As used in sections 1 through 4 of P.L. , c. (C.)
9 (pending before the Legislature as this bill):

10 "Disruption of the public community water system" means any
11 disruption that has the potential to lessen the quality of the water
12 delivered, including increasing the risk of exposure to pathogens
13 such as *Legionella* bacteria. "Disruption of the public community
14 water system" shall include, but not be limited to: (1) a change in
15 the water treatment process; (2) an unplanned event that results in
16 catastrophic issues that disrupt typical water system operations; (3)
17 a change in source of the drinking water; and (4) any other
18 conditions that the Department of Environmental Protection finds
19 may lead to a potential risk in the quality of water.

20 "Public community water system" means the same as the term is
21 defined in section 2 of P.L.2021, c.183 (C.58:12A-41).

22
23 2. a. Notwithstanding any other provision of law, or rule or
24 regulation adopted pursuant thereto, to the contrary, the owner or
25 operator of a public community water system, which has more than
26 100 service connections, and which is served fully or partially by
27 surface water or groundwater under the influence of surface water,
28 or any other public water system, as determined by the Department
29 of Environmental Protection for the protection of public health,
30 shall maintain:

31 (1) for systems utilizing chlorine as a disinfectant, a minimum
32 detectable disinfectant residual of at least 0.3 milligrams per liter of
33 free chlorine in all active parts of the public community water
34 system at all times; and

35 (2) for systems utilizing chloramine as a disinfectant, a minimum
36 detectable disinfectant residual of at least 1.0 milligrams per liter of
37 monochloramine in all active parts of the public community water
38 system at all times.

39 b. The Department of Environmental Protection shall, within 12
40 months after the effective date of P.L. , c. (C.) (pending
41 before the Legislature as this bill), develop and publish on its
42 Internet website best management practices for public community
43 water systems to discourage the growth and potential distribution of
44 pathogens such as *Legionella* bacteria. The best management
45 practices shall include, but not be limited to, information regarding:

46 (1) identification of areas of aging infrastructure, dead ends, or
47 components prone to biofilm accumulation;

48 (2) types of disruptions in the water distribution system;

- 1 (3) flushing details and schedule;
- 2 (4) disinfectant residual maintenance;
- 3 (5) storage tank maintenance;
- 4 (6) identification of areas of low water use, stagnation, or low
- 5 pressure;
- 6 (7) monitoring and testing;
- 7 (8) water age management; and
- 8 (9) other measures the Department of Environmental Protection
- 9 deems necessary for the optimization of water systems.

10 c. No later than six months after the promulgation of rules
11 regulations by the Department of Environmental Protection
12 pursuant to section 4. of P.L. , c. (C.) (pending before the
13 Legislature as this bill), each public community water system that is
14 subject to the provisions of subsection a. of this section shall
15 develop and implement a distribution system maintenance plan to
16 comply with the provisions of 1 through 4 of P.L. , c. (C.)
17 (pending before the Legislature as this bill), in accordance with the
18 best management practices developed pursuant to subsection b. of
19 this section and any applicable rules and regulations adopted by the
20 department. The public community water system shall annually
21 submit to the department a statement certifying that the public
22 community water system has developed and implemented a
23 distribution system maintenance plan pursuant to the provisions of
24 this section.

25
26 3. a. The owner or operator of a public community water
27 system that is subject to the provisions of subsection a. of section 2
28 of P.L., c. (C.) (pending before the Legislature as this bill)
29 shall provide a record of a disruption of the public community water
30 system to the Department of Environmental Protection via
31 document upload or form submission to a data management system
32 established by the Department of Environmental Protection
33 pursuant to subsection b. of this section, within 72 hours of the
34 occurrence of the disruption of the public community water system.

35 b. No later than 24 months after the effective date of P.L. , c.
36 (C.) (pending before the Legislature as this bill), the
37 Department of Environmental Protection shall establish a data
38 management system for the receipt of records by a public
39 community water system of any disruption, and, on its Internet
40 website, a dashboard of publicly accessible and searchable records
41 of disruptions of the public community water system received by
42 the Department of Environmental Protection pursuant to subsection
43 a. of this section.

44 c. The requirements of subsection a. of this section shall not
45 become operative until the Department of Environmental Protection
46 has developed a data management system for the submission of
47 records of disruptions of the public community water system.

1 4. a. No later than 24 months after the effective date of P.L. ,
2 c. (C.) (pending before the Legislature as this bill), the
3 Department of Environmental Protection, in consultation with the
4 Department of Health, shall adopt rules and regulations pursuant to
5 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
6 seq.) to implement the provisions of P.L. , c. (C.) (pending
7 before the Legislature as this bill).

8 b. The rules and regulations adopted pursuant to this section
9 shall establish requirements for public community water systems
10 with more than 100 service connections to discourage and minimize
11 growth and potential distribution of pathogens such as *Legionella*
12 bacteria in the water system, and shall include, but not be limited
13 to:

14 (1) criteria to be used by public community water systems to
15 develop distribution system maintenance plans, including, but not
16 limited to, frequency of required disinfectant residual monitoring;

17 (2) requirements for a public community water system to certify
18 its distribution system maintenance plan and provide the plan to the
19 department upon request;

20 (3) the criteria for what would constitute a failure to comply
21 with a distribution system maintenance plan;

22 (4) criteria for identifying disruptions of the public community
23 water system; and

24 (5) requirements for customer notifications during times of
25 increased risk of *Legionella* bacteria exposure, in accordance with
26 similar notification requirements in P.L.1977, c.224 (C.58:12A-1 et
27 seq.), including, but not limited to, a requirement to provide
28 information about the risks of *Legionella* bacteria and measures
29 consumers can take to reduce or eliminate exposure to *Legionella*
30 bacteria; and

31 (6) penalties, in accordance with the provisions of section 10 of
32 P.L.1977, c.224 (C.58:12A-10), for failure to maintain the
33 minimum detectable disinfectant residual required pursuant to
34 subsection a. of section 2 of P.L. , c. (C.) (pending before
35 the Legislature as this bill), failure to comply with a certified
36 distribution system maintenance plan, failure to comply with
37 notification requirements, or any other violations of the provisions
38 of P.L. , c. (C.) (pending before the Legislature as this bill).

39
40 5. a. As used in this section:

41 "De-identified data" means information that does not identify an
42 individual and for which there is no reasonable basis to believe that
43 the information can be used to identify an individual, and which
44 meets the requirements for de-identification of protected health
45 information under the "Health Insurance Portability and
46 Accountability Act of 1996," Pub.L.104-191, and any regulations
47 adopted pursuant thereto by the Secretary of the United States
48 Department of Health and Human Services.

1 b. For each reported diagnosis of Legionnaires' disease in the
2 State, the Department of Health, or a local health officer pursuant to
3 subsection f. of this section, shall conduct an epidemiological
4 investigation to ascertain potential sources of infection consistent
5 with the provisions of this section and the procedures and
6 guidelines established pursuant to subsection c. of this section.

7 c. The Department of Health shall develop procedures and
8 guidelines regarding suspected outbreaks of Legionnaires' disease
9 and the case investigation of reported diagnoses of Legionnaires'
10 disease pursuant to subsection b. of this section, including, but not
11 limited to:

12 (1) documentation of any disruption of the public community
13 water system, as defined in section 1 of P.L. , c. (C.)
14 (pending before the Legislature as this bill), of the water system
15 serving the primary residence of the individual with a confirmed
16 case of Legionnaires' disease or other water exposure points
17 identified pursuant to paragraph (3) of this subsection;

18 (2) provisions for the investigation of potential sources of
19 exposure to *Legionella* bacteria from fixtures, water-using
20 equipment, or features at the individual's residence including water
21 exposures external to the residence such as irrigation, hoses, or
22 water-based equipment and devices;

23 (3) provisions for the investigation of potential sources of
24 exposure to *Legionella* bacteria from water exposure points in
25 locations the individual visited in the 14 days preceding infection, if
26 appropriate; and

27 (4) procedures for determining when sampling of water fixtures
28 identified as potential sources of exposure in paragraphs (2) and (3)
29 of this subsection shall be performed, and procedures for
30 performing such sampling.

31 d. As part of an investigation of a confirmed case of
32 Legionnaires' disease, the Department of Health or the local health
33 officer may require the owner or operator of a building suspected to
34 be a source of *Legionella* bacteria exposure to test and mitigate the
35 presence of *Legionella* bacteria consistent with the procedures and
36 guidelines established by the department. The owner or operator
37 shall report to the department the results of any environmental
38 testing performed as part of the investigation. For the purposes of
39 this subsection "building" shall not include any residential property
40 with four or fewer dwelling units.

41 e. The Department of Health or the local health officer may
42 require the owner or operator of a building suspected to be a source
43 of *Legionella* bacteria exposure to provide notice in a form and
44 manner specified by the department. If notice is required in a
45 municipality in which the primary language of 10 percent or more
46 of the residents is a language other than English, the owner or
47 operator shall provide the notice in both English and the other
48 language to potentially exposed individuals.

1 f. The Department of Health may delegate its responsibilities
2 and duties pursuant to this section as deemed appropriate for
3 conducting all or part of the case investigation required by this
4 section to a local health officer having jurisdiction over the locality
5 in which a patient diagnosed with Legionnaires' disease lives,
6 frequently visits, or is employed, subject to the resources available
7 to the local health officer.

8 g. The Department of Health shall establish on its Internet
9 website a dashboard accessible to the public and healthcare
10 providers that provides de-identified data related to all reported
11 cases of Legionnaires' disease, with the goal of providing near-real-
12 time incidence rates in affected communities. The Department of
13 Health shall include information concerning aggregated data of all
14 reported cases of Legionnaires' disease with the greatest degree of
15 specificity consistent with ensuring that no information that could
16 compromise protected health information, or patient identity, is
17 included in such reporting.

18
19 6. a. No later than 24 months after the effective date of P.L. ,
20 c. (C.) (pending before the Legislature as this bill), the
21 owner or operator of a building or facility that meets any of the
22 following criteria shall develop a water management program to
23 minimize the growth and transmission of *Legionella* bacteria in the
24 building's or facility's water system, consistent with the American
25 Society of Heating, Refrigeration, and Air Conditioning Engineers
26 (ASHRAE) Standard 188-2018 or subsequent versions thereof, or
27 comparable standards adopted by a nationally-recognized, accepted,
28 and appropriate organization:

29 (1) a general or specialty hospital that provides in-patient
30 services and is licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et
31 seq.);

32 (2) a nursing home, assisted living facility, comprehensive
33 personal care home, residential health care facility, or dementia care
34 home licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.);

35 (3) a building containing a whirlpool, spa, pool, open-circuit or
36 closed-circuit cooling tower or evaporative condenser that provides
37 cooling or refrigeration for a heating, ventilation, air conditioning,
38 or refrigeration system, indoor ornamental fountain, mister,
39 atomizer, air wash, humidifier, or other non-potable water system or
40 device that releases water aerosols in the building or on the property
41 upon which the building is located. A building with a device listed
42 in this paragraph shall implement a water management program for
43 the listed device and need not implement a water management
44 program for the entire building unless otherwise indicated by this
45 subsection;

46 (4) a federal, State, county, or privately owned or operated
47 correctional facility with one or more centralized potable hot water
48 systems;

- 1 (5) a residential high rise structure with six or more floors and
2 one or more centralized potable water system;
- 3 (6) a building with one or more centralized potable water-heater
4 systems shared by 25 or more housing units for transient use,
5 including, not but limited to, a hotel or motel;
- 6 (7) a residential building with a centralized potable water-heater
7 system that is shared by 25 or more housing units, which serves as
8 subsidized housing designated for individuals who are 62 years of
9 age or older or who have a disability, or is designated as senior
10 housing and is subject to the provisions of P.L.1986, c.103
11 (C.52:27D-330 et seq.);
- 12 (8) a residential, commercial, institutional, or industrial building
13 or facility, including a hotel or motel, not otherwise required to
14 implement a water management program, but which has been
15 determined by the Department of Health or a local health officer to
16 have been associated with an outbreak of Legionnaires' disease.
17 The Department of Health or local health officer shall determine the
18 period during which a water management program is required
19 pursuant to this paragraph in order to address the increased risk of
20 *Legionella* contamination of the building or facility.
- 21 b. (1) A water management program for a building or facility
22 that meets the criteria of paragraphs (1) or (2) of subsection a. of
23 this section, that has been determined by the Department of Health
24 or a local health authority to have been associated with an outbreak
25 of Legionnaires' disease, or for which periodic water sampling for
26 bacteria is recommended by the federal Centers for Disease Control
27 and Prevention shall include periodic water sampling and testing for
28 bacteria in accordance with the rules and regulations promulgated
29 by the Department of Health pursuant to section 8 of P.L. , c.
30 (C.) (pending before the Legislature as this bill).
- 31 (2) A water management program for a building or facility that
32 does not meet the criteria described in paragraph (1) of this
33 subsection may include periodic water sampling and testing for
34 bacteria.
- 35 (3) All sampling and testing carried out pursuant to this
36 subsection shall include, but not be limited to, testing for the
37 presence of *Legionella Pneumophila*, and shall be conducted in a
38 manner consistent with:
- 39 (a) rules, regulations, and best practices developed by the
40 Department of Health; and
- 41 (b) the American Society of Heating, Refrigeration, and Air
42 Conditioning Engineers (ASHRAE) Standard 188-2018 or
43 subsequent versions thereof, or comparable standards adopted by a
44 nationally recognized, accepted, and appropriate organization.
- 45 (4) The owner or operator of a covered facility or building shall
46 follow ASHRAE Standard 188-2018 and guidelines established by
47 the federal Centers for Disease Control and Prevention in
48 interpreting and responding to positive test results. The Department

1 of Health shall establish procedures for the reporting of positive test
2 results for *Legionella* bacteria received during testing carried out
3 pursuant to this subsection.

4 c. When a person required to implement a water management
5 program pursuant to this section has complied with the
6 requirements of this section, the person shall post a written public
7 notice on the premises in a location easily accessible to building
8 occupants that such a program has been implemented.

9 d. No later than 12 months after the effective date of P.L. , c.
10 (C.) (pending before the Legislature as this bill), the
11 Department of Health shall develop and make available on its
12 Internet website guidance documents for the development and
13 implementation of water management programs pursuant to this
14 section, including guidance documents for complying with record-
15 keeping requirements, and best practices for periodic water
16 sampling and testing.

17 e. The owner or operator of a building or facility required to
18 implement a water management program pursuant to this section
19 shall establish documentation concerning all procedures and shall
20 maintain all records related to these procedures and their
21 implementation and make them available upon request to an
22 employee of the Department of Community Affairs, the Department
23 of Environmental Protection, the Department of Health, or any
24 other department or agency with license or inspection authority for
25 the facility or building in order to confirm that a water management
26 program was developed. The Department of Community Affairs,
27 the Department of Environmental Protection, the Department of
28 Health, or any other department or agency with license or
29 inspection authority for the facility or building shall not be required
30 to evaluate or otherwise review a water management program
31 unless required for an investigation of a case of Legionnaires'
32 disease in accordance with procedures developed by the Department
33 of Health pursuant to section 5 of P.L. , c. (C.) (pending
34 before the Legislature as this bill).

35 f. (1) No later than 27 months after the effective date of P.L. ,
36 c. (C.) (pending before the Legislature as this bill), the owner
37 or operator of a building or facility that meets any of the criteria set
38 forth in paragraphs (1) through (7) of subsection a. of this section
39 shall implement the procedures outlined in their personalized water
40 management program. Newly constructed or repurposed buildings
41 or facilities shall confirm that the water management program
42 mitigates the potential for human exposure to *Legionella* bacteria
43 prior to commissioning.

44 (2) The owner or operator of a building or facility that meets
45 any of the criteria set forth in paragraphs (1) through (7) of
46 subsection a. of this section shall maintain on the building or
47 facility premises for at least five years: (i) the written water
48 management program; (ii) documentation and records concerning

1 all procedures conducted, including the results from any water
2 testing carried out pursuant to subsection b. of this section; and (iii)
3 all other relevant documentation on the implementation of the water
4 management program. Such records shall be made available to the
5 Department of Health immediately upon request.

6 g. (1) The owner or operator of a building or facility who fails
7 to implement or demonstrate compliance with a water management
8 program required pursuant to this section, fails to report a positive
9 *Legionella* water system test pursuant to the procedures set by the
10 Department of Health, fails to test for or mitigate the presence of
11 *Legionella* as required by the Department of Health or the local
12 health officer pursuant to subsection d. of section 5 of P.L. , c.
13 (C.) (pending before the Legislature as this bill), or fails to
14 provide notice pursuant to subsection e. of section 5 of P.L. , c.
15 (C.) (pending before the Legislature as this bill) shall be
16 subject to a civil penalty of not more than \$2,000 for a first
17 violation, and not more than \$5,000 for a second or subsequent
18 violation, except that the owner or operator shall be subject to a
19 civil penalty of not more than \$10,000 for any violation which
20 causes serious injury or death to any person. Penalties imposed
21 pursuant to this paragraph shall be collected by the State in a civil
22 action by a summary proceeding under the "Penalty Enforcement
23 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior
24 Court and the municipal court shall have jurisdiction over
25 proceedings for the enforcement of the penalties provided by this
26 paragraph.

27 (2) Whenever the Department of Health determines that any
28 person is in violation of a provision of this section or section 5 of
29 P.L. , c. (C.) (pending before the Legislature as this bill), the
30 department may assess a civil administrative penalty of not more
31 than \$2,000 for a first violation, and not more than \$5,000 for a
32 second or subsequent violation, except that the person shall be
33 subject to a civil administrative penalty of not more than \$10,000
34 for any violation which causes serious injury or death to any person.
35 In assessing a civil administrative penalty, the commissioner shall
36 consider the severity of the violation, the measures taken to prevent
37 further violations, and whether the penalty will act as an appropriate
38 deterrent. Prior to the assessment of a civil administrative penalty
39 under this paragraph, the person committing the violation shall be
40 notified by certified mail or personal service that the penalty is
41 being assessed. The notice shall identify the section of the statute,
42 rule, regulation, or order that was violated; recite the facts alleged
43 to constitute a violation; state the basis for the amount of the civil
44 administrative penalties to be assessed; and affirm the rights of the
45 alleged violator to a hearing. The ordered party shall have 35 days
46 from receipt of the notice within which to deliver to the
47 Commissioner of Health a written request for a hearing. After the
48 hearing and upon finding that a violation has occurred, the

1 Commissioner of Health may issue a final order after assessing the
2 amount of the fine specified in the notice. If no hearing is
3 requested, the notice shall become a final order after the expiration
4 of the 35-day period. Payment of the assessment is due when a
5 final order is issued or the notice becomes a final order.

6 (3) The Department of Community Affairs, the Department of
7 Environmental Protection, or the Department of Health, or any
8 other department or agency with license or inspection authority for
9 the facility or building, may institute a civil action for injunctive
10 relief in the Superior Court to enforce the provisions of this section
11 or section 5 of P.L. , c. (C.) (pending before the Legislature
12 as this bill) and to prohibit and prevent a violation of these sections,
13 and the court may proceed in the action in a summary manner.

14 h. The provisions of this section shall not apply to a residential
15 property with four or fewer dwelling units.

16

17 7. a. The Department of Health, in consultation with the
18 Department of Environmental Protection, shall develop a public
19 awareness campaign and targeted consumer education program to
20 educate consumers, especially vulnerable populations, concerning
21 the environmental sources of *Legionella* bacteria, the movement of
22 *Legionella* bacteria through water distribution systems, the
23 notification requirements of P.L. , c. (C.) (pending before
24 the Legislature as this bill) and how the requirements impact
25 consumers, and the methods to control *Legionella* bacteria in a
26 person's home. The public awareness campaign and education
27 program shall include, but not be limited to, information on the
28 relationship between the risks of the proliferation of *Legionella*
29 bacteria and hot water, the temperature requirements for medical
30 devices, expansion tanks, hot tubs, whirlpools, spas, pools, air
31 conditioning systems, ornamental fountains, or other equipment or
32 devices that release water aerosols in a person's home or on a
33 person's property, and the related risks associated with the
34 inhalation by vulnerable populations of water droplets containing
35 *Legionella* bacteria.

36 b. No later than one year after the effective date of P.L. , c.
37 (C.) (pending before the Legislature as this bill), and annually
38 thereafter, the Department of Health, in consultation with the
39 Department of Environmental Protection, shall submit a report to
40 the Governor, and, pursuant to section 2 of P.L.1991, c.164
41 (C.52:14-19.1), to the Legislature, which shall include:

42 (1) the number of cases of Legionnaires' disease in the State
43 reported in each of the previous 10 years;

44 (2) the number of reported water sampling results in public
45 community water systems in the past year received by the
46 Department of Environmental Protection that indicate the presence
47 of *Legionella* bacteria;

1 (3) the number and type of violations of the provisions of
2 P.L. , c. (C.) (pending before the Legislature as this bill) for
3 which penalties were assessed;

4 (4) recommendations as to whether the minimum detectable
5 disinfectant targets established pursuant to subsection a. of section
6 2 of P.L. , c. (C.) (pending before the Legislature as this
7 bill) should be increased in order to minimize the growth and
8 transmission of *Legionella* bacteria; and

9 (5) any recommendations for legislative action as may be
10 necessary to further control *Legionella* bacteria in the public water
11 supply and affected buildings.

12

13 8. No later than 24 months after the effective date of P.L. , c.
14 (C.) (pending before the Legislature as this bill), the
15 Department of Health, in consultation with the Department of
16 Environmental Protection, shall adopt rules and regulations
17 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
18 (C.52:14B-1 et seq.) to implement the provisions of
19 P.L. , c. (C.) (pending before the Legislature as this bill).
20 The rules and regulations shall be consistent with the American
21 Society of Heating, Refrigeration, and Air Conditioning Engineers
22 (ASHRAE) Standard 188-2018, or subsequent versions thereof, or
23 comparable standards adopted by a nationally recognized, accepted,
24 and appropriate organization.

25

26 9. This act shall take effect immediately.

ASSEMBLY AGING AND HUMAN SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 1970

STATE OF NEW JERSEY

DATED: JUNE 24, 2024

The Assembly Aging and Human Services Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 1970.

This committee substitute requires the Department of Environmental Protection (DEP), the Department of Health (DOH), owners or operators of public water systems, and the owners or operators of certain types of buildings or facilities to take specified actions to help inform citizens of the State about, and prevent and control cases of, Legionnaires' disease.

Specifically, the committee substitute requires the owners or operators of public community water systems, which have more than 100 service connections, and which are served fully or partially by surface water or groundwater under the influence of surface water, and any other public water systems designated by the DEP, to maintain a certain minimum detectable disinfectant residual of free chlorine or monochloramine, as applicable. The substitute would require the DEP to develop a set of best management practices to aid public community water systems in complying with the substitute's provisions. The substitute would also require each public community water system that is subject to the substitute's provisions to develop and implement a distribution system maintenance plan for complying with the substitute's provisions.

In the event of a disruption to a community water system (e.g. a change in water treatment process or a change in the drinking water's source), a public community water system that is subject to the committee substitute's provisions would be required to provide a record of the disruption to the DEP within 72 hours. Under the substitute, the DEP would be required to establish a data management system for the submission of records of disruption by a public community water system, and a portal through which records of disruptions may be accessed by the public.

The committee substitute would direct the DEP to establish penalties, in accordance with the applicable provisions of the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), for failure to maintain the minimum detectable disinfectant residual, failure to comply with a certified distribution system maintenance plan, failure to comply with notification requirements, and any other violation of the substitute's provisions.

In addition, the committee substitute would require the DOH, or a local health officer designated by the DOH, to perform an epidemiological investigation for each reported diagnosis of Legionnaires' disease in the State. The substitute would require the DOH to develop guidelines concerning the investigations, and would authorize the DOH to take certain actions during an investigation, including requiring water testing in buildings suspected to be the source of the Legionnaires' case. The substitute would also require the DOH to establish a dashboard accessible to the public and healthcare providers that provides de-identified data related to all reported cases of Legionnaires' disease.

The committee substitute would require owners or operators of certain buildings or facilities that meet criteria enumerated in subsection a. of section 6 of the substitute – including hospitals, certain health care facilities, correctional facilities, certain transient housing, certain residential housing, and certain senior housing facilities – to develop, with 24 months of the substitute's enactment, a water management program to minimize the growth of *Legionella* bacteria in the facility's water system. The substitute would require each water management program to be consistent with the American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE) Standard 188-2018 or subsequent versions thereof, or comparable standards adopted by a nationally-recognized, accepted, and appropriate organization.

The committee substitute would also require water management programs for certain buildings and facilities, including health care facilities licensed pursuant to the "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.), to include periodic sampling and testing for the presence of bacteria. The substitute would require the water management program to be implemented within 27 months of the substitute's enactment. The owner or operator of a covered facility who fails to implement a water management program would be subject to a civil or civil administrative penalty of not more than \$2,000 for a first violation, and not more than \$5,000 for a second or subsequent violation, except that an owner or operator would be subject to a penalty of not more than \$10,000 for any violation which causes serious injury or death to any person.

Finally, the committee substitute would require the DOH to develop a public awareness campaign related to Legionnaires' disease, and to submit an annual report to the Governor and the Legislature on the status of Legionnaires' disease transmission in the State and the DEP's and DOH's progress in implementing the substitute's provisions.

As reported by the committee, this Assembly Committee Substitute for Assembly Bill No.1970 is identical to the Senate Committee Substitute for Senate Bill No.2188 (1R) which was amended and released by the Senate Budget and Appropriations Committee on this date.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1970
STATE OF NEW JERSEY
221st LEGISLATURE

DATED: JULY 3, 2024

SUMMARY

- Synopsis:** Requires DEP, DOH, owners or operators of certain public water systems, and owners or operators of certain buildings to take certain actions to prevent and control cases of Legionnaires' disease.
- Type of Impact:** Annual State and local expenditure and revenue increases.
- Agencies Affected:** Department of Health, Department of Environmental Protection, certain local government units, public institutions of higher education, school districts.

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
Public Institutions of Higher Education Expenditure Increase	Indeterminate

- The Office of Legislative Services (OLS) determines that this bill would result in an annual expenditure increase by the State, local government units, school districts, and public institutions of higher education associated with their various responsibilities under the bill, such as to implement water management programs in buildings, implement distribution system maintenance plans and maintain disinfectant levels in public community water systems, and to investigate cases of reported Legionnaires' disease.
- According to information from the Department of Health, annual departmental expenditures under the bill could be approximately \$6 million annually to investigate cases of Legionnaires' disease. Depending on how certain investigative responsibilities are delegated, some of these costs could be borne by the affected local government entity rather than the State.

- With respect to buildings covered by the bill, which may be owned by the State, local governments, school districts, or public institutions of higher education, the OLS understands that a water management program that meets the standards required by the bill could cost in the range of \$2,000 to \$10,000 or more, depending on the size and complexity of the building. In addition, certain programs could cost several thousand dollars or more annually for water monitoring and testing.
- The State and municipalities may accrue an indeterminate amount of annual revenue from penalties and court costs paid by building owners or operators that violate the provisions of the bill.

BILL DESCRIPTION

This bill would require the Department of Environmental Protection, the Department of Health, owners or operators of certain public water systems, and the owners or operators of certain types of buildings to take specified actions to help inform citizens of the State about, and prevent and control cases of, Legionnaires' disease.

The bill requires the owners or operators of public community water systems, which have more than 100 service connections, and which are served fully or partially by surface water or groundwater under the influence of surface water, and any other public water systems designated by the Department of Environmental Protection, to maintain a certain minimum detectable disinfectant residual of free chlorine or monochloramine. The bill would require the department to develop a set of best management practices to aid public community water systems in complying with the bill. The bill would also require each public community water system that is subject to the bill's provisions to develop and implement a distribution system maintenance plan for complying with the bill's provisions.

In the event of a disruption to a community water system (e.g. a change in water treatment process or a change in the drinking water's source), a public community water system that is subject to the bill's provisions would be required to provide a record of the disruption to the department within 72 hours. Under the bill, the department would be required to establish a data management system for the submission of records of disruption by a public community water system, and a portal through which records of disruptions may be accessed by the public.

In addition, the bill would require the Department of Health, or a local health officer designated by the department, to perform an epidemiological investigation for each reported diagnosis of Legionnaires' disease in the State. The bill would require the department to develop guidelines concerning the investigations, and would authorize the department to take certain actions during an investigation, including requiring water testing in buildings suspected to be the source of the Legionnaires' case. The bill would also require the department to establish a dashboard accessible to the public and healthcare providers that provides data related to all reported cases of Legionnaires' disease.

The bill would also require the owner or operator of certain types of buildings to implement a water management program to minimize the growth and transmission of *Legionella* bacteria in the building's water system. The owner or operator of a covered facility who fails to implement a water management program would be subject to a civil or civil administrative penalty of not more than \$2,000 for a first violation, and not more than \$5,000 for a second or subsequent violation, except that an owner or operator would be subject to a penalty of not more than \$10,000 for any violation which causes serious injury or death to any person.

Finally, the bill would require the Department of Health to develop a public awareness campaign related to Legionnaires' disease, and to submit an annual report to the Governor and the Legislature on the status of Legionnaires' disease transmission in the State and the progress of the departments in implementing the bill's provisions.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The OLS has not received a fiscal note from the Executive for this bill. However, the Department of Health provided informal information to the OLS that the bill would increase departmental spending by approximately \$5.8 million per year to perform investigations of reported cases of Legionnaires' disease, including repeat visits by department employees and water sampling and testing.

OFFICE OF LEGISLATIVE SERVICES

The OLS determines that the bill would result in an annual expenditure increase by the State and by local government units that operate public community water systems that are covered by the bill, in order to satisfy the bill's requirement that public community water systems implement a distribution system maintenance plan and maintain a certain level of disinfectant in their water supply. Current Department of Environmental Protection rules require public water systems to maintain free chlorine levels that are comparable to those required by the bill. In addition, some public water systems may already implement maintenance plans that would satisfy the bill's provisions. For those that do not, however, the OLS understands that such testing would cost up to tens of thousands of dollars per system annually, depending on the size of the system. The bill would also lead to discrete expenditure increases by certain public water systems that experience disruptions that are likely to increase the growth of *Legionella* bacteria, since the bill requires such public water systems to provide written notice to its customers about the disruption. The OLS cannot quantify these expenditure increases because it lacks data about the number of public water systems that would be required to expend funds to come into compliance with the bill, and how many systems will experience disruptions that will require the dissemination of written notices.

The OLS also determines that this bill would result in an annual expenditure increase by the State, local government units, school districts, and public institutions of higher education that own or operate certain buildings to prepare water management programs under the bill. The OLS cannot quantify this expenditure increase because it lacks data about how many buildings covered by the bill are owned or operated by the State, a local government unit, a school district, or a public institution of higher education and, of these, how many have already implemented water management programs that would satisfy the bill's requirements. However, many large office buildings, schools, and public institutions of higher education have cooling towers and would thus be covered by the bill. The OLS understands that implementing a water management program that meets the standards required by the bill could cost in the range of \$2,000 to \$10,000 or more, depending on the size and complexity of the building. In addition, certain programs are required to include periodic sampling and testing for the presence of bacteria, which could cost several thousand dollars annually.

The bill would also result in an annual expenditure increase by the Department of Health or local health officers, since it requires the department or the local health officer to conduct an investigation into any reported diagnosis of Legionnaires' disease, and to perform other tasks

associated with the outbreak. The OLS notes that New Jersey experiences around 350 cases of Legionnaires' disease each year on the high end of the range. According to information from the department, annual departmental expenditure increases under the bill could be about \$6 million to investigate cases of Legionnaires' disease. Depending on how the investigative responsibilities are delegated, some of these costs could be borne by the affected local government entity rather than the State. The bill also would result in one-time expenditure increases by the Department of Environmental Protection and the Department of Health, in order to accomplish the administrative tasks required by the bill, including establishing notice requirements for public water systems, and adopting rules and regulations to implement the bill. In addition, the Department of Health will face costs in the administration of the public awareness campaign and consumer education program campaign required pursuant to this bill. However, the OLS is unable to determine a precise cost estimate since the cost of public awareness campaigns and education programs can vary widely depending on many factors, including the types of media or educational material used.

Finally, the OLS notes that the State may accrue annual revenue from penalties paid by public community water systems and building owners or operators that violate the provisions of the bill.

Section: Environment, Agriculture, Energy, and Natural Resources

*Analyst: Anna Heckler
Assistant Fiscal Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

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.).

Governor Murphy Takes Action on Legislation

09/12/2024

TRENTON – Today, Governor Murphy signed the following bills into law:

S-721/A-2812 (Steinhardt, Sarlo/Greenwald, Swain, Egan) - Exempts sales of investment metal bullion and investment coins from sales and use tax

S-741/A-2608 (Diegnan/Karabinchak) - Authorizes State Treasurer to sell as surplus certain real property and improvements in City of Jersey City in Hudson County

SCS for S-2188/ACS for A-1970 (Ruiz, Greenstein/Speight, Karabinchak, Verrelli) – Requires DEP, DOH, owners or operators of certain public community water systems, and owners or operators of certain buildings or facilities to take certain actions to prevent and control cases of Legionnaires' disease

S-2311/A-1128 (Singleton, Singer/DiMaio, Matsikoudis) - Requires criminal history background check for individuals seeking licensure issued by boards regulating certain health care professions

S-2435/A-3537 (Greenstein, Mukherji/Stanley, McCoy, Murphy) - Revises certain requirements concerning eligibility for reimbursement from "Emergency Medical Technician Training Fund"

S-2607/A-3872 (Ruiz, McKnight/Pintor Marin, Calabrese, Speight) - Requires private bus operators to provide notice and hold public meetings for certain service changes

S-2810/A-3779 (Diegnan/DeAngelo, Karabinchak, Bagolie) - Changes membership of board of trustees of SPRS to remove requirement that two members be private citizens

S-3097/A-4226 (Pou, Sarlo/Wimberly, Sumter) - Modifies requirements for certain projects under Economic Redevelopment and Growth Grant program

S-3134/A-4192 (Diegnan, Moriarty/Calabrese, Carter) - Requires MVC to take certain action concerning commercial driver licenses and commercial learner's permits

S-3235/A-4461 (Ruiz, Moriarty/Conaway, Miller, Sampson) – Regulates production and sale of certain intoxicating hemp products

[Copy of Statement](#)

S-3368/A-4623 (Ruiz, McKnight/Calabrese, Stanley, Reynolds-Jackson) - Concerns law protecting residential tenants from lead-based paint hazards

S-3407/A-4540 (Lagana/Verrelli) - Requires payment of prevailing wage for projects financed through commercial property assessed clean energy program

A-2610/S-3203 (Karabinchak, Calabrese, Sauickie/Gopal) - Extends annual horse racing purse subsidies through State fiscal year 2029

[Copy of Statement](#)

A-2890/S-3231 (Verrelli, Reynolds-Jackson, Quijano/Cryan) - Permits temporary appointment of additional members to the Board of Review in the Division of Employment Security

A-4035/S-2809 (Dunn, Speight/Bucco, Pennacchio) - Requires State to sell as surplus property certain land and improvements in Morris County known as Central Park School

A-4533/S-3421 (Coughlin, Wimberly, Speight/Zwicker, Johnson) - Revises certain sections of law concerning financing mechanisms for school facilities projects of regular operating districts

A-4534/S-3439 (Coughlin, Wimberly, Schnall/Vitale, Mukherji) - Revises definition of qualified assistance fund expenses under UEZ program to include costs of transportation infrastructure projects and related debt service

Governor Murphy conditionally vetoed the following bills:

S-2864/A-4061 (Lagana/Verrelli, Swain, Venezia) – CONDITIONAL - Establishes working hours for certain minors employed as professional athletes

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S-3455/A-4597 (Sarlo, Burzichelli/Calabrese, Moen, Stanley) – CONDITIONAL - Provides for automatic renewal of off-track wagering licenses

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A-2180/S-3000 (Moen, Wimberly, Murphy/Beach, Polistina) – CONDITIONAL - Permits certain persons to operate Type S school buses

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A-2294/S-1443 (Lopez, Freiman, Tully/Singleton, Johnson) – CONDITIONAL - Establishes mortgage payment relief and foreclosure protection for certain homeowners impacted by the remnants of Hurricane Ida

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A-2607/S-360 (Karabinchak, Calabrese, Inganamort/Diegnan, Mukherji) – CONDITIONAL - Authorizes taxicabs, limousines, and transportation network companies to provide paratransit services for two-year period

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