## CHAPTER 39--H.F.No. 24

*An act relating to capital investment; establishing a grant program to replace lead drinking water service lines; requiring a report; appropriating money; amending Minnesota Statutes 2022, sections 144.383; 446A.081, subdivisions 8, 9; proposing coding for new law in Minnesota Statutes, chapter 446A.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2022, section 144.383, is amended to read:

**144.383 AUTHORITY OF COMMISSIONER.**

In order to ~~insure~~ ensure safe drinking water in all public water supplies, the commissioner has the following powers:

(a) To approve the site, design, and construction and alteration of all public water supplies and, for community and nontransient noncommunity water systems as defined in Code of Federal Regulations, title 40, section 141.2, to approve documentation that demonstrates the technical, managerial, and financial capacity of those systems to comply with rules adopted under this section;

(b) To enter the premises of a public water supply, or part thereof, to inspect the facilities and records kept pursuant to rules promulgated by the commissioner, to conduct sanitary surveys and investigate the standard of operation and service delivered by public water supplies;

(c) To contract with community health boards as defined in section 145A.02, subdivision 5, for routine surveys, inspections, and testing of public water supply quality;

(d) To develop an emergency plan to protect the public when a decline in water quality or quantity creates a serious health risk, and to issue emergency orders if a health risk is imminent;

(e) To promulgate rules, pursuant to chapter 14 but no less stringent than federal regulation, which may include the granting of variances and exemptions; and

(f) To maintain an asset management database of community public water supply systems, provide technical assistance to community systems, and ensure the lead service line inventory data is accessible to the public with relevant educational materials about health risks related to lead and ways to reduce exposure.

Sec. 2. **[446A.077] LEAD SERVICE LINE REPLACEMENT; GRANT PROGRAM.**

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given.

(b) "Lead service line" means a water supply connection that is made of or lined with a material consisting of lead and that connects a water main to a building. A lead pigtail, lead gooseneck, or other lead fitting is considered a lead service line, regardless of the composition of the service line or other portions of piping to which the piece is attached. A galvanized service line is considered a lead service line.

(c) "Service line" means any piping, tubing, or fitting connecting a water main to a building. Service line includes the property owner side and the system side of a service line.

Subd. 2. **Establishment.** The authority must establish a program to replace lead drinking water service lines in the state and must provide grants to entities for this purpose. The program must be structured to maximize use of federal funds available for the purposes described in subdivision 4.

Subd. 3. **Eligible recipients.** (a) The following are eligible recipients of grants under this section:

(1) community public water suppliers of a community water system as defined in Code of Federal Regulations, title 40, section 141.2, as amended;

(2) municipalities;

(3) suppliers of other residential drinking water systems; and

(4) any applicant eligible for loans and grants under the federal Safe Drinking Water Act.

(b) All eligible recipients as part of the grant application process must apply to be listed on the Department of Health project priority list.

Subd. 4. **Eligible uses.** (a) An eligible recipient may use a grant provided under this program for:

(1) removing and replacing lead drinking water service lines;

(2) repaying debt incurred for the purposes described in clauses (1), (3), and (4);

(3) providing information to residents on the benefits of removing lead service lines; or

(4) performing necessary construction activities required for and associated with removing and replacing lead service lines.

(b) Grant money used for removing and replacing lead drinking water service lines under paragraph (a), clause (1), must pay for 100 percent of the cost of replacing the privately owned portions of those lines.

(c) Grant money used for removing and replacing lead drinking water service lines under paragraph (a), clause (1), may pay for not more than 50 percent of the cost of replacing the publicly owned portions of those lines.

Subd. 5. **Grant priorities.** (a) Each applicant must submit a plan to the Department of Health for replacement of all lead service lines in the service area that describes how the recipient will prioritize the expenditure of grant money received under this section, including:

(1) removing lead service lines that are an imminent threat to public health and safety;

(2) targeting areas with children with elevated blood lead levels;

(3) targeting areas with children under the age of five;

(4) how the recipient will target the removal and replacement of lead service lines that provide drinking water to schools, licensed child care facilities, or other properties known to the recipient to be used by disproportionately large numbers of children;

(5) targeting areas with lower-income residents and other disadvantaged communities;

(6) coordinating the replacement of publicly owned and privately owned portions of lead service lines; and

(7) coordinating the replacement of lead service lines with water main replacement projects for the most efficient use of money.

(b) The authority must use available money received for the program under this section first for grants to repay debt incurred under subdivision 4, paragraph (a), clause (2).

Subd. 6. **Workforce plan.** Applicants who serve 15,000 service connections or more must submit a workforce plan as part of their application. The workforce plan must include a description of how the applicant will maximize the use of registered apprentices, along with populations under-represented in the construction industry in the lead removal and replacement work.

Subd. 7. **Reporting.** By September 15 each year, the authority must report to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over environment and natural resources policy and finance, health policy and finance, and economic development finance and policy, on the operation of the program during the previous fiscal year. The report must also include:

(1) an estimate of the total cost to remove and replace all lead service lines in public drinking water systems in Minnesota, an estimate of the total cost to remove and replace all privately owned lead drinking water service lines in Minnesota, and a computation of the amount the estimates changed since the program was created. If either of the cost estimates changed since the most recent previous report was submitted, the report must include an explanation of the reasons the estimate changed;

(2) the number of elementary schools, middle schools, or secondary schools as those terms are defined in section 120A.05, within a municipal community public water supply service area served by lead service lines;

(3) the number of licensed child care settings that are served by lead service lines;

(4) any amounts appropriated for the grant program that remain unspent;

(5) a list of the eligible recipients that submitted a plan to the commissioner of health; and

(6) a list of the eligible recipients that received a grant under this section in order of priority as determined by the authority.

Subd. 8. **Prevailing wage.** Laborers and mechanics performing work on a project funded by a grant under this section, including removing and replacing lead drinking water service lines and installing replacement drinking water service lines, must be paid the prevailing wage rate for the work as defined in section 177.42, subdivision 6. The project is subject to the requirements and enforcement provisions of sections 177.27, 177.30, 177.32, 177.41 to 177.435, and 177.45.

Subd. 9. **Mapping and inventory costs.** The authority may spend up to ten percent of the amounts appropriated for the grant program for costs related to mapping and inventory activities that will be used in identifying lead service lines for replacement under this section. The authority may enter into interagency agreements with the Department of Health, including agreements to transfer funds, for the Department of Health to provide technical assistance to community public water suppliers, as defined in the federal Safe Drinking Water Act, for producing an inventory of publicly and privately owned lead service lines and associated replacement plans within their jurisdiction. Any amounts not spent on mapping and inventory work must be used by the authority for replacement of lead service lines under this section.

Sec. 3. **[446A.078] LEAD LINE REMOVAL GOAL.**

It is the goal of the state of Minnesota to remove all lead service lines in public drinking water systems by 2033.

Sec. 4. Minnesota Statutes 2022, section 446A.081, subdivision 8, is amended to read:

Subd. 8. **Loan conditions.** (a) When making loans from the drinking water revolving fund, the authority shall comply with the conditions of the federal Safe Drinking Water Act, including the criteria in this subdivision.

(b) Loans must be made at or below market interest rates, including zero interest loans, for terms not to exceed those allowed under the federal Safe Drinking Water Act.

(c) The annual principal and interest payments must begin no later than one year after completion of the project. Loans must be amortized no later than 20 years after project completion, unless the recipient's average annual residential drinking water system cost after completion of the project would exceed 1.2 percent of median household income in the recipient governmental unit or entity, in which case the loan must be fully amortized no later than 30 years after project completion.

(d) A loan recipient must identify and establish a dedicated source of revenue for repayment of the loan, and provide for a source of revenue to properly operate, maintain, and repair the water system.

(e) The fund must be credited with all payments of principal and interest on all loans, except the costs as permitted under section 446A.04, subdivision 5, paragraph (a).

(f) A loan may not be used to pay operating expenses or current obligations, unless specifically allowed by the federal Safe Drinking Water Act.

(g) A loan made by the authority must be secured by notes or bonds of the governmental unit and collateral to be determined by the authority for private borrowers.

(h) Notwithstanding any law or rule to the contrary, for projects to replace lead service lines, loan and grant agreements must not exceed ten years. The interest rate for loans to replace lead service lines shall be zero percent with principal payments commencing not later than 18 months after completion of the project.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 5. Minnesota Statutes 2022, section 446A.081, subdivision 9, is amended to read:

Subd. 9. **Other uses of fund.** (a) The drinking water revolving loan fund may be used as provided in the act, including the following uses:

(1) to buy or refinance the debt obligations, at or below market rates, of public water systems for drinking water systems, where the debt was incurred after the date of enactment of the act, for the purposes of construction of the necessary improvements to comply with the national primary drinking water regulations under the federal Safe Drinking Water Act;

(2) to purchase or guarantee insurance for local obligations to improve credit market access or reduce interest rates;

(3) to provide a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the authority if the bond proceeds are deposited in the fund;

(4) to provide loans or loan guarantees for similar revolving funds established by a governmental unit or state agency;

(5) to earn interest on fund accounts;

(6) to pay the reasonable costs incurred by the authority, the Department of Employment and Economic Development, and the Department of Health for conducting activities as authorized and required under the act up to the limits authorized under the act;

(7) to develop and administer programs for water system supervision, source water protection, and related programs required under the act;

(8) to provide principal forgiveness or grants to the extent permitted under the federal Safe Drinking Water Act and other federal law, based on the criteria and requirements established for drinking water projects under the water infrastructure funding program under section 446A.072;

(9) to provide loans, principal forgiveness or grants to the extent permitted under the federal Safe Drinking Water Act and other federal law to address green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities;

(10) to provide principal forgiveness, or grants for 80 percent of project costs up to a maximum of $100,000 for projects needed to comply with national primary drinking water standards for an existing nonmunicipal community public water system; ~~and~~

(11) to provide principal forgiveness or grants to the extent permitted under the federal Safe Drinking Water Act and other federal laws ~~for 50 percent of the project costs up to a maximum of $250,000~~ for projects to replace the privately owned portion of drinking water lead service lines~~.~~; and

(12) to provide principal forgiveness or grants to the extent permitted under the federal Safe Drinking Water Act and other federal laws for 50 percent of project costs up to a maximum of $3,000,000 for projects to address emerging contaminants in drinking water as defined by the United States Environmental Protection Agency.

(b) Principal forgiveness or grants provided under paragraph (a), clause (9), may not exceed 25 percent of the eligible project costs as determined by the Department of Health for project components directly related to green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities, up to a maximum of $1,000,000.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 6. **APPROPRIATION.**

$240,000,000 in fiscal year 2024 is appropriated from the general fund to the Public Facilities Authority to provide grants under Minnesota Statutes, section 446A.077. This appropriation is onetime and is available until June 30, 2033.

Presented to the governor May 15, 2023