

# HOUSE BILL No. 5423

March 2, 2016, Introduced by Rep. Price and referred to the Committee on Local Government.

A bill to authorize political subdivisions to adopt programs for water utility customers to replace certain lead water service lines; to provide for the financing of those programs through commercial lending, loans by nonprofit corporations, water utility bill charges, and other means; to authorize political subdivisions to issue bonds, notes, and other evidences of indebtedness to pay the cost of lead service line replacements; to provide for the repayment of bonds, notes, and other evidences of indebtedness; to authorize fees; to prescribe the powers and duties of certain governmental officers and entities; and to provide for remedies.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. This act shall be known and may be cited as the "lead  
2 service line replacement financing act".

3           Sec. 3. As used in this act:

1 (a) "Customer service line" means that portion of a service  
2 line that is owned by the record owner of the property served by  
3 the service line.

4 (b) "Customer site piping" means an underground piping system  
5 owned or controlled by the customer that conveys water from the  
6 customer service line to building plumbing systems and other points  
7 of use on lands owned or controlled by the customer. Customer site  
8 piping does not include any system that incorporates treatment to  
9 protect public health.

10 (c) "Lead customer service line" means a customer service line  
11 composed in whole or part of lead.

12 (d) "Lead customer service line replacement program" or  
13 "program" means an undertaking as described in section 5.

14 (e) "Political subdivision" means a city, village, township,  
15 charter township, county, district, authority, or combination  
16 thereof.

17 (f) "Property" means privately owned residential real property  
18 located within a public water supply utility's service territory.

19 (g) "Public water supply" means a waterworks system that  
20 provides water for drinking or household purposes to persons other  
21 than the supplier of the water, and does not include either of the  
22 following:

23 (i) A waterworks system that supplies water to only 1 dwelling  
24 unit.

25 (ii) A waterworks system that consists solely of customer site  
26 piping.

27 (h) "Record owner" means the person or persons possessed of

1 the most recent fee title or land contract vendee's interest in  
2 property as shown by the records of the county register of deeds.

3 (i) "Service line" means a direct pipe from a distribution  
4 water main to a living unit or other site to provide water for  
5 drinking or household purposes.

6 Sec. 5. (1) Pursuant to section 7, a political subdivision  
7 that owns or operates a public water supply utility may establish a  
8 program under which it may contract with the record owners of  
9 properties within the public water supply service area or 1 or more  
10 districts thereof to finance or refinance the replacement of lead  
11 customer service lines on those properties.

12 (2) The financing or refinancing may include the cost of  
13 materials and labor necessary for the customer lead service line  
14 replacement, permit fees, inspection fees, application and  
15 administrative fees, bank fees, and all other fees that may be  
16 incurred by a record owner for the replacement on a specific or pro  
17 rata basis, as determined by the political subdivision.

18 Sec. 7. (1) To establish a lead customer service line  
19 replacement program, the governing body of a political subdivision  
20 shall take the following actions in the following order:

21 (a) Adopt a resolution of intent that includes all of the  
22 following:

23 (i) A finding that the financing of customer lead service line  
24 replacement is a valid public purpose.

25 (ii) A statement of intent to provide funds for financing lead  
26 customer service line replacement, which may be repaid by charges  
27 on the water bills for the properties benefited, with the agreement

1 of the record owners.

2 (iii) A description of the proposed arrangements for financing  
3 the program.

4 (iv) Reference to a report on the proposed program as  
5 described in section 11 and the Internet address and office  
6 location where the report is available under section 11(2).

7 (v) The time, date, and place for a public hearing on the  
8 proposed program.

9 (b) Hold a public hearing on the proposed program, including  
10 the report described in section 11.

11 (c) Adopt a resolution or ordinance establishing the program  
12 and setting forth its terms and conditions, including all of the  
13 following:

14 (i) Matters required by section 11 to be included in the  
15 report. For this purpose, the resolution may incorporate the report  
16 or an amended version thereof by reference.

17 (ii) If the program is established by a resolution, a  
18 description of which aspects of the program may be amended without  
19 a new public hearing and which aspects may be amended only after a  
20 holding a new public hearing.

21 (2) A lead customer service line replacement program  
22 established by resolution or ordinance may be amended by resolution  
23 of the governing body or ordinance, respectively. Before the  
24 governing body adopts an amendment by resolution, the governing  
25 body shall conduct a public hearing if required pursuant to  
26 subsection (1)(c)(ii).

27 Sec. 9. (1) A lead customer service line replacement program

1 may be administered by a nonprofit corporation, including, but not  
2 limited to, a nonprofit corporation formed under section 4o of the  
3 home rule city act, 1909 PA 279, MCL 117.4o. The nonprofit  
4 corporation's administration of the program may be funded by money  
5 appropriated by the political subdivision establishing the program,  
6 transferred from the political subdivision's public water supply  
7 utility, or provided by private sources.

8 (2) A lead customer service line replacement program may  
9 provide for financing lead customer service line replacement  
10 through loans made to property owners by the public water supply  
11 utility, by a nonprofit corporation described in subsection (1), or  
12 by commercial lenders. Loans by commercial lenders may be  
13 facilitated by the nonprofit corporation.

14 (3) If a nonprofit corporation makes loans to owners of  
15 property under subsection (2), all of the following apply:

16 (a) Interest shall be charged on the unpaid balance at a rate  
17 of not more than the adjusted prime rate as determined under  
18 section 23 of 1941 PA 122, MCL 205.23, plus 4%.

19 (b) A loan shall be repaid in monthly installments, subject to  
20 section 11(1)(j).

21 (c) The lender shall comply with all state and federal laws  
22 applicable to the extension of credit for home improvements.

23 (4) The lead customer service line replacement program may  
24 provide for billing customers of the public water supply utility  
25 any fees under section 11(1)(h)(ii) and the monthly installment  
26 payments as charges on the customer's water bill. The program  
27 charges shall be considered part of the charges for water supply

1 services to the property for purposes of enforcement in the same  
2 manner as provided under section 21 of the revenue bond act of  
3 1933, 1933 PA 94, MCL 141.121.

4 (5) Water supply service may be shut off for nonpayment of the  
5 program charges under subsection (4) in the same manner and  
6 pursuant to the same procedures as used to enforce nonpayment of  
7 other charges for water supply service. If notice of a loan under  
8 the program is recorded with the register of deeds for the county  
9 in which the property is located, the obligation to pay the program  
10 charges runs with the land and is binding on future customers  
11 contracting for water supply service to the property.

12 Sec. 11. (1) The report on the proposed lead customer service  
13 line replacement program required under section 7 shall include all  
14 of the following:

15 (a) A form of contract between the political subdivision and  
16 record owner governing the terms and conditions of financing under  
17 the program.

18 (b) Identification of an official authorized to enter into a  
19 program contract on behalf of the political subdivision.

20 (c) A maximum aggregate annual dollar amount for all financing  
21 to be provided by the political subdivision under the program.

22 (d) An application process and eligibility requirements for  
23 financing lead customer service line replacement under the program,  
24 including the classes of property eligible.

25 (e) Subject to section 9(3), a method for determining interest  
26 rates on loan installments, repayment periods, and the maximum  
27 amount of a loan.

1 (f) An explanation of how monthly installment payments on  
2 loans will be billed and collected under section 9(4) or otherwise.

3 (g) A plan for raising capital to finance improvements under  
4 the program. The plan may include any of the following:

5 (i) The sale of bonds or notes, subject to the revised  
6 municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

7 (ii) Appropriations by the political subdivision of funds  
8 available to it from any other source.

9 (iii) Owner-arranged financing from a commercial lender  
10 whether or not facilitated by a nonprofit corporation under section  
11 9(2). Under owner-arranged financing, a public water supply utility  
12 may collect monthly installment payments on the public water supply  
13 utility bills pursuant to section 9(4) and forward payments to the  
14 commercial lender or the record owner may pay the commercial lender  
15 directly.

16 (h) Information regarding all of the following, to the extent  
17 known, or procedures to determine the following in the future:

18 (i) Any debt service reserve fund or funds to be used as  
19 security for bonds or notes described in subdivision (g).

20 (ii) Any application, administration, or other program fees to  
21 be charged to a record owner participating in the program. The fees  
22 shall be used to pay costs incurred by the political subdivision as  
23 a result of the record owner's participation.

24 (i) Provisions for an adequate debt service fund to be used to  
25 repay bonds or notes described in subdivision (g).

26 (j) A requirement that the term for repayment of a loan to a  
27 property owner as described in section 9(2) not exceed 180 months.

1 (k) Provisions for marketing and participant education.

2 (l) Quality assurance and antifraud measures.

3 (m) A requirement that, when a lead customer service line  
4 replacement project is completed, the political subdivision obtain  
5 verification that the project was properly performed.

6 (2) The political subdivision shall post the report under  
7 subsection (1) on the political subdivision's website, if any, and  
8 make the report available for review at the office of the clerk or  
9 the official authorized to enter contracts on behalf of the  
10 political subdivision under the lead customer service line  
11 replacement program.

12 Enacting section 1. This act takes effect 90 days after the  
13 date it is enacted into law.