

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 2032
STATE OF NEW JERSEY
221st LEGISLATURE

DATED: MAY 14, 2024

SUMMARY

Synopsis: Requires registration, inspection, testing, cleaning, and disinfection of cooling towers to control outbreaks of Legionnaire’s Disease.

Type of Impact: Annual increase in State expenditures and revenues; annual increase in expenditures for certain municipalities.

Agencies Affected: Department of Health, the Judiciary, Department of Law and Public Safety, Office of the Public Defender, and certain municipalities.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Expenditure Increases	Indeterminate
State Revenue Increases	Indeterminate
Local Expenditure Increases	Indeterminate

- The Office of Legislative Services (OLS) concludes that the State will incur marginal one-time costs for the Department of Health to promulgate the necessary regulations regarding cooling towers. Annual State costs will increase by an indeterminate amount to the extent the department performs inspections of building owner records or to the extent the department performs required cleanings and disinfections of cooling towers when building owners fail to do so.
- A building owner who knowingly fails to comply with department orders regarding cleaning and disinfection of cooling towers would be guilty of a crime of the fourth degree, which is adjudicated in State court, and is punishable by imprisonment for up to 18 months, a fine of up to \$10,000, or both. Accordingly, this bill could increase annual State costs to the Judiciary, the Department of Law and Public Safety, and the Office of the Public Defender. Generally, crimes of the fourth degree carry a presumption of non-incarceration for first-time offenders so cost increases to the Department of Corrections are not expected.
- The bill authorizes the department to establish fees and to assess civil penalties for certain violations, which will increase annual State revenues by an indeterminate amount. Moreover, the cost of any required cleanings and disinfections performed by the department are to be recovered from the building owner, which also would increase annual State revenues.



- Municipalities would experience cost increases under the bill due to a provision that stipulates that municipal courts will have jurisdiction over proceedings to enforce and collect any civil penalties imposed for violations under the bill. These civil penalties are to be deposited in the State General Fund.

BILL DESCRIPTION

The bill requires building owners to register newly installed cooling towers with the Department of Health prior to initial operation, and existing cooling towers within 30 days of the bill's effective date. If a building owner removes or permanently discontinues use of a cooling tower, the owner will be required to notify the department within 30 days and certify that the cooling tower has been drained and sanitized. Cooling towers, which use a recirculated water system, are associated with outbreaks of Legionnaire's disease.

A building owner also will be required to certify to the department by November 1 of each year that a cooling tower has been inspected, tested, cleaned, and disinfected and that a maintenance program has been implemented for the cooling tower. The bill also authorizes the department to inspect, upon request, any records of cooling tower inspections, tests, cleanings, disinfections, and copies of the cooling tower maintenance program.

A building owner who fails to meet the requirements of the bill will be liable for a maximum civil penalty of \$2,000 for a first violation and \$5,000 for a second or subsequent violation, except that the owner will be liable for a maximum civil penalty of \$10,000 for any violation that leads to serious injury or death. The department will recover any such penalties for deposit into the General Fund. The bill further provides that jurisdiction over the enforcement and collection of any assessed penalties will fall to the municipal court of the jurisdiction in which the violation occurred.

The department may order a building owner, who fails to clean and disinfect the cooling tower within the timeframes provided under the bill, to satisfy the cleaning and disinfecting requirements within a specific time. If the building owner still does not comply with the order, the department may execute the mandated cleaning and disinfection, and recover the associated costs from the building owner. An owner who knowingly fails to comply with a department order would be guilty of a crime of the fourth degree, which is punishable by imprisonment for up to 18 months, a fine of up to \$10,000, or both.

The bill also requires the department to promulgate regulations governing microbial testing of cooling tower water by building owners. These regulations will, among other provisions, specify microbial levels that indicate cooling tower maintenance deficiencies requiring mitigation; and cooling tower microbial levels that pose a health risk, and that require immediate reporting to the department and remediation within 24 hours.

The bill provides that the department may establish reasonable fees for the registration, notification of discontinuation of use, and annual certification of cooling towers.

The department will be required to annually report to the Governor and to the Legislature concerning compliance with the bill's provisions, including the number of reported tests that found microbes at levels that present a serious health threat, the number of cases of Legionnaire's disease reported in each of the previous 10 years, and the department's recommendations for further legislative action.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the State will incur marginal one-time costs for the Department of Health to promulgate regulations governing: 1) the inspection, testing, cleaning, disinfection, and maintenance of building cooling towers; and 2) acceptable microbial levels in, and standards for testing and laboratory analysis of water samples from, cooling towers. Although the department does not currently regulate cooling tower systems in order to prevent outbreaks of Legionnaire's Disease, it provides extensive resources, including guidance for maintaining building water systems to prevent growth of legionella bacteria, training materials for local health departments that conduct legionella investigations, and legionella standards and guidance documents from the federal Centers for Disease Control and Prevention (CDC) and from industry professional associations, on its website. To the extent that the department adopts CDC guidelines and standards regarding testing for and prevention of Legionnaire's Disease associated with cooling towers, initial State costs will be minimized.

Annual State costs will increase by an indeterminate amount to the extent the department performs inspections of building owner records or to the extent the department performs required cleanings and disinfections of cooling towers when building owners fail to do so. Moreover, a building owner who knowingly fails to comply with a department-issued cleaning and disinfection order would be guilty of a crime of the fourth degree, which is adjudicated in State court, and is punishable by imprisonment for up to 18 months, a fine of up to \$10,000, or both. Accordingly, this bill could increase annual State costs to the Judiciary, the Department of Law and Public Safety, and the Office of the Public Defender. Generally, crimes of the fourth degree carry a presumption of non-incarceration for first-time offenders so cost increases to the Department of Corrections are not expected. The OLS assumes that the department will utilize existing resources with only marginal additional costs to the department to compile and submit the required annual report.

The bill authorizes the department to establish fees related to its regulation of cooling towers and to assess civil penalties for certain violations, which will increase annual State revenues by an indeterminate amount. Moreover, the cost of any required cleanings and disinfections performed by the department are to be recovered from the building owner, which also would increase annual State revenues.

Municipalities would experience cost increases under the bill due to a provision that stipulates that municipal courts will have jurisdiction over proceedings to enforce and collect penalties imposed for violations under the bill. Any civil penalties recovered are to be deposited in the State General Fund.

Section: Human Services

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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.).